

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of

JONES DAVID HOLLISTER,

Petitioner-Appellant.

CA No. A171609

Lane County Circuit Court Case
No. 19CV20980

**BRIEF OF *AMICI CURIAE* LAW PROFESSORS
IN SUPPORT OF PETITIONER**

Appeal from the Order and General Judgment
of the Circuit Court for Lane County
The Honorable Judge Charles D. Carlson, Circuit Court Judge

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November 2019

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Pursuant to ORAP 8.15, twenty-five professors from Oregon's three law schools appear before the Court of Appeals as *amici curiae*. We were ably assisted in preparing this brief by Professor Sarah Adams-Schoen and our beloved friend and colleague, the late Honorable David Shuman, Professor of Practice at the University of Oregon School of Law, and by University of Oregon School of Law students, Noah Ashman, Sarah Osborn, Kristi Patrickus, and Reece Petrik.

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INTEREST OF *AMICI CURIAE*

Amici curiae are twenty-six professors from Oregon's three law schools. We research, write and teach about the law and many of us also practice law. In combination, we have more than 600 years of law teaching and practice experience. Pursuant to ORAP 8.15, we appear as *amici curiae* because of the importance of equality as a core democratic value that must be advanced and preserved to ensure the human dignity of all people within the State of Oregon. Having dedicated our professional lives to furthering the understanding and practice of the law, we have an interest in advancing a rigorous and legally sound analysis of ORS 33.460.

SUMMARY OF ARGUMENT

This Court should reverse the circuit court's decision to deny Appellant's request for a change of legal sex designation to nonbinary and remand for a correct application of ORS 33.460.

ORS 33.460 provides all Oregonians the right to obtain an accurate legal sex designation contingent only upon an attestation that "the individual has undergone surgical, hormonal or other treatment appropriate for the individual for the purpose of affirming gender identity." ORS 33.460. Because Appellant Jones Hollister attested to having undergone treatment appropriate for affirming their nonbinary

gender identity, the circuit court erred in denying Appellant's petition for a change of legal sex designation to nonbinary.

The text and context of ORS 33.460 demonstrate that the legislature intends to provide all Oregonians with the right to a legal sex designation that is accurate and affirming of their gender identity. The legislature clarified this intent in the 2017 amendment of ORS 33.460, which revised the hearing procedure to shift the focus from physical anatomy to affirming gender identity. Or Laws 2017, ch 100, § 3 (HB 2673) (HB 2673 is provided at Law Profs-Appx-2 at 8). As amended by House Bill 2673, the plain text of ORS 33.460 expressly recognizes that gender identity is the only basis for determining an individual's legal sex designation.

Nothing in the text or context of ORS 33.460 suggests that the statute's reference to gender identity should be interpreted to include only binary gender identities, an interpretation which would defeat the very purpose of making legal sex designations contingent only on an individual's attestation that the sex designation affirms their gender identity.

The legislative history of ORS 33.460 also confirms that the legislature intended to provide for sex designations that affirm an individual's gender identity, and that the broad legislative purpose of House Bill 2673 was to remove anachronistic requirements that contribute to the harms individuals suffer when their

legal sex designation does not match their gender identity. An interpretation of ORS 33.460 as excluding an entire class of individuals on the basis of their nonbinary gender identity from the rights conferred by ORS 33.460 is anathema to this legislative intent and the purpose of House Bill 2673.

An interpretation of ORS 33.460 as granting rights to people with binary gender identities only would also render the statute unconstitutional in violation of Article I, section 20 of the Oregon Constitution. An interpretation that impermissibly excludes the class of individuals with nonbinary gender identities from the rights conferred by the statute can and should be avoided when, as here, an interpretation that does not impermissibly discriminate is consistent with the legislative purpose.

ARGUMENT

Appellant is married and lives in Lane County. At the time Appellant petitioned to change their legal sex designation, Appellant was a 51-year-old elementary school teacher. Appellant has long felt that the name and gender marker assigned at their birth did not match who they are. They go by “Jo,” a nonbinary form of the female gendered name their parents gave them at birth. Appellant does not identify as male or female, but instead as nonbinary.

When Appellant learned of their right to be correctly identified as nonbinary, they felt enormous relief. Appellant is like many other Oregonians whose legal

identity does not match their actual identity. These Oregonians face challenges in areas of life that people with congruent legal and actual identities take for granted. They risk being “outed,” questioned, discriminated against, and even being denied services when they perform everyday tasks like going to the bank, filling out employment paperwork, traveling by plane, presenting their driver’s license, getting tax advice, and seeking medical attention.

Appellant’s experience is precisely the experience the legislature intended ORS 33.460 to address. As amended by House Bill 2673 (2017), ORS 33.460 provides the right to obtain a court order changing an individual’s legal sex designation based solely on an “attest[ation] that the individual has undergone . . . treatment appropriate for the individual for the purpose of affirming gender identity.” When co-chief sponsor Representative Jennifer Williamson introduced House Bill 2673 at a committee hearing, she explained that, “[w]ith easier access to legal identification [that matches their gender identity,] individuals will be less likely to face discrimination in areas that we take for granted every day like applying for a job, renting a house, or accessing medical care.” Audio Recording, House Committee on Health Care, HB 2673, Feb. 27, 2017, at 00:40:41 (comments of Rep Williamson), <http://oregon.granicus.com> (accessed Nov. 7, 2019). In passing House Bill 2673 into law, the Oregon legislature had the vision to understand how

important it is for all Oregonians to be able to reconcile their public and legal sex designations with their innate sense of their gender.

However, rather than receiving a court order changing Appellant's sex designation to one that matches and affirms Appellant's innate sense of their gender, Appellant was told they could only change their designation from "female" to "male." A change to "male" does not address the problems Appellant faces from having a sex designation that does not match who they are. Moreover, requiring Appellant to choose between male or female ignores the text of ORS 33.460, which provides the right to obtain a legal sex designation "for the purpose of affirming gender identity," and is contrary to the legislative purpose of House Bill 2673, which was to remove outmoded requirements that contribute to the harms people suffer when their legal sex designations do not match their gender identity.

I. The text, context, and legislative history of ORS 33.460 confirm the legislative intent to guarantee all Oregonians the right to obtain a sex designation that reflects and affirms their gender identity.

"[T]he court's task is to discern the intent of the legislature." *Portland Gen. Elec. Co. v. Bureau of Labor & Indus.*, 317 Or 606, 610, 859 P2d 1143, 1145 (1993); *Friends of Yamhill Cty. v. Yamhill County*, 229 Or App 188, 192, 211 P3d 297, 299 (2009) (noting that the court "attempt[s] to determine the meaning of the statute most likely intended by the legislature"); *see also* ORS 174.020. The first step in

determining legislative intent is for the Court to examine the text and context of the statute, and the pertinent legislative history where the legislative history appears useful to the Court's analysis. If the legislature's intent remains unclear after examining the statute's text, context, and legislative history, the Court proceeds to the second step, which applies relevant general maxims of statutory construction to aid in resolving the uncertainty. *State v. Gaines*, 346 Or 160, 171, 206 P3d 1042, 1050 (2009).

A. Text and Context

An interpretation of ORS 33.460 that limits the terms sex and gender as they appear in the statute to include only binary sex designations and binary gender identities has the effect of “insert[ing] what has been omitted” and “omit[ting] what has been inserted.” ORS 174.010; *McLaughlin v. Wilson*, 292 Or App 101, 105, 423 P3d 133 (2018). Such an interpretation not only contravenes ORS 174.010 and this Court's jurisprudence on statutory construction, it impermissibly places the judiciary in the role of the legislature. *See* ORS 174.010; *Gaines*, 343 Or. at 171, 169 P.3d 1268; Hon. Jack L. Landau, *Oregon Statutory Construction*, 97 Or L Rev at 606 (suggesting that separation of powers issues underlaid the Court's focus on legislative intent and statutory text and context in *Gaines*, 346 Or 160, 206 P3d 1042) and 618 (“the focus on the text has constitutional dimensions”). In interpreting the

text of a statute, the Court must “take [the] statute as [it] find[s] it and give effect to all of it, if possible.” *Wyers v. Am. Med. Response Nw., Inc.*, 360 Or 211, 221, 377 P3d 570 (2016).

In its entirety, ORS 33.460 provides:

(1) Application for legal change of sex of a person may be heard and determined by any circuit court in this state. A circuit court may order a legal change of sex and enter a judgment indicating the change of sex if the individual attests that the individual has undergone surgical, hormonal or other treatment appropriate for the individual for the purpose of affirming gender identity.

(2) The court may order a legal change of sex and enter the judgment in the same manner as that provided for change of name of a person under ORS 33.410.

(3) If a person applies for a change of name under ORS 33.410 at the time the person applies for a legal change of sex under this section, the court may order change of name and legal change of sex at the same time and in the same proceeding.

By its plain terms, ORS 33.460(1) allows an individual to obtain a circuit court order changing their sex designation upon attestation that the individual has undergone “treatment appropriate for the individual for the purpose of affirming gender identity.” The only reasonable interpretation that gives effect to all of ORS 33.460 is one that recognizes that the legislature intends the statute to provide the

right to obtain a legal sex designation that affirms an individual’s gender identity, without regard to whether that gender identity is binary or nonbinary.¹

Nothing in the text of ORS 33.460 limits the right to a change of legal sex designation to individuals with a binary gender identity or limits the sex designation to “male” or “female.” It would have been easy for the legislature to include “male” and “female” as specific sex classifications had it wanted to. Similarly, the legislature could have included the qualifier “binary” before the term “gender identity” in the statute’s attestation requirement. But it did not. Instead, the legislature provided in ORS 33.460 that an individual has a right to obtain a legal change of sex designation upon attestation that “the individual has undergone surgical, hormonal or other treatment appropriate for the individual for the purpose

¹ This interpretation has been recognized by the Oregon Judicial Department, Office of State Court Administrator. *See* OJD, Name and/or Sex Change Petition and Order Forms (providing for change of sex to “male,” “female,” or “nonbinary” based on attestation that petitioner has “undergone surgical, hormonal, or other treatment appropriate to [petitioner] for the purpose of affirming [petitioner’s] gender identity”) (provided at Law Profs-Appx.-6 at 50). The circuit courts of Benton County and Multnomah County have also interpreted ORS 33.460 as providing for changes of legal sex designations based on any gender identity. *In re Nicholas*, Benton County Circuit Court Case No. 17CV01994, General Judgment of Sex Change (March 8, 2017) (ordering a legal change of sex to nonbinary under ORS 33.460) (provided at Law Profs-Appx.-7 at 54); *In re Shupe*, Multnomah County Circuit Court Case No. 16CV13991, General Judgment of Sex Change (June 10, 2016) (ordering a legal change of sex to nonbinary under ORS 33.460) (provided at Law Profs-Appx.-8 at 55).

of affirming gender identity.” ORS 33.460. Interpreting the statute to include qualifiers before the terms sex and gender would not only impermissibly add text to the statute, it would ignore the focus in the text and context of the statute on “affirming gender identity.” Taking the statute as written, the terms sex and gender are not limited in any way; the only indication in the text of the basis for a change in sex designation is the requirement that the petitioner attest to having undergone treatment appropriate for affirming their gender identity.

An assumption that the legislature did not understand that gender identity could be nonbinary, and, as a result, implicitly intended the term gender identity to mean only binary gender identities also is not warranted. Nothing in the text or context of ORS 33.460 supports such an assumption, and such an assumption undermines the legislative purpose of the 2017 amendments to ORS 33.460 and related vital records laws, which was to remove anachronistic requirements that contribute to the harms individuals suffer when their legal sex designations do not match their gender identity. *See* Or Laws 2017, ch 100, §§ 1, 3, 4 (discussed below). Additionally, the legislature’s passage of another law during the 2017 session, which referred to “transgender . . . and other minority gender identities,” confirms that the legislature understood when it amended ORS 33.460 that the term “gender identity” is not limited to binary gender identities. *See* Senate Bill 5530 § 12 (2017) (provided

at Law Profs-Appx-3 at 13 (regarding issuance of lottery bonds for “a primary care and mental health center for the lesbian, gay, bisexual, transgender, queer, and other minority gender identities and sexual orientation community”). Thus, with knowledge that the term gender identity includes transgender “and other minority gender identities,” the legislature chose to use the inclusive, unqualified term in the attestation requirement of ORS 33.460(1).²

By giving effect to the entirety of ORS 33.460, any superficial ambiguity about the meaning of “sex” or “sex change” is clarified. *See Gaines*, 346 Or at 172–73, 206 P3d 1042 (recognizing that “superficially clear language” may not be “plain at all”). Contrary to the circuit court’s interpretation, in the context of the statute as

² The fact that some states include “nonbinary” in similar statutes also does not give rise to a reasonable interpretation that the term’s absence in ORS 33.460 indicates a legislative intent to allow only binary individuals to change their sex designation to conform to their gender identity. *See, e.g.*, N.J. Rev. Stat. § 26:8-40.12(a) (2019) (providing for change on birth certificate to “female, male, or undesignated/non-binary”) (provided at Law Profs-Appx-11 at 62); Colo. Rev. Stat. § 25-2-113.8(2)(b) (eff. Jan. 1, 2020) (providing for change on birth certificate to “male, female, or ‘X’”) (provided at Law Profs-Appx-12 at 65). Whether these states’ use of the term “nonbinary” reflects an evolving understanding of terminology, different legislative drafting styles, or something else, other states’ drafting choices do not provide a basis for ascribing an intent to exclude nonbinary persons from the reach of ORS 33.460 when the Oregon legislature’s chose to use inclusive, unqualified terms. *See State v. Nascimento*, 360 Or 28, 42 n 4, 379 P3d 484 (2016) (stating that Court did not rely on interpretations of federal statute to interpret similar Oregon statute because the text of the statutes is different and the Oregon statute was enacted before the federal statute).

a whole “sex” cannot reasonably be interpreted to be a reference to biology distinct from gender identity. By its plain terms, the statute allows for a change to a person’s legal sex designation on the basis of “surgical, hormonal *or other treatment* appropriate for the individual *for the purpose of affirming gender identity.*” ORS 33.460 (emphasis added). The statute does not limit the attestation requirement to surgery and hormone treatments that change the anatomy of an individual’s reproductive system or secondary sex characteristics. Instead, the statute includes “other treatment appropriate for the individual for the purpose of affirming gender identity,” ORS 33.460, recognizing that the appropriate treatment for the purpose of affirming gender identity for some individuals will not require a change in the individual’s reproductive system or secondary sex characteristics.

Consideration of ORS 33.460 within the context of the legislature’s 2017 amendments to other vital records laws also demonstrates the legislative intent to extend the right to obtain an accurate and gender-identity affirming legal sex designation to individuals of any gender identity. Oregon House Bill 2673 amended ORS 33.460 to remove as a prerequisite to a change in legal sex designation a finding by the court that “sexual reassignment has been completed.” Or Laws 2017, ch 100, § 3. The bill replaced this prerequisite with a requirement that the individual petitioning for a change in legal sex designation “attests that the individual has

undergone surgical, hormonal or other treatment appropriate for the individual for the purpose of affirming gender identity.” The bill replaced this prerequisite with a requirement that the individual petitioning for a change in legal sex designation “attests that the individual has undergone surgical, hormonal or other treatment appropriate for the individual for the purpose of affirming gender identity.” This shift in focus from body parts to gender identity, confirmed that affirming an individual’s gender identity is the basis for designating their legal sex, and not conforming their sex designation to the anatomy of their reproductive system or their secondary sex characteristics.

In addition to removing the required court finding of completed “sexual reassignment,” the legislature made a number of amendments to the vital records laws to make sex designation changes and related name changes easier and safer for individuals with gender identities that do not match their sex designations in vital records. By passing into law House Bill 2673, the legislature amended ORS 432.235, which had previously required submission of a certified copy of a court order to support an application to change the name on a birth certificate, to allow for name changes and sex designation changes on birth certificates based on the applicant’s attestation that the applicant is making “the request for the purpose of affirming the applicant’s gender identity.” Or Laws 2017, ch 100, § 1(3)(a)(B)(ii) (allowing birth

certificate name change based on affirming the applicant's gender identity); *id.* § (3)(b)(B)(ii) (allowing birth certificate sex designation change based on affirming the applicant's gender identity).³ The legislature also amended the vital records laws to clarify that a birth certificate that has been amended to change the sex designation for purposes of affirming gender identity may not include a notation of the change. *Id.* § 2. The legislature removed the requirement that an individual seeking a change in their legal sex designation put on evidence in open court of personal health information demonstrating that they have “undergone surgical, hormonal or other treatment appropriate for that individual for the purpose of gender transition and that sexual reassignment has been completed.” *Id.* § 3). Finally, the legislature amended the vital records laws to allow for the sealing of the record of cases to determine applications for legal changes of sex designations, *id.* § 4, and amended ORS 33.420

³ The Oregon Health Authority amended its implementing regulations and created a form entitled “Application to Change the Name and/or Sex on a Record of Live Birth to Support Gender Identity Information Sheet.” *See* OAR 333-011-0265; OAR 333-011-0271; OAR 333-011-0275; OAR 333-011-0327. The application form allows applicants to choose between “male,” “female,” and “X (Non-binary)” as the “sex as it should appear” on the birth record, and includes the following attestation: “I attest that this request is for the purpose of affirming my/the registrant’s gender identity which is different than the sex shown on the current birth certificate.” Oregon Health Authority, Public Health Division Center for Health Statistics, Application to Change the Name and/or Sex on a Record of Live Birth to Support Gender Identity Information Sheet (the administrative rules and forms are provided at Law Profs-Appx-1 at 1 and Law Profs-Appx-5 at 48).

to eliminate pre- and post-order public notice requirements for name changes except in the case of name changes for adoptive children, *id.*) § 4. This suite of amendments is consistent with the legislative purpose of removing anachronistic requirements that contribute to the harms individuals suffer when their legal sex or gender designations do not match their actual gender identity.

Finally, an interpretation of ORS 33.460 that recognizes the legislative intent to provide the right to obtain an accurate and gender-identity affirming legal sex designation to individuals of any gender identity is also consistent with other related civil rights legislation in Oregon. *See State v. Klein*, 352 Or 302, 309, 283 P3d 350 (2012) (statute’s context includes “related statutes”); Hon. Jack L. Landau, *Oregon Statutory Construction*, 97 Or L Rev 583, 641 (2019) (“The ‘context’ of a statute includes not just the statute that a disputed provision is a part of, but also other statutes ‘*in pari materia*,’ that is, on the same or a related subject.”). In particular, the Oregon Equality Act of 2007 declared that it is “the public policy of Oregon that practices of discrimination against any of its inhabitants because of race, color, religion, sex, sexual orientation, national origin, marital status, age or disability are a matter of state concern and that this discrimination not only threatens the rights and privileges of its inhabitants but menaces the institutions and foundation of a free democratic state.” Oregon Equality Act of 2007, Or Laws 2007,

ch 100 (SB 2) (SB 2 is provided at Law Prof-Appx-4 at 28) (amending numerous Oregon statutes to prohibit discrimination on the basis of sexual orientation and gender identity in the provision of, among other things, public accommodations, public education, qualification for jury duty). Through its definition of “sexual orientation,”⁴ the Act expressly recognized that discrimination on the basis of gender identity “threatens the rights and privileges of [the] inhabitants [of Oregon and] menaces the institutions and foundation of a free democratic state.” *Id.* § 1(6). An interpretation of ORS 33.460 as implicitly excluding from its scope individuals with nonbinary gender identities is the kind of discrimination the Oregon Equality Act sought “to ensure the human dignity of all people within this state.” *Id.* § 2.

B. Legislative History

The legislative history of ORS 33.460 confirms that a superficial definition of sex that would recognize only male and female legal sex designations is contrary to the legislative intent to provide for legal sex designations that affirm gender identity and the broader legislative purpose to remove anachronistic requirements that

⁴ The Act amended ORS 174.100 to define “sexual orientation” as “an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual’s gender identity, appearance, expression or behavior differs from that traditionally associated with the individual’s sex at birth.” *Id.* § 1(6).

contribute to the harms individuals suffer when their legal sex or gender designations do not match their actual gender identity. *See Errand v. Cascade Steel Rolling Mills, Inc.*, 320 Or 509, 539 n 4, 888 P2d 544 (1995) (Graber, J., dissenting) (“In general, an examination of legislative history is most useful when it is able to uncover the manifest general legislative intent behind an enactment.”).

In introducing the bill and repeatedly throughout hearings on the bill, the sponsors, other legislators, and community members testifying in support of the bill used language consistent with a legislative purpose of removing outmoded legal requirements that contribute to the harms individuals suffer when their legal sex designation does not match their actual gender identity. For example, during a public hearing in the House Committee on Health Care on February 27, 2017, co-chief sponsor Rep. Jennifer Williamson, House District 36, introduced the bill, stating, “Here in Oregon we have been a leader in ensuring that every Oregonian has their basic rights protected, but of course there’s more we can do.” Audio Recording, House Committee on Health Care, HB 2673, Feb. 27, 2017, at 00:40:19 (comments of Rep. Williamson), <http://oregon.granicus.com> (accessed Nov. 7, 2019). She urged passage of the bill “to bring Oregonians closer to full equity and equality in this state.” *Id.* at 00:42:34. At the same hearing, Neola Young, a transgender advocate and consultant, urged passage of the bill to “ensure that transgender and gender non-

conforming people born here every year will be far more able to find work, to travel, and to participate confidently in society.” *Id.* at 00:54:15 (comments of Neola Young). Erica Wegener, Transgender Services Coordinator for Outside In Medical Clinic, testified, “I am here to voice support for HB 2673, which would remove several barriers to identity change for thousands of transgender and gender non-conforming Oregonians.” *Id.* at 00:55:54 (comments of Erica Wegener).

The bill sponsors, other legislators, and community members testifying in support of the bill also used language that demonstrated their understanding and intent that legal sex designations be based on gender identity, as opposed to a binary conceptualization of sex. Co-chief sponsor Rep. Williamson explained at the February 27, 2017, public hearing that the bill seeks “to ensure that [an individual’s] legal identity reflects who they truly are.” *Id.* at 00:41:39 (comments of Rep. Williamson). Co-chief sponsor Rep. Rob Nosse, House District 42, also described the bill as allowing people to change “their name and gender marker on their birth certificate to more accurately reflect who they are” Audio Recording, Senate Committee on the Judiciary, HB 2673A, May 3, 2017, at 00:05:44 (comments of Rep. Nosse), <http://oregon.granicus.com> (accessed Nov. 7, 2019). Although Rep. Williamson and Rep. Nosse also used the term “transgender” in their testimony, their consistent and frequent references to the bill as providing for a “gender” change that

“reflects who they truly are,” only make sense if the determinative factor in an ORS 33.460 proceeding is affirmation of a petitioner’s gender identity.⁵

Finally, the legislative history also confirms that the bill’s sponsors, other legislators, and community members testifying in support of the bill understood and intended that “gender identity” as used in House Bill 2673 is not limited to binary gender identities. Nowhere in the legislative history do the co-chief sponsors say or suggest that the rights conferred by ORS 33.460 or any of the House Bill 2673 amendments are available only to people with binary gender identities; nor do they ever use the terms “male,” “female,” or “binary.” Rather, numerous community members testifying in support of the bill use language that expressly recognizes that the bill provides rights to all who need its protections. For example, Oblio Stroyman, Executive Director of Trans*Ponder, testified in support of the bill, using the term “gender diverse people.” Audio Recording, House Committee on Health Care, HB 2673, Feb. 27, 2017, at 00:58:40 (comments of Oblio Stroyman),

⁵ Both the Oregon Legislative Policy and Research Office (LPRO) Analyst Sandy Thiele-Cirka and legislative counsel Whitney Perez also described the bill as providing an alternative process for a person to change their name and “gender” on vital records. Audio Recording, House Committee on Health Care, HB 2673, Feb. 27, 2017, at 00:40:00 (comments of Sandy Thiele-Cirka), <http://oregon.granicus.com> (accessed Nov. 7, 2019); Audio Recording, Senate Committee on the Judiciary, HB 2673A, May 3, 2017, at 00:05:18 (comments of Whitney Perez), <http://oregon.granicus.com> (accessed Nov. 7, 2019).

<http://oregon.granicus.com> (accessed Nov. 7, 2019); Neola Young and Erica Wegener also testified that the bill provides rights to “transgender and gender non-conforming people.” *Id.*

In total, and read together with the text and context of ORS 33.460, the legislative history confirms that the legislature intended ORS 33.460 to provide for legal sex designations that affirm an individual’s gender identity, and that the broad legislature purpose of House Bill 2673 was to remove anachronistic requirements that contribute to the harms individuals suffer when their legal sex designations do not match their gender identity. An interpretation of ORS 33.460 as excluding an entire class of individuals on the basis of their nonbinary gender identity from the rights conferred by ORS 33.460 is anathema to this legislative intent and the broad purpose of House Bill 2673.

II. Recognition that ORS 33.460 does not exclude nonbinary individuals from the reach of the statute avoids the danger of constitutional concerns.

Given the constitutional implications of denying equal privileges to nonbinary Oregonians, recognition that ORS 33.460 permits nonbinary sex designations for the purpose of affirming individuals’ nonbinary gender identity is consistent with the maxim that “[s]tatutes should be interpreted and administered to be consistent with constitutional standards” whenever possible. *Salem College & Academy, Inc. v.*

Emp. Div., 298 Or 471, 481, 695 P2d 25 (1985). “Indeed, ‘[w]hen confronted with competing, reasonable constructions of a statute, and there is even a tenable argument that one of them would render the statute unconstitutional, [the Court] generally favor[s] the other construction.’” *Migis v. Autozone, Inc.*, 282 Or App 774, 803, 387 P3d 381 (2016) (quoting *State v. Alvarado*, 257 Or App 612, 621, 307 P3d 540 (2013)), *adh’d to on recons.*, 286 Or App 357, 396 P3d 309 (2017).

Article I, section 20 of the Oregon Constitution prohibits the passage of any law “granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens. Or Const Art. I, § 20. This clause “forbids inequality of privileges or immunities not available upon the same terms, first, to any citizen, and second, to any class of citizens.” *State v. Clark*, 291 Or 231, 237, 630 P2d 810 (1981).

A classification based on gender “can be suspected of reflecting ‘invidious’ social or political premises, that is to say, prejudice or stereotyped prejudgments.” *Hewitt v. SAIF*, 294 Or 33, 45–46, 653 P2d 970 (1982); *Tanner v. Oregon Health Scis. Univ.*, 157 Or App 502, 522, 971 P2d 435 (1998). As this Court explained in *Tanner*, “the focus of suspect class definition is . . . the fact that [the common, class-defining characteristics] are historically regarded as defining distinct, socially-recognized groups that have been the subject of adverse social or

political stereotyping or prejudice.” *Id.* On this basis, the *Tanner* Court had “no difficulty concluding that plaintiffs are members of a suspect class” because “[s]exual orientation, like gender, race, alienage, and religious affiliation is widely regarded as defining a distinct, socially recognized group of citizens, and certainly it is beyond dispute that homosexuals in our society have been and continue to be the subject of adverse social and political stereotyping and prejudice.” 157 Or App at 524.

Suspect classifications are “subject to particularly exacting scrutiny,” *id.*, and “may be upheld only if the failure to make the privileges or immunities available to that class can be justified by genuine differences between the disparately treated class and those to whom the privileges and immunities are granted,” *id.* at 523. In *Hewitt*, the Court held that a statute that denied workers compensation death benefits to the plaintiff, a member of a suspect class defined by his male gender, violated Article I, section 20 because the denial of benefits to him could not be justified on the basis of “biological differences” between those who were entitled to the benefits and those who were not. 294 Or at 50. Similarly, in *Tanner*, this Court held that a state agency’s denial of insurance benefits to domestic partners of gay employees could not be justified by genuine differences between the class and those to whom the privileges and immunities are made available. 157 Or App at 524.

An interpretation of ORS 33.460 that denies its protections to individuals with a nonbinary gender identity would render the statute unconstitutional. The privilege created by ORS 44.360 would be “bestowed or withheld solely on the basis of gender.” *Hewitt*, 294 Or at 43-45. Individuals with binary and nonbinary genders are subject to the harms ORS 33.460 intends to prevent. Both classes of individuals suffer from having legal sex designations that do not accurately match and affirm their gender identity. *See* Br of *Amicus Curiae* Transgender Law Center, *Interact, And Beyond Binary Legal* (Nov. 8, 2019); Br of *Amici Curiae* Basic Rights Or & Am Civil Liberties Union of Or (Nov. 7, 2019). No rational unprejudiced basis exists for excluding individuals with a nonbinary gender identity from the privileges granted by ORS 33.460. As in *Hewitt*, “[e]xcept for [their] gender, [petitioner] in this case fulfill[s] the statutory requirements for entitlement.” 294 Or at 52.

Moreover, whether or not the legislature intended to discriminate against individuals with a nonbinary gender, if ORS 33.460 has the effect of discriminating against this class of individuals it runs afoul of Article I, section 20. *See* *Tanner*, 157 Or App at 524–25 (“Article I, section 20, does not prohibit only intentional discrimination.”). As this Court has explained, “What is relevant is the extent to which privileges or immunities are not made available to all citizens on equal terms.” *Id.* at 525.

Were the Court to find that ORS 33.460 is a constitutionally defective underinclusive statute, the Court “may either declare [the statute] a nullity and order that its benefits not extend to the class that the legislature intended to benefit, or it may extend the coverage of the statute to include those who are aggrieved by exclusion.” *Hewitt*, 294 Or at 52 (quoting *Welsh v. United States*, 398 US 333, 361, 90 S Ct 1792, 26 L Ed 2d 308 (1970) (Harlan, J., concurring)) (brackets in *Hewitt*). Because the legislative purpose of ORS 33.460 is to provide the right to obtain a legal sex designation that matches and affirms an individual’s gender identity, the appropriate remedy in this case would be to extend the coverage of ORS 33.460 to include individuals with a nonbinary gender. *See id.* at 53–54 (extending statutory privilege to persons of the male gender because invalidation “would deprive all cohabitants of unmarried workers of benefits . . . in clear conflict with legislative intent” and with the legislative objective of providing “fair, adequate and reasonable income benefits to injured workers and their dependents”).

However, the Court need not and should not go this far when a statute can reasonably be interpreted constitutionally. “Statutes should be interpreted and administered to be consistent with constitutional standards before attributing a policy of doubtful constitutionality to the political policymakers, unless their expressed

intentions leave no room for doubt.” *Salem Coll. & Acad., Inc. v. Employment Div.*, 298 Or 471, 481, 695 P2d 25 (1985).

Here, the legislature certainly did not leave “no room for doubt” that it intended to exclude the class of individuals with a nonbinary gender from the reach of the ORS 33.460. Rather, ORS 33.460 can reasonably be interpreted to provide to individuals of all genders the right to obtain a legal sex designation that accurately reflects and affirms their gender identity. Thus, because there is at least a tenable argument that interpreting ORS 33.460 to allow only binary legal sex designations would render the statute unconstitutional, the Court should favor the interpretation that avoids the constitutional problem. *See Migis v. Autozone, Inc.*, 282 Or App 774, 803, 387 P3d 381 (2016), *adhered to on reconsideration*, 286 Or App 357, 396 P3d 309 (2017).

CONCLUSION

The text, context, and legislative history of ORS 33.460 demonstrate that the legislature intended to provide to all Oregonians, whether of male, female, binary or nonbinary, the civil right to change their legal sex designation to accurately reflect and affirm their gender identity. Recognition that ORS 33.460 provides equal privileges to Oregonians with binary and nonbinary gender identities also allows the statute to be interpreted and administered consistent with constitutional standards.

In denying a nonbinary legal sex designation to petitioner, the circuit court erred as a matter of law. The judgment should be reversed and remanded for a correct application of ORS 33.460.

DATED: November 11, 2019.

Respectfully submitted,

By: /s/ Caitlin V. Mitchell

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the word-count limitation in ORAP 5.05(2)(b) and that the word count of this brief, as described in ORAP 5.02(2)(a), is 5,866 words.

I further certify that the size of the type in this brief is not smaller than 14 point for both the text of the brief and footnotes as required by ORAP 5.05(4)(f).

DATED: November 11, 2019.

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on November 11, 2019, I filed the original BRIEF OF *AMICI CURIAE* LAW PROFESSORS electronically with the Appellate Court Administrator via the eFiling system. I further certify that on November 11, 2019, I served a certified copy of this BRIEF OF *AMICI CURIAE* using the court's eFiling system on:

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OREGON ADMINISTRATIVE RULES
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
CHAPTER 333

DIVISION 11

VITAL STATISTICS

333-011-0265

Amending Birth Records

(1) All amendments. Unless otherwise provided in these rules or in statute, all amendments to vital records shall be supported by:

(a) An affidavit setting forth:

(A) Information to identify the record;

(B) The incorrect data as it is listed on the record; and

(C) The correct data as it should appear.

(b) One or more original items of documentary evidence which support the alleged facts and which were established at least five years prior to the date of application for amendment or within seven years of the date of the event and one year prior to the date of the requested amendment.

(2) The state registrar shall evaluate the evidence submitted in support of any amendment, and when the state registrar finds reason to doubt its validity or adequacy the amendment may be rejected and the applicant advised of the reasons for this action.

(3) Who may apply:

(a) To change the date of birth, time of birth or sex of the registrant, only the facility where the birth occurred or the individual who submitted the report of birth may apply to amend unless the medical record is no longer available at the facility. If the medical record is no longer available, other individuals, including the parents and the registrant, shall submit an application for amendment under section (1) of this rule. If the evidence is not sufficient, the applicant must present a certified copy of a court order ordering such amendment.

(b) To amend a record of live birth for items other than date of birth, time of birth or sex, application may be made by one of the parents, the legal guardian, the registrant if 18 years of age or over, or the individual responsible for filing the report of live birth.

(c) To amend the sex of a registrant on a record of live birth by court order or administrative request to affirm gender identity, an individual must submit documentation under OAR 333-011-0272 or OAR 333-011-0275.

(4) Amendment of registrant's first, middle or last names on records of live birth within the first year. Until the registrant reaches the age of one year, first, middle, or last names of the registrant may be amended upon written request of:

(a) Both parents; or

(b) One parent if only one parent appears on the record or if the other parent is deceased or incapacitated; or

(c) The legal guardian or agency having legal custody of the registrant.

(5) Amendment of registrant's first, middle or last names on records of live birth after the first year:

- (a) After one year from the date of birth the provisions of section (1) of this rule must be followed to amend a first, middle or last name if the name was misspelled on the birth record.
- (b) A legal change of name order must be submitted from a court of competent jurisdiction to change a first, middle or last name that appears on the birth record after one year from date of birth unless the change of name is made for gender identity purposes under OAR 333-011-0271.
- (6) Addition of first, middle or last name of a registrant on a record of live birth:
- (a) Until the registrant's seventh birthday, first, middle and last names, for a child whose birth was registered without such names, may be added to the record of live birth upon written request of:
- (A) Both parents; or
- (B) One parent if only one parent appears on the record or if the other parent is deceased or incapacitated; or
- (C) The legal guardian or agency having legal custody of the registrant.
- (b) After seven years the provisions of section (1) of this rule must be followed to add a first, middle or last name.
- (7) Amendment of parents' information on birth records. When a requested amendment to an item, in combination with previous amendments or concurrent requests for amendment, would appear to change the identity of the parent through cumulative changes to name, date of birth, or place of birth, the state registrar shall only make such an amendment upon receipt of a court order from a court of competent jurisdiction.
- (8) Original evidence documents submitted to correct errors in the spelling of a parent name, parent date of birth, or parent place of birth must be dated prior to the birth of the child.
- (9) Birthing facilities may correct typographical errors on birth records within the first year. After one year, only errors in the child's date of birth, time of birth or sex will be accepted directly from the birthing facility. The birthing facility must have access to the medical record when submitting the correction.
- (10) For births occurring outside a birthing facility, medical certifiers may only correct typographical errors within the first year with evidence from the medical record or the birth worksheet.
- (11) Amendment of minor errors on birth records. Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions may be made by the state registrar either upon the state registrar's observation or upon request of one of the parents, the legal guardian, or the birthing facility or by the individual responsible for filing the report of live birth. The record shall not be marked "Amended". Corrections to names will not be considered minor errors.
- (12) In all cases where the record is amended, there shall be inserted on the record a statement identifying the affidavit or documentary evidence used as proof of the correct facts, the date the amendment was made, and the initials of the person making the change. As required by statute or rule, the record shall be marked "Amended".

Stat. Auth: ORS 432.235

Stats. Implemented: ORS 432.235

333-011-0271

Application to Change the Name on a Record of Live Birth to Support Gender Identity

- (1)(a) An applicant may request an administrative change to the registrant's name on the record of live birth when the sex on the record of live birth does not match the gender identity of the registrant.

- (b) Change of name for gender identity may be requested by:
- (A) The registrant, if the registrant is age 18 or older or an emancipated minor; or
 - (B) If the registrant is less than 18 years of age:
 - (i) A parent; or
 - (ii) The registrant's legal guardian; or
 - (C) The legal representative of the persons listed in paragraphs (A) or (B) of this subsection with a notarized statement from the person stating that the legal representative is authorized to act for them in this matter.
- (2) A registrant may not request an administrative name change under this rule if the registrant's name on the record of live birth has previously been amended, except for clerical or typographical errors.
- (3)(a) The administrative request shall be supported by a form prescribed by the state registrar of the Center for Health Statistics that provides the information needed to:
- (A) Establish the identity of the applicant;
 - (B) Establish the relationship between the applicant and the registrant;
 - (C) Identify the record of live birth to be amended; and
 - (D) Specify the changes requested.
- (b) Information required on the application to identify the correct record of live birth to amend shall be the same information required to purchase a certified copy of a vital record in OAR 333-011-0273.
- (c) The form must clearly identify the current name on the record of the live birth and the new name as it will appear on the record.
- (A) If a new first name is not specified, the first name will remain unchanged on the record of live birth.
 - (B) If a new middle name is not specified, the middle name will remain unchanged on the record of live birth.
 - (C) If a new last name is not specified, the last name, including suffix if any, will remain unchanged on the record of live birth.
- (d) The applicant must affirm before a notary that the change is requested because the sex currently appearing on the record of live birth is different than the registrant's gender identity and the name requested supports the registrant's gender identity.
- Stat. Auth.: ORS 432.015 & 432.235
Stats. Implemented: ORS 432.235

333-011-0272

Application to Change the Sex on a Record of Live Birth to Support Gender Identity

- (1)(a) An applicant may request an administrative change to the sex of a registrant on the record of live birth when the sex on the record of live birth does not match the gender identity of the registrant.
- (b) The change of sex may be requested by:
- (A) The registrant if the registrant is age 18 or older or an emancipated minor; or
 - (B) If the registrant is less than 18 years of age:
 - (i) A parent; or
 - (ii) The registrant's legal guardian; or

- (C) The legal representative of the persons listed in paragraphs (A) or (B) of this subsection with a notarized statement from the person stating that the legal representative is authorized to act for them in this matter.
- (2) An applicant may not request an administrative change to the sex of the registrant on the record of live birth if the registrant's sex on the record of live birth has previously been amended, except for clerical and typographical errors.
- (3)(a) The administrative request shall be supported by a form prescribed by the state registrar of the Center for Health Statistics that provides the information needed to:
- (A) Establish the identity of the applicant;
 - (B) Establish the relationship between the applicant and the registrant;
 - (C) Identify the record of live birth to be amended; and
 - (D) Specify the changes requested.
- (b) Information required on the application to identify the correct record of live birth to amend shall be the same information required to purchase a certified copy of a vital record in OAR 333-011-0273.
- (c) The form must clearly identify the current sex on the record of live birth and the new sex to appear on the record.
- (d) The applicant must affirm before a notary that the change is requested because the sex currently appearing on the record of live birth is different than the registrant's gender identity and the sex designation requested supports the registrant's gender identity.
- Stat. Auth.: ORS 432.015, 432.235 & 432.245
Stats. Implemented: ORS 432.235 & 432.245

333-011-0273

Amended Records in Support of Gender Identity

- (1) Upon receipt of an application to change the name of a registrant under OAR 333-011-0271 or to change the sex of a registrant under OAR 333-011-0272, including documentation required and payment of the amendment fee, the application will be reviewed by the Center for Health Statistics to determine if the record can be changed administratively. The record shall be changed administratively if all of the following are true:
- (a) Applicant is qualified by their relationship to the registrant on the record of live birth;
 - (b) Registrant is born in Oregon;
 - (c) The record of live birth has been identified;
 - (d) All required documentation under OAR 333-011-0271 and 333-011-0272 has been submitted; and
 - (e) No amendment has previously occurred to the items requested to be changed under OAR 333-011-0271 or OAR 333-011-0272.
- (2) If the request is only to change the name and the record can be changed administratively, the record of live birth will be amended to show the new name and a notation of the amendment will be placed on certified copies of the record of live birth. The notation will include what item was changed, that the change was made by administrative request, the date the change was made, and the name of the state registrar authorizing the amendment.
- (3) If change of sex is requested, alone or in combination with change of name, and the record can be changed administratively, a new record of live birth will be created that includes the new sex and the new name if applicable. No notation of the change will appear on certified copies of the record of live birth.

(4) The applicant will be notified of the approval by correspondence that includes the previous information, the new information and the date of birth of the registrant. A copy of the application form used to request the change will be included with the correspondence prior to the file being sealed for use by the registrant in documenting the change in identity.

(5) All supporting documentation including the application form used to request the change and correspondence sent to the applicant will be placed in a sealed file. If a new record of live birth has been created, the previous record of live birth will also be placed in the sealed file.

(6) If eligibility is not confirmed, the applicant will receive written notice that the application is denied, the reason for the denial and the process to contest the agency decision.

Stat. Auth.: ORS 432.015, 432.235 & 432.245

Stats. Implemented: ORS 432.235 & 432.245

333-011-0275

New Record of Birth Following Adoption, Legitimation, Paternity Determination, and Paternity Acknowledgement or Change of Sex

(1) The state registrar shall amend a record of live birth and establish a replacement record of live birth for a person born in this state upon receipt of the following:

(a) Legitimation. If the mother is unmarried at the time of birth and the biological parents marry after the birth of a child, a new record of live birth shall be prepared by the state registrar for a child born in this state upon receipt of a sworn acknowledgement of paternity signed by the biological parents of said child together with a certified copy of the parents' marriage record. The mother's legal name can be amended to the name taken at marriage on the child's record of live birth if requested.

(b) Determination of paternity. A new record of live birth shall be prepared by the State Registrar for a child born in this state upon receipt of a certified copy of a court determination of paternity. If the birth mother's marital status was not unmarried at the time of birth or if another person is listed as the second parent, the court order must disestablish paternity as well as establish the new parent. If the surname of the child is not decreed by the court, the request for the new record received with the certified copy of the court determination shall specify the surname requested by both parents to be placed on the record.

(c) Acknowledgement of paternity. A new record of live birth shall be prepared by the state registrar for a child born to an unmarried birth mother in this state upon acceptance of a notarized voluntary acknowledgement of paternity signed by both parents if no second parent appears on the record. The child's surname may be changed through the voluntary acknowledgment of paternity.

(d) Adoption. A certified copy of a report of adoption as provided in ORS 432.223 or a certified copy of the decree of adoption, together with the information necessary to identify the original record of live birth and to establish a replacement record of live birth, except that a replacement record of live birth shall not be established if so requested by the court decreeing the adoption.

(e) Change of sex. A certified copy of an order of a court of competent jurisdiction indicating that an individual born in this state shall be changed or an accepted administrative request to change sex in support of gender identity under OAR 333-011-0272.

(2) The birth mother's marital status is unmarried at the time of birth if she was not married at conception, at birth, or within 300 days prior to the birth.

(3) New record:

(a) The new record of live birth prepared after adoption, legitimation, determination of paternity, or acknowledgment of paternity, or change of sex shall be on the form in use at the time of its preparation and shall include the following items and such other information necessary to complete the certification:

- (A) The name of the child;
- (B) The date and place of birth as transcribed from the original record;
- (C) The full names, dates of birth and places of birth of the adoptive parents or the biological parents whichever is appropriate;
- (D) The name of the attendant;
- (E) The state file number assigned to the original birth record; and
- (F) The original filing date.

(b) The information necessary to locate the existing record and to complete the new record shall be submitted to the state registrar on forms prescribed or approved by the state registrar.

(4) Existing record to be placed in a special file. After preparation of the new record, the existing record and the evidence upon which the new record was based are to be placed in a special file. Such file shall not be subject to inspection except upon order of a court of competent jurisdiction or by the state registrar for purposes of properly administering the vital statistics program.

(a) A court order is not required before the release of a Voluntary Acknowledgment of Paternity form to any government agency responsible for the administration of child support enforcement programs created under Title IV-D of the Social Security Act, to a parent who signed the form or to the registrant if age 18 or older.

(b) A court order is not required before the release of the request to change name under OAR 333-011-0271 or to change sex under OAR 333-011-0272 to the applicant or to the registrant if age 18 or older.

Stat. Auth.: ORS 432.098, 432.245 & 432.289

Stats. Implemented: ORS 432.098, 432.245 & 432.289

333-011-0327

Acceptable Documentation to Establish Identity of Applicant and Relationship to Registrant

(1) Information required to identify the correct record of live birth includes:

- (a) The registrant's full name as it appears on the record;
- (b) The full names of both parents as they appear on the record of live birth;
- (c) The date of birth of the registrant;
- (d) The city or county where the birth occurred; and
- (e) The sex of the registrant as it appears on the current record of live birth.

(2) The relationship between the applicant and the registrant may be established by:

- (a) Comparing the name of the applicant to the registrant and parents listed on the current record of live birth;
- (b) Letter of guardianship issued by a court that documents the legal guardianship of registrant by applicant;
- (c) A written statement by an attorney accompanied with a notarized statement confirming the legal representation signed by:
 - (A) The registrant if age 18 or older or emancipated; or
 - (B) The registrant's parents or legal guardian if the registrant is under age 18.
- (d) Review of other documents determined by the state registrar.

(3) If the applicant is the registrant and the name of the applicant on identity documents does not match the name of the registrant on the record of live birth, additional evidence about the relationship of the applicant to the registrant will be required. Acceptable evidence includes:

- (a) A certified copy of an order of name change from a court within the United States;
- (b) A certified document from the government agency issuing drivers' license or identification that documents the change of name on the agency's record;
- (c) A certified Numident Report from the Social Security Administration that documents the change of name;
- (d) Two sequential passports issued by the United States with photographs of the same person and the same date of birth that shows the two names; or
- (e) Other documents as determined by the state registrar.

(4) An emancipated minor must provide a court-certified copy of the order of emancipation to the state registrar.

Stat. Auth.: ORS 432.015 & 432.380

Stats. Implemented: ORS 432.380

79th OREGON LEGISLATIVE ASSEMBLY--2017 Regular Session

Enrolled
House Bill 2673

Sponsored by Representatives NOSSE, GREENLICK, Senator MONNES ANDERSON, Representative WILLIAMSON; Representatives FAHEY, GOMBERG, KENY-GUYER, LININGER, MARSH, MCLAIN, PARRISH, POWER, SMITH WARNER, Senators BURDICK, DEMBROW, DEVLIN, GELSER, MANNING JR, RILEY, ROBLAN, STEINER HAYWARD, TAYLOR (at the request of Basic Rights Oregon) (Pre-session filed.)

CHAPTER

AN ACT

Relating to processes required to change information by which a person may be identified; creating new provisions; amending ORS 33.420, 33.460, 109.360, 432.235 and 432.245; and prescribing an effective date.

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

SECTION 1. ORS 432.235 is amended to read:

432.235. (1) A vital record registered under this chapter must be amended or corrected in accordance with this section or rules adopted by the State Registrar of the Center for Health Statistics for the purpose of protecting the integrity and accuracy of vital records.

(2)(a) A vital record that is amended **or corrected** under this section shall indicate that it has been amended **or corrected**, except as otherwise provided in this section or by rule of the state registrar.

(b) The state registrar shall keep and maintain:

(A) Documentation that identifies the evidence upon which an amendment or correction is based;

(B) The date of the amendment or correction; and

(C) The identity of the individual authorized by the Center for Health Statistics that made the amendment or correction.

[(3) Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state, and upon the request of a person 18 years of age or older or, if a person is younger than 18 years of age and is not an emancipated minor, by the person's parent, legal guardian or legal representative, the state registrar shall amend the record of live birth to show a new name.]

(3)(a) Upon the request of an applicant who is 18 years of age or older or an emancipated minor, or if the applicant is not 18 years of age or older or an emancipated minor, upon the request of an applicant's parent, legal guardian or legal representative, the state registrar shall amend a record of live birth that occurred in this state to change the name of the applicant if:

(A) The state registrar receives a certified copy of an order from a court of competent jurisdiction changing the name of the applicant; or

(B) The state registrar receives a request, on a form prescribed by the state registrar, from the applicant to change the name that includes:

(i) Documentation sufficient, as prescribed by the state registrar by rule, to allow the state registrar to confirm the identity of the applicant and identify the correct record of live birth to be amended; and

(ii) A statement signed by the applicant in which the applicant attests, as prescribed by the state registrar by rule, to making the request for the purpose of affirming the applicant's gender identity.

(b) Upon request, the state registrar shall amend a record of live birth that occurred in this state to change the sex of an applicant if the applicant is 18 years of age or older or an emancipated minor, or if the applicant is not 18 years of age or older or an emancipated minor, the applicant's parent, legal guardian or legal representative makes the request, and if:

(A) The state registrar receives a certified copy of an order from a court of competent jurisdiction changing the sex of the applicant; or

(B) The state registrar receives a request, on a form prescribed by the state registrar, from the applicant to change the sex that includes:

(i) Documentation sufficient, as prescribed by the state registrar by rule, to allow the state registrar to confirm the identity of the applicant and identify the correct record of live birth to be amended;

(ii) A statement signed by the applicant in which the applicant attests, as prescribed by the state registrar by rule, to making the request for the purpose of affirming the applicant's gender identity; and

(iii) Any other documentation as required by the state registrar by rule.

[(4)] (4)(a) When an applicant to amend a vital record does not submit the minimum documentation required to make an amendment, or when the state registrar has cause to question the validity or adequacy of *[the]* an application to amend a vital record, the state registrar, in the state registrar's discretion, may refuse to amend the vital record. *[and shall enter an order to that effect, stating the reasons for the action. The state registrar shall advise the applicant of the right to appeal under ORS 183.484.]* If the state registrar refuses to amend a vital record under this subsection, the state registrar shall:

(A) Enter an order denying the amendment and stating the reasons for the denial; and

(B) Advise the applicant of the applicant's right to appeal the order under ORS 183.484.

(b) The state registrar may not amend a record of live birth to change the name of an applicant under subsection (3)(a)(B) or the sex of an applicant under subsection (3)(b)(B) of this section more than once.

(5) When an amendment is made to a record of marriage or a record of domestic partnership by the county clerk or other county official who issues marriage licenses and registers domestic partnerships *[or, if]*, or when an amendment changes the name, date of birth or birthplace of a party~~, by the court that entered the~~ to a judgment or final order of a dissolution of marriage or dissolution of domestic partnership by a court of competent jurisdiction, copies of the amendment must be forwarded to the state registrar and the state registrar shall amend the related record.

(6) If a judgment or final order of dissolution of marriage or dissolution of domestic partnership is set aside by *[the court that entered the judgment or order]* a court of competent jurisdiction, a copy of the notice setting aside the judgment or order must be forwarded to the state registrar and the state registrar shall void the related record.

SECTION 2. ORS 432.245 is amended to read:

432.245. (1) For a person born in this state, the State Registrar of the Center for Health Statistics shall amend a record of live birth and establish a replacement for the record of live birth if the state registrar receives one of the following:

(a) A report of adoption as provided in ORS 432.223 or a certified copy of the judgment of adoption **from a court of competent jurisdiction**, with the information necessary to identify the original record of live birth and to establish a replacement for the record **of live birth**, unless the court ordering the adoption requests that a replacement for the record **of live birth** not be established;

(b) A request that a replacement **for the** record of live birth be prepared to establish parentage, as prescribed by the state registrar by rule, or **as** ordered by a court of competent jurisdiction [*in this state*] that has determined the **parentage or biological** paternity of a person;

(c) A written and notarized request[,] **that a replacement for the record of live birth be prepared to establish parentage, if the request includes an acknowledgment of paternity signed by both biological parents[, acknowledging paternity; or];**

(d) A certified copy of a judgment [*that indicates that an individual born in this state has completed sexual reassignment and that the sex on the record of live birth must be changed.*] **from a court of competent jurisdiction changing a person's sex and, if applicable, name; or**

(e) **A request approved by the state registrar under ORS 432.235 (3)(b)(B).**

(2) To change a person's name under subsection (1) of this section, the request or court order must include **both** the name that [*currently*] appears **on** the record of live birth **at the time of the request** and the [*new*] name to be designated on the replacement for the record **of live birth**. The [*new*] **designated** name of the person [*shall be shown*] **must appear** on the replacement for the record **of live birth**.

(3) Upon receipt of a certified copy of a court order to change the name of a person born in this state as authorized by 18 U.S.C. 3521 et seq., the state registrar shall create a replacement for [*a*] **the** record of live birth to show the new information as specified in the court order.

(4) When a replacement for a record of live birth is prepared, the city, county and date of live birth **must be included** in the replacement **for the record of live birth**. The replacement for the record **of live birth** must be substituted for the original record of live birth. The original record of live birth and all evidence submitted with the request or court order for the replacement for the record **of live birth** must be placed under seal and is not subject to inspection, except upon the order of a court of competent jurisdiction in this state or as provided by rule of the state registrar.

(5) Upon receipt of an amended judgment of adoption, the record of live birth shall be amended by the state registrar as provided by the state registrar by rule.

(6) Upon receipt of a report of annulment of adoption or a court order annulling an adoption, the original record of live birth must be restored. The replacement for the record of live birth is not subject to inspection, except upon the order of a court of competent jurisdiction in this state or as provided by rule of the state registrar.

[(7) *If there is no record of live birth for a person for whom a replacement for the record is sought under this section and the court issues an order indicating a date of live birth more than one year from the date submitted to the Center for Health Statistics, the replacement for the record of live birth shall be created as a delayed record of live birth.*]

[(8)] (7) The state registrar shall prepare and register a record of foreign live birth for a person born in a foreign country who is not a citizen of the United States and for whom a judgment of adoption was issued by a court of competent jurisdiction in this state if the court, the parents adopting the child or the adopted person, if the adopted person is 18 years of age or older, requests the record. The record must be labeled "Record of Foreign Live Birth" and shall show the actual country of live birth. After registering the record of foreign live birth in the new name of the adopted person, the record must be placed under seal and is not subject to inspection, except upon the order of a court of competent jurisdiction [*in this state*] or as provided by rule of the state registrar.

(8) **If there is no record of live birth for a person for whom a replacement for the record of live birth is sought under this section, and if the court order indicates a date of live birth more than one year from the date submitted to the Center for Health Statistics, the replacement for the record of live birth must be created as a delayed record of live birth.**

(9) A replacement **for the** record of live birth may not be created under this section if the date and place of live birth have not been *[determined by the]* **indicated in the court order.**

SECTION 3. ORS 33.460 is amended to read:

33.460. (1) *[A court that has jurisdiction to determine an application for change of name of a person under ORS 33.410 and 33.420]* **Application for legal change of sex of a person may be heard and determined by any circuit court in this state. A circuit court** may order a legal change of sex and enter a judgment indicating the change of sex *[of a person if the court determines that the individual has undergone surgical, hormonal or other treatment appropriate for that individual for the purpose of gender transition and that sexual reassignment has been completed.]* **if the individual attests that the individual has undergone surgical, hormonal or other treatment appropriate for the individual for the purpose of affirming gender identity.**

(2) The court may order a legal change of sex and enter the judgment in the same manner as that provided for change of name of a person under ORS 33.410 *[and 33.420]*.

(3) If a person applies for a change of name under ORS 33.410 *[and 33.420]* at the time the person applies for a legal change of sex under this section, the court may order change of name and legal change of sex at the same time and in the same proceeding.

SECTION 4. ORS 33.420 is amended to read:

33.420. *[(1) Before entering a judgment for a change of name, except as provided in ORS 109.360, the court shall require public notice of the application to be given, that all persons may show cause why the same should not be granted. The court shall also require public notice to be given of the change after the entry of the judgment.]*

[(2)] (1) **Except as provided in ORS 109.360,** before entering a judgment for a change of name in the case of a minor child, the court shall require that, *[in addition to the notice required under subsection (1) of this section,]* written notice be given to the parents of the child, both custodial and noncustodial, and to any legal guardian of the child.

[(3)] (2) Notwithstanding subsection *[(2)]* (1) of this section, notice of an application for the change of name of a minor child *[need not]* **does not need to** be given to a parent of the child if the other parent of the child files a verified statement in the change of name proceeding that asserts that the minor child has not resided with the other parent and that the other parent has not contributed or **has not** tried to contribute to the support of the child.

[(4)(a) Upon the request of an applicant, the court shall waive the requirement of public notice of the application for or judgment for a change of name under subsection (1) of this section if the applicant is a certified adult program participant in the Address Confidentiality Program under ORS 192.826, unless the court issues an order pursuant to a finding of good cause under ORS 192.848.]

[(b) If the court grants an applicant's request to waive the public notice requirement under this subsection, the court shall seal the record of the case.]

[(c) If the court denies an applicant's request to waive the public notice requirement under this subsection, the court shall seal the record of the case unless the court finds that the interest of the public in the case outweighs the safety concerns of the applicant.]

(3)(a) **In a case to determine an application for change of name of a person under ORS 33.410, if an applicant who is a certified adult program participant in the Address Confidentiality Program under ORS 192.826 requests the court to seal the record of the case, the court shall seal the record of the case unless the court issues an order pursuant to a finding of good cause under ORS 192.848.**

[(d)] (b) This subsection does not apply to an adult applicant appearing as a guardian ad litem for a minor child.

(4) **In a case to determine an application for legal change of sex of a person under ORS 33.460, if an applicant requests the court to seal the record of the case, the court shall seal the record of the case.**

SECTION 5. ORS 109.360 is amended to read:

109.360. If in a petition for the adoption of a child a change of the child's name is requested, the court, upon entering a judgment granting the adoption, may also provide in the judgment for the change of the name without the [notices] notice required by ORS 33.420.

SECTION 6. The amendments to ORS 33.420, 33.460 and 109.360 by sections 3, 4 and 5 of this 2017 Act apply to proceedings commencing on or after the operative date specified in section 7 of this 2017 Act.

SECTION 7. (1) The amendments to ORS 33.420, 33.460, 109.360, 432.235 and 432.245 by sections 1 to 5 of this 2017 Act become operative on January 1, 2018.

(2) The Oregon Health Authority and the circuit courts of this state may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority and the courts to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, powers and functions conferred on the authority and the courts by the amendments to ORS 33.420, 33.460, 109.360, 432.235 and 432.245 by sections 1 to 5 of this 2017 Act.

SECTION 8. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House March 15, 2017

Received by Governor:

.....M.,....., 2017

.....
Timothy G. Sekerak, Chief Clerk of House

Approved:

.....M.,....., 2017

.....
Tina Kotek, Speaker of House

.....
Kate Brown, Governor

Passed by Senate May 10, 2017

Filed in Office of Secretary of State:

.....M.,....., 2017

.....
Peter Courtney, President of Senate

.....
Dennis Richardson, Secretary of State

Enrolled
Senate Bill 5530

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Oregon Department of Administrative Services)

CHAPTER

AN ACT

Relating to lottery bonds; creating new provisions; amending ORS 285B.551 and section 4, chapter 906, Oregon Laws 2009, sections 3, 6 and 18, chapter 786, Oregon Laws 2013, and sections 23 and 28a, chapter 812, Oregon Laws 2015; and declaring an emergency.

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

SECTION 1. ORS 285B.551 is amended to read:

285B.551. (1) Pursuant to ORS 286A.560 to 286A.585, at the request of the Oregon Department of Administrative Services, after the department consults with the Oregon Business Development Department, the State Treasurer is authorized to issue lottery bonds:

(a) To provide financial and other assistance, including but not limited to loans and grants, to municipalities, ports and other persons and entities in accordance with the laws governing use of moneys in the Special Public Works Fund created by ORS 285B.455, the Water Fund created by ORS 285B.563, the Safe Drinking Water Revolving Loan Fund created by ORS 285A.213, the Oregon Port Revolving Fund created by ORS 285A.708, the Brownfields Redevelopment Fund created by ORS 285A.188, the Oregon Business Development Fund created by ORS 285B.092 and the Marine Navigation Improvement Fund created by ORS 777.267.

(b) To fund Oregon's share of the costs of the Columbia River channel deepening project.

(c) To fund Oregon's share of the costs of studies and ecosystem restoration projects in the lower Columbia River estuary designed to improve habitat for listed endangered or threatened species of Columbia River anadromous salmonids.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The financial and other assistance to municipalities, ports and other persons and entities will assist in the establishment and expansion of businesses in Oregon and in the construction, improvement and expansion of infrastructure, community and port facilities and other facilities that comprise the physical foundation for industrial and commercial activity and provide the basic framework for continued and expanded economic opportunities and quality communities throughout Oregon.

(b) The Columbia River channel deepening project is necessary to allow newer, larger steamships access to Oregon and Washington deep draft ports. A deeper shipping channel will allow the Columbia River to continue as a world leader in agricultural exports and as a key trade corridor for farms and businesses throughout Oregon and the region.

(c) Such financial and other assistance to municipalities, ports and other persons and entities and the deepening of the Columbia River channel will therefore promote economic development

within this state, and thus the use of net proceeds derived from the operation of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to provide such financial and other assistance to municipalities, ports and other persons and entities and to pay a portion of the costs of deepening the Columbia River channel is an authorized use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

(d) The current lower Columbia River estuary habitat for listed endangered or threatened species of Columbia River anadromous salmonids could be improved through ecosystem restoration projects. The use of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to pay for studying how the estuary could be improved and to pay for ecosystem restoration projects are authorized uses of state lottery funds.

(3)(a) The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(a) of this section for financial and other assistance to municipalities, ports and other persons and entities may not exceed the sum of [~~\$306,226,252~~] **\$336,226,252** and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs. The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(b) of this section for the Columbia River channel deepening project may not exceed the sum of \$17.7 million and an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(b) The Oregon Department of Administrative Services may not request the issuance of lottery bonds under subsection (1)(b) of this section until the Director of the Oregon Business Development Department determines that a final environmental impact statement has been issued and a record of decisions has been submitted to Congress by the United States Army Corps of Engineers, Congress has authorized the Columbia River channel deepening project, and the Washington sponsors' shares of the costs of the Columbia River channel deepening project have been committed.

(4) The net proceeds of lottery bonds issued pursuant to subsection (1)(a) and (b) of this section shall be deposited in the Economic Infrastructure Project Fund, which is hereby established in the State Treasury separate and distinct from the General Fund. Interest earned by the Economic Infrastructure Project Fund shall be credited to the fund. All moneys in the Economic Infrastructure Project Fund are continuously appropriated to the Oregon Business Development Department for any purpose for which moneys in the Special Public Works Fund created by ORS 285B.455 may be used, any purpose for which moneys in the Water Fund created by ORS 285B.563 may be used, any purpose for which moneys in the Safe Drinking Water Revolving Loan Fund created by ORS 285A.213 may be used, any purpose for which moneys in the Oregon Port Revolving Fund created by ORS 285A.708 may be used, any purpose for which moneys in the Brownfields Redevelopment Fund created by ORS 285A.188 may be used, any purpose for which moneys in the Oregon Business Development Fund created by ORS 285B.092 may be used and any purpose for which moneys in the Marine Navigation Improvement Fund created by ORS 777.267 may be used. The Director of the Oregon Business Development Department shall allocate the moneys deposited in the Economic Infrastructure Project Fund for the purposes described in this subsection in accordance with the priorities developed by the Oregon Business Development Commission in accordance with ORS 285A.020. However, the director shall transfer from the Economic Infrastructure Project Fund and deposit into the Channel Deepening Account of the Marine Navigation Improvement Fund the proceeds of any lottery bonds sold to finance a portion of the costs of the Columbia River channel deepening project. Upon determining the relative allocation of moneys deposited in the Economic Infrastructure Project Fund among the purposes described in this subsection, the director shall transfer from the Economic Infrastructure Project Fund, and deposit into each of the other funds described in this subsection, the amounts so allocated. Notwithstanding any other provision of law governing the funds described in this subsection, the funds described in this subsection may be credited with moneys transferred from the Economic Infrastructure Project Fund by the director in accordance with this subsection.

(5) The aggregate principal amount of lottery bonds issued pursuant to subsection (1)(c) of this section for the costs of studies and ecosystem restoration projects in the lower Columbia River estuary may not exceed the sum of \$750,000 and an additional amount estimated by the State

Treasurer to be necessary to pay bond-related costs. The net proceeds of lottery bonds issued pursuant to subsection (1)(c) of this section shall be deposited in the Oregon Business, Innovation and Trade Fund created by ORS 285A.227 and may be used only for the Oregon nonfederal share of United States Army Corps of Engineers Columbia River estuary projects authorized by Congress prior to August 9, 2001. The director may not request the issuance of lottery bonds under subsection (1)(c) of this section until Congress and Washington have authorized their respective shares of the costs of the studies and ecosystem restoration projects in the lower Columbia River estuary.

(6) The proceeds of lottery bonds issued pursuant to this section may be used only for the purposes set forth in this section and for bond-related costs.

SECTION 2. (1) Net proceeds of lottery bonds issued under ORS 285B.551 during the biennium beginning July 1, 2017, in an amount sufficient to provide \$10 million in net proceeds and interest earnings must be transferred to the Oregon Business Development Department for deposit in the Levee Project Subaccount, established in ORS 285B.456, for the purpose of providing financial assistance under ORS 285B.410 to 285B.482 for levee projects, as defined in ORS 285B.410.

(2) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Levees are an integral part of the commercial and industrial infrastructure of this state.

(b) The inspection, accreditation, certification and repair of levees will promote economic development within this state.

SECTION 3. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Oregon Business Development Department, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$4 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$4 million in net proceeds and interest earnings must be transferred to the Oregon Business Development Department for deposit in the Regional Infrastructure Fund established in section 3, chapter 786, Oregon Laws 2013, to provide grants and loans to local governments for infrastructure projects, including long-range planning, research and design. The grants and loans are to be allocated based on recommendations of regionally based planning committees designated by the department.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Infrastructure projects will create jobs; and

(b) Integrated development of infrastructure will establish a foundation for expanding existing businesses and for developing and attracting new businesses.

SECTION 4. Section 3, chapter 786, Oregon Laws 2013, as amended by section 3, chapter 812, Oregon Laws 2015, is amended to read:

Sec. 3. (1) The Regional Infrastructure Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on the moneys in the Regional Infrastructure Fund shall be credited to the fund. The Regional Infrastructure Fund consists of moneys deposited in the fund under section 2, chapter 786, Oregon Laws 2013, and section 2 [of this 2015 Act], **chapter 812, Oregon Laws 2015, and section 3 of this 2017 Act**, and may include fees, revenues or other income deposited into the fund by the Legislative Assembly.

(2) Moneys in the fund are continuously appropriated to the Oregon Business Development Department for disbursement to local governments for the purposes set forth in section 2, chapter 786, Oregon Laws 2013, and section 2 [of this 2015 Act], **chapter 812, Oregon Laws 2015, and section 3 of this 2017 Act.**

SECTION 5. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Water Resources Department, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$20,700,000 in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section must be transferred to the Water Resources Department for deposit in the Water Supply Development Account established in ORS 541.656, in an amount sufficient to provide:

(a) \$15 million in net proceeds and interest earnings to provide grants or loans to evaluate, plan and develop in-stream and out-of-stream statewide water development projects.

(b) \$2.5 million in net proceeds and interest earnings to the City of Carlton to reduce sedimentation and increase water storage capacity at the Panther Creek Reservoir.

(c) \$2 million in net proceeds and interest earnings to the City of Carlton to replace the city's finished water supply line and reduce water loss.

(d) \$1.2 million in net proceeds and interest earnings to the Santiam Water Control District to complete the Mill Creek Corporate Center irrigation conversion and efficiency project.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Having adequate drinking water systems, irrigation, drainage and healthy ecosystems enhances community development and supports Oregon's economic growth.

(b) Assisting local governments to mitigate losses resulting from reduced water supply for irrigation and retirement of water rights will enhance community efforts to facilitate and promote economic growth.

SECTION 6. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Water Resources Department, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$1.5 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$1.5 million in net proceeds and interest earnings must be transferred to the Water Resources Department for deposit in the Water Conservation, Reuse and Storage Investment Fund, established in ORS 541.576, to be used to pay the qualifying costs of planning studies performed to evaluate the feasibility of developing water conservation, reuse or storage projects.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Having adequate drinking water systems, irrigation, drainage and healthy ecosystems enhances community development and supports Oregon's economic growth.

(b) Assisting local governments to mitigate losses resulting from reduced water supply for irrigation and retirement of water rights will enhance community efforts to facilitate and promote economic growth.

SECTION 7. Section 4, chapter 906, Oregon Laws 2009, as amended by section 3, chapter 624, Oregon Laws 2011, section 19, chapter 786, Oregon Laws 2013, section 15, chapter 121, Oregon Laws 2014, section 37, chapter 812, Oregon Laws 2015, and section 4, chapter 66, Oregon Laws 2016, is amended to read:

Sec. 4. (1) Pursuant to ORS 286A.560 to 286A.585, at the request of the Oregon Department of Administrative Services, after the department consults with the Housing and Community Services Department, the State Treasurer is authorized to issue lottery bonds for the Housing and Community Services Department to provide financial assistance to aid in the acquisition, renovation or maintenance of section 8 housing or other housing with federal rent subsidies.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) Individuals who are at risk of homelessness or who otherwise pay a disproportionate share of income for housing increase their potential for self-sufficiency, and use proportionately fewer community-funded resources when they are provided a stable housing environment.

(b) Having housing for at-risk populations is essential to Oregon's healthy economic growth.

(3) The aggregate principal amount of lottery bonds issued pursuant to subsection (1) of this section may not exceed the amount of [~~\$33,801,718~~] **\$58,801,718** plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs as defined in ORS 286A.560.

SECTION 8. (1) **For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, in consultation with the Department of Transportation, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$30 million in net proceeds and interest earnings for the purpose described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.**

(2) **Net proceeds of lottery bonds issued pursuant to this section and interest earnings must be transferred to the Department of Transportation for deposit in the Connect Oregon Fund established under ORS 367.080 in an amount sufficient to provide \$30 million for the department to finance grants for transportation projects as provided in ORS 367.080 to 367.086.**

(3) **Bond-related costs for the lottery bonds authorized by this section must be paid from the gross proceeds of the lottery bonds and from allocations for the purposes of ORS 286A.576 (1)(c).**

(4) **The Legislative Assembly finds that issuing lottery bonds to finance transportation projects pursuant to this section is essential to promoting the state's economic development, and the use of lottery bond proceeds is authorized based on the following findings:**

(a) **There is an urgent need to improve and expand publicly owned and privately owned transportation infrastructure to support economic development in this state.**

(b) **A safe, efficient and reliable transportation network supports the long-term economic development and livability of this state.**

(c) **A multimodal network of transportation options moves people and goods efficiently.**

(d) **Local governments and private sector businesses often lack capital and the technical capacity to undertake multimodal transportation projects.**

(e) **Public financial assistance can stimulate industrial growth and commercial enterprise and promote employment opportunities in this state.**

(f) **Public investment in transportation infrastructure will create jobs and further economic development in this state.**

(g) **The use of lottery bond proceeds as provided in this section will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife within Oregon, and issuance of lottery bonds for the purpose described in this section is therefore an appropriate use of state lottery funds under Article XV, section 4, of the Oregon Constitution, and ORS 461.510.**

SECTION 9. **To the extent that proposed transportation projects meet the qualifications established by the Oregon Transportation Commission by rule, the commission shall allocate**

at least 10 percent of the net proceeds of the lottery bonds authorized by section 8 of this 2017 Act to each region described in this section. For purposes of this section, the regions are as follows:

- (1) Region one consists of Clackamas, Hood River, Multnomah and Washington Counties.
- (2) Region two consists of Benton, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill Counties.
- (3) Region three consists of Coos, Curry, Douglas, Jackson and Josephine Counties.
- (4) Region four consists of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake, Sherman, Wasco and Wheeler Counties.
- (5) Region five consists of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and Wallowa Counties.

SECTION 10. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Department of State Lands, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$3 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$3 million in net proceeds and interest earnings must be transferred to the Department of State Lands for deposit in the Portland Harbor Cleanup Fund, established in section 11 of this 2017 Act, to provide financial assistance to the department for coordination and participation in any contracts or agreements relating to or arising out of the Portland Harbor Superfund Site. The purposes of the contracts or agreements may include, but are not limited to:

(a) Investigation necessary to characterize existing baseline conditions throughout the Portland Harbor Superfund Site, as well as conditions upstream and downstream that may be impacting the Portland Harbor Superfund Site;

(b) Investigation of key sediment management areas to update the extent of areas of higher contamination in the Portland Harbor Superfund Site;

(c) Investigation of potential infrastructure needs related to contaminated sediments in the Portland Harbor Superfund Site;

(d) Development and administration of a comprehensive data management system for the Portland Harbor Superfund Site;

(e) Satisfaction of some or all of the department's obligations under any administrative settlement or administrative order on consent in connection with the Portland Harbor Superfund Site; and

(f) Work required by the United States Environmental Protection Agency in connection with the Portland Harbor Superfund Site.

(3) In executing contracts for the work described in subsection (2) of this section, the Department of State Lands shall, when practicable, contract with regional contractors employing individuals from communities disproportionately impacted by contamination in the Portland Harbor.

(4) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Having healthy ecosystems supports Oregon's economic growth and restores watersheds and habitat for native fish.

(b) The future cleanup of the Portland Harbor will enhance community efforts to facilitate and promote economic growth.

SECTION 11. (1) The Portland Harbor Cleanup Fund is established in the State Treasury, separate and distinct from the General Fund. The Portland Harbor Cleanup Fund consists

of moneys deposited in the fund under section 10 of this 2017 Act and may include moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise and interest earned on moneys in the fund.

(2) Moneys in the fund are continuously appropriated to the Department of State Lands for disbursement for the purposes set forth in section 10 of this 2017 Act.

(3) Nothing in section 10 or 11 of this 2017 Act waives or limits the department's ability to recover, by way of insurance, cost recovery, contribution, or claim or action relating to or arising out of the Portland Harbor Superfund Site, monies from other parties, including claims for costs incurred by the department. In no event shall anything in section 10 or 11 of this 2017 Act be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise.

SECTION 12. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Cascade AIDS Project, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$1 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$1 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to the Cascade AIDS Project for acquisition and renovation of a primary care and mental health center for the lesbian, gay, bisexual, transgender, queer, and other minority gender identities and sexual orientation community.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Individuals increase their potential for self-sufficiency and use fewer public resources when they have access to health care.

(b) Individuals who have mental illnesses increase their potential for self-sufficiency and use fewer public resources when they have access to mental health services.

SECTION 13. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the City of Spray, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$725,000 in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$725,000 in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to the City of Spray to construct a public safety and emergency services center, which includes fire protection and emergency medical services.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that public safety and emergency services are necessary components of a climate that facilitates and encourages economic development.

SECTION 14. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Eugene Civic Alliance, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$6 million in net proceeds and interest earnings for

the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$6 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to the Eugene Civic Alliance to redevelop the site of the former Civic Stadium into a community sports and recreation complex.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that improving access to sports and recreation services will enhance the economic viability of the region, create jobs and improve the quality of life for the community.

SECTION 15. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Family Nurturing Center Rogue Valley Children's Relief Nursery, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$2 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$2 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to the Family Nurturing Center Rogue Valley Children's Relief Nursery to purchase and rehabilitate affordable housing adjacent to the Family Nurturing Center Campus.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Having housing for at-risk populations is essential to Oregon's healthy economic growth.

(b) A severe shortage of affordable housing exists in Oregon, and market indicators demonstrate a growing gap between the supply of and demand for affordable housing.

SECTION 16. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Gresham Redevelopment Commission, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$2 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$2 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to the Gresham Redevelopment Commission for the construction of an innovation and workforce training center to be located in the Rockwood neighborhood in Gresham.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that training the state's workforce is essential to Oregon's healthy economic growth.

SECTION 17. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the City of Independence, the State Treasurer is authorized to issue lottery bonds pursuant to ORS

286A.560 to 286A.585 in an amount that produces \$1 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$1 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to the City of Independence to continue development of the Independence Landing site in the City of Independence.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that developing the Independence Landing site will enhance the economic viability of the region, create jobs and improve the quality of life for the community.

SECTION 18. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with Klamath County, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$1 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$1 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to Klamath County for construction of the Klamath Youth Inspiration Program residential treatment center in Klamath Falls.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that expanding programs and services for at-risk youth will facilitate and encourage economic development.

SECTION 19. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with The Dalles Civic Auditorium Historic Preservation Committee, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$745,000 in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$745,000 in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to The Dalles Civic Auditorium Historic Preservation Committee to continue reconstruction of The Dalles Civic Auditorium theatre.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that improving access to performing arts and cultural activities will enhance the economic viability of the region, create jobs and improve the quality of life for the community.

SECTION 20. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the City of Woodburn, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$1 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$1 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to the City of Woodburn to develop a community center in Woodburn.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that improving access to community services will enhance the economic viability of the region, create jobs and improve the quality of life for the community.

SECTION 21. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the YMCA of Marion and Polk Counties, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$12 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$12 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to the YMCA of Marion and Polk Counties to construct a new YMCA facility in Salem.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that improving access to sports, recreation and community services will enhance the economic viability of the region, create jobs and improve the quality of life for the community.

SECTION 22. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Oregon Business Development Department, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$2,450,000 in net proceeds and interest earnings for transfer to the Oregon Business Development Department for deposit in the Cultural Resources Economic Fund established in section 6, chapter 786, Oregon Laws 2013, to provide grants described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) The Oregon Business Development Department shall grant:

(a) \$1 million to the Portland Art Museum to finance the Connections Campaign that will connect the Museum's Main Building to the Mark Building through the construction of a glass pavilion.

(b) \$750,000 to the Friends of the Oregon Caves and Chateau to finance the Balcony Restoration Project that will rebuild the Chateau's balconies.

(c) \$700,000 to the Eugene Ballet Company to finance the Midtown Arts Center capital construction project.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) The grants described in this section will leverage art and cultural resources to create vibrant public spaces that integrate art and cultural and natural amenities, sustain Oregon's rich arts and cultural experiences and enhance a strong sense of place and community identity.

(b) The factors described in paragraph (a) of this subsection have the effect of creating jobs, expanding business and tax revenues and enhancing the economic vitality of Oregon communities.

SECTION 23. Section 6, chapter 786, Oregon Laws 2013, as amended by section 27, chapter 812, Oregon Laws 2015, is amended to read:

Sec. 6. (1) The Cultural Resources Economic Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on the moneys in the Cultural Resources Economic Fund shall be credited to the fund. The Cultural Resources Economic Fund consists of moneys deposited in the fund under section 5, chapter 786, Oregon Laws 2013, and section 26, **chapter 812, Oregon Laws 2015, and section 22 of this 2017 Act** [of this 2015 Act] and may include fees, revenues or other income deposited in the fund by the Legislative Assembly.

(2) Moneys in the fund are continuously appropriated to the Oregon Business Development for disbursement for the purposes set forth in section 5, chapter 786, Oregon Laws 2013, and section 26, **chapter 812, Oregon Laws 2015, and section 22 of this 2017 Act** [of this 2015 Act].

SECTION 24. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Oregon Business Development Department, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$600,000 in net proceeds and interest earnings for the purpose described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$600,000 in net proceeds and interest earnings must be transferred to the Oregon Business Development Department for deposit in the Brookings Harbor Dock Fund established under section 28a, chapter 812, Oregon Laws 2015, for distribution to the Port of Brookings Harbor for the purpose of repairing and improving docks owned by the port.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Docks are an integral part of the commercial and industrial infrastructure of this state.

(b) Repair and improvement of docks will promote economic development within this state.

SECTION 25. Section 28a, chapter 812, Oregon Laws 2015, is amended to read:

Sec. 28a. (1) The Brookings Harbor Dock Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on the moneys in the Brookings Harbor Dock Fund shall be credited to the fund. The Brookings Harbor Dock Fund consists of moneys deposited in the fund under section 28, **chapter 812, Oregon Laws 2015, and section 24 of this 2017 Act** [of this 2015 Act] and may include fees, revenues or other income deposited in the fund by the Legislative Assembly.

(2) Moneys in the fund are continuously appropriated to the Oregon Business Development for disbursement for the purposes set forth in section 28, **chapter 812, Oregon Laws 2015, and section 24 of this 2017 Act** [of this 2015 Act].

SECTION 26. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Oregon Business Development Department, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$2 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$2 million in net proceeds and interest earnings must be transferred to the Oregon

Business Development Department for deposit in the OBDD Economic Development Distributions Fund established under section 28 of this 2017 Act for distribution to the City of Sweet Home to upgrade the Sweet Home Wastewater Treatment Plant.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Wastewater treatment systems are an integral part of the commercial and industrial infrastructure of this state.

(b) Improvement of a wastewater treatment plant will promote economic development within this state.

SECTION 27. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Oregon Business Development Department, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$3 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$3 million in net proceeds and interest earnings must be transferred to the Oregon Business Development Department for deposit in the OBDD Economic Development Distributions Fund established under section 28 of this 2017 Act for distribution to the Crescent Sanitary District to build a wastewater treatment facility.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the following findings:

(a) Wastewater treatment systems are an integral part of the commercial and industrial infrastructure of this state.

(b) Addition of a wastewater treatment facility will promote economic development within this state.

SECTION 28. (1) The OBDD Economic Development Distributions Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on the moneys in the OBDD Economic Development Distributions Fund consists of moneys deposited in the fund under sections 26 and 27 of this 2017 Act and may include fees, revenues or other income deposited into the fund by the Legislative Assembly.

(2) Moneys in the fund are continuously appropriated to the Oregon Business Development Department for purposes described in sections 26 and 27 of this 2017 Act.

SECTION 29. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Oregon Business Development Department, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$3,390,000 in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$3,390,000 in net proceeds and interest earnings must be transferred to the Oregon Business Development Department for deposit in the American Manufacturing Innovation District Fund established in section 7a, chapter 66, Oregon Laws 2016, for construction of access roads to the Oregon Manufacturing Innovation Center Research and Development Facility and Training Center.

(3) The Legislative Assembly finds that the use of lottery bonds proceeds with create jobs and further economic development, and is authorized based on the finding that the Oregon Manufacturing Innovation Center will enable and encourage the development of a robust manufacturing sector in the Oregon economy.

SECTION 30. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Department of Transportation, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$2 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$2 million in net proceeds and interest earnings must be transferred to the Department of Transportation for deposit in the DOT Economic Development Distributions Fund established in ORS 461.557 for distribution to the City of Portland for infrastructure improvements on SW Capitol Highway.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that roads are an integral part of the commercial and industrial infrastructure of this state and improvement to roads will promote economic development in this state.

SECTION 31. (1) For the biennium beginning July 1, 2017, at the request of the Oregon Department of Administrative Services, after the department consults with the Department of Transportation, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$5 million in net proceeds and interest earnings for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$5 million in net proceeds and interest earnings must be transferred to the Department of Transportation for deposit in the DOT Economic Development Distributions Fund established in ORS 461.557 for distribution to Lane Transit District for upgrades and improvements to existing transit infrastructure.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that increasing capacity of mass transit systems promotes employment and economic development by enabling a larger pool of workers to travel to available jobs.

SECTION 32. (1) For the biennium beginning July 1, 2017, at the request of the State Parks and Recreation Department, the State Treasurer may issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that does not exceed \$5 million in net proceeds for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$5 million in net proceeds and interest earnings must be transferred to the State Parks and Recreation Department for deposit into the Oregon Main Street Revitalization Grant Program Fund established in ORS 390.264 to provide grants pursuant to ORS 390.262.

(3) The Legislative Assembly finds that the use of proceeds of lottery bonds issued pursuant to this section will create jobs, further economic development and enhance the economic vitality of Oregon downtowns and local communities by supporting projects that revitalize historic downtown commercial districts, redevelop and reuse existing buildings, facilitate small business relocation and expansion initiatives and provide assistance, training and technical services.

SECTION 33. Section 18, chapter 786, Oregon Laws 2013, is amended to read:

Sec. 18. (1) For the biennium beginning July 1, 2013, at the request of the Oregon Department of Administrative Services, after the department consults with the Port of Umatilla and the Confederated Tribes of the Umatilla Indian Reservation, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$3.5 million in net proceeds and interest earnings for the purpose described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$3.5 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established by section 23 of this 2013 Act for distribution to the Confederated Tribes of the Umatilla Indian Reservation for the purpose of acquiring, developing and constructing a [*1.5-mile*] **1-mile** road extension connecting the Port of Umatilla to certain industrial lands of the Confederated Tribes of the Umatilla Indian Reservation.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that extension of the road will create jobs and facilitate access and development of industrial lands.

SECTION 34. Section 23, chapter 812, Oregon Laws 2015, is amended to read:

Sec. 23. (1) For the biennium beginning July 1, 2015, at the request of the Oregon Department of Administrative Services, after the department consults with Wheeler County, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces \$2 million in net proceeds and interest earnings for the purpose described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued under this section in an amount sufficient to provide \$2 million in net proceeds and interest earnings must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553 for distribution to Wheeler County for the purpose of funding the construction of [*an underground fiber optic telecommunication line*] **a telecommunication system**.

(3) The Legislative Assembly finds that the use of lottery bond proceeds will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife, and is authorized based on the finding that construction of a [*fiber optic telecommunication line*] **telecommunication system** in Wheeler County will bring telecommuting jobs into the county and will expand future opportunities for economic development in the John Day river basin.

SECTION 35. **This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect July 1, 2017.**

Passed by Senate July 6, 2017

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House July 7, 2017

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

.....
Dennis Richardson, Secretary of State

Enrolled Senate Bill 2

Sponsored by COMMITTEE ON JUDICIARY (at the request of Governor’s Task Force on Equality in Oregon)

CHAPTER

AN ACT

Relating to sexual orientation discrimination; creating new provisions; amending ORS 10.030, 20.107, 30.860, 93.270, 109.035, 166.155, 166.165, 174.100, 179.750, 192.630, 240.306, 338.125, 353.100, 418.648, 418.925, 421.352, 430.550, 443.739, 458.505, 659.850, 659A.003, 659A.006, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 659A.424, 659A.805, 659A.815, 659A.885, 660.139 and 744.353; and repealing ORS 236.380.

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

SECTION 1. ORS 174.100 is amended to read:

174.100. As used in the statute laws of this state, unless the context or a specially applicable definition requires otherwise:

- (1) “Any other state” includes any state and the District of Columbia.
- (2) “City” includes any incorporated village or town.
- (3) “County court” includes board of county commissioners.
- (4) “May not” and “shall not” are equivalent expressions of an absolute prohibition.
- (5) “Person” includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

(6) “Sexual orientation” means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual’s gender identity, appearance, expression or behavior differs from that traditionally associated with the individual’s sex at birth.

[(6)] **(7)** “State Treasury” includes those financial assets the lawful custody of which are vested in the State Treasurer and the office of the State Treasurer relating to the custody of those financial assets.

[(7)] **(8)** “To” means “to and including” when used in a reference to a series of statute sections, subsections or paragraphs.

[(8)] **(9)** “United States” includes territories, outlying possessions and the District of Columbia.

[(9)] **(10)** “Violate” includes failure to comply.

SECTION 2. ORS 659A.003 is amended to read:

659A.003. The purpose of this chapter is to encourage the fullest utilization of the available workforce by removing arbitrary standards of race, **color**, religion, [*color*,] sex, [*marital status*,] **sexual orientation**, national origin [*or*], **marital status**, age **or disability** as a barrier to employment of the inhabitants of this state, and to ensure the human dignity of all people within this state and protect their health, safety and morals from the consequences of intergroup hostility, tensions and practices of discrimination of any kind based on race, **color**, religion, [*color*,] sex, **sexual ori-**

entation, national origin, marital status, [*or national origin*] **age or disability**. To accomplish this purpose, the Legislative Assembly intends by this chapter to provide:

(1) A program of public education calculated to eliminate attitudes upon which practices of discrimination because of race, **color**, religion, [*color*,] sex, **sexual orientation, national origin**, marital status, [*or national origin*] **age or disability** are based.

(2) An adequate remedy for persons aggrieved by certain acts of discrimination because of race, **color**, religion, [*color*,] sex, **sexual orientation, national origin**, marital status [*or national origin*] **or disability** or unreasonable acts of discrimination in employment based upon age.

(3) An adequate administrative machinery for the orderly resolution of complaints of discrimination through a procedure involving investigation, conference, conciliation and persuasion, to encourage the use in good faith of [*such*] **the** machinery by all parties to a complaint of discrimination and to discourage unilateral action that makes moot the outcome of final administrative or judicial determination on the merits of [*such a*] **the** complaint.

SECTION 3. ORS 659A.006 is amended to read:

659A.006. (1) It is declared to be the public policy of Oregon that practices of discrimination against any of its inhabitants because of race, **color**, religion, [*color*,] sex, **sexual orientation, national origin**, marital status, [*national origin*,] age or disability are a matter of state concern and that [*such*] **this** discrimination **not only** threatens [*not only*] the rights and privileges of its inhabitants but menaces the institutions and foundation of a free democratic state.

(2) The opportunity to obtain employment **or housing or to use and enjoy places of public accommodation** without discrimination because of race, **color**, religion, [*color*,] sex, **sexual orientation, national origin**, marital status, [*national origin*,] age or disability hereby is recognized as and declared to be a civil right. [*However, this section shall not be construed to prevent a bona fide church or sectarian religious institution, including but not limited to a school, hospital or church camp, from preferring an employee or applicant for employment of one religious sect or persuasion over another when:*]

[*(a) That religious sect or persuasion to which the employee or applicant belongs is the same as that of such church or institution;*]

[*(b) In the opinion of such bona fide church or sectarian religious institution, such a preference will best serve the purposes of such church or institution; and*]

[*(c) The employment involved is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity which has no necessary relationship to the church or institution, or to its primary purposes.*]

(3) **It is not an unlawful practice for a bona fide church or other religious institution to take any action with respect to housing or the use of facilities based on a bona fide religious belief about sexual orientation as long as the housing or the use of facilities is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution.**

(4) **It is not an unlawful employment practice for a bona fide church or other religious institution, including but not limited to a school, hospital or church camp, to prefer an employee, or an applicant for employment, of one religious sect or persuasion over another if:**

(a) **The religious sect or persuasion to which the employee or applicant belongs is the same as that of the church or institution;**

(b) **In the opinion of the church or institution, the preference will best serve the purposes of the church or institution; and**

(c) **The employment involved is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution.**

(5) **It is not an unlawful employment practice for a bona fide church or other religious institution to take any employment action based on a bona fide religious belief about sexual orientation:**

(a) In employment positions directly related to the operation of a church or other place of worship, such as clergy, religious instructors and support staff;

(b) In employment positions in a nonprofit religious school, nonprofit religious camp, nonprofit religious day care center, nonprofit religious thrift store, nonprofit religious bookstore, nonprofit religious radio station or nonprofit religious shelter; or

(c) In other employment positions that involve religious activities, as long as the employment involved is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

SECTION 4. ORS 659A.030 is amended to read:

659A.030. (1) It is an unlawful employment practice:

(a) For an employer, because of an individual's race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age of any other person with whom the individual associates, or because of [*a*] **an individual's** juvenile record[,] that has been expunged pursuant to ORS 419A.260 and 419A.262, [*of any individual*,] to refuse to hire or employ **the individual** or to bar or discharge **the individual** from employment [*such individual*]. However, discrimination is not an unlawful employment practice if [*such*] **the** discrimination results from a bona fide occupational [*requirement*] **qualification** reasonably necessary to the normal operation of the employer's business.

(b) For an employer, because of an individual's race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age of any other person with whom the individual associates, or because of [*a*] **an individual's** juvenile record[,] that has been expunged pursuant to ORS 419A.260 and 419A.262, [*of any individual*,] to discriminate against [*such*] **the** individual in compensation or in terms, conditions or privileges of employment.

(c) For a labor organization, because of an individual's race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age if the individual is 18 years of age or older, or because of [*a*] **an individual's** juvenile record[,] that has been expunged pursuant to ORS 419A.260 and 419A.262, [*of any individual*] to exclude or to expel from its membership [*such*] **the** individual or to discriminate in any way against [*any such*] **the** individual or any other person.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment [*which*] **that** expresses directly or indirectly any limitation, specification or discrimination as to an individual's race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age if the individual is 18 years of age or older, or on the basis of an expunged juvenile record, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification. [*But identifying*] **Identification of prospective** employees according to race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status[,] or age does not violate this section unless the Commissioner of the Bureau of Labor and Industries, after a hearing conducted pursuant to ORS 659A.805, determines that [*such a*] **the** designation expresses an intent to limit, specify or discriminate on the basis of race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age.

(e) For an employment agency, **because of an individual's race, color, religion, sex, sexual orientation, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, national origin, marital status or age of any other person with whom the individual associates, or because of an individual's juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262, to classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to discriminate against [*any*] **the** individual.[:]**

[(A) On the basis of the individual's race, color, national origin, sex, religion, marital status or age, if the individual is 18 years of age or older;]

[(B) Because of the race, color, national origin, sex, religion, marital status or age of any other person with whom the individual associates; or]

[(C) Because of a juvenile record, that has been expunged pursuant to ORS 419A.260 and 419A.262.]

However, it is not an unlawful employment practice for an employment agency to classify or refer for employment *[any]* **an** individual *[where such]* **when the** classification or referral results from a bona fide occupational *[requirement]* **qualification** reasonably necessary to the normal operation of the employer's business.

(f) For any person to discharge, expel or otherwise discriminate against any other person because that other person has opposed any unlawful practice, or because that other person has filed a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so.

(g) For any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter or to attempt to do so.

(2) The provisions of this section apply to an apprentice under ORS 660.002 to 660.210, but the selection of an apprentice on the basis of the ability to complete the required apprenticeship training before attaining the age of 70 years is not an unlawful employment practice. The commissioner shall administer this section with respect to apprentices under ORS 660.002 to 660.210 equally with regard to all employees and labor organizations.

(3) The compulsory retirement of employees required by law at any age is not an unlawful employment practice if lawful under federal law.

(4)(a) It is not an unlawful employment practice for an employer or labor organization to provide or make financial provision for child care services of a custodial or other nature to its employees or members who are responsible for a minor child.

(b) As used in this subsection, "responsible for a minor child" means having custody or legal guardianship of a minor child or acting in loco parentis to the child.

(5) This section does not prohibit an employer from enforcing an otherwise valid dress code or policy, as long as the employer provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual.

SECTION 5. ORS 659A.403 is amended to read:

659A.403. (1) Except as provided in subsection (2) of this section, all persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, without any distinction, discrimination or restriction on account of race, **color**, religion, sex, **sexual orientation, national origin**, marital status[, *color, national origin*] or age if the individual is 18 years of age or older.

(2) Subsection (1) of this section does not prohibit:

(a) The enforcement of laws governing the consumption of alcoholic beverages by minors and the frequenting by minors of places of public accommodation where alcoholic beverages are served; or

(b) The offering of special rates or services to persons 50 years of age or older.

(3) It is an unlawful practice for any person to deny full and equal accommodations, advantages, facilities and privileges of any place of public accommodation in violation of this section.

SECTION 6. ORS 659A.406 is amended to read:

659A.406. Except as otherwise authorized by ORS 659A.403, it is an unlawful practice for any person to aid or abet any place of public accommodation, as defined in ORS 659A.400, or any **employee or** person acting on behalf of *[such]* **the place of public accommodation** to make any distinction, discrimination or restriction on account of race, **color**, religion, *[color,]* sex, **sexual orientation, national origin**, marital status[, *national origin*] or age if the individual is 18 years of age or older.

SECTION 7. ORS 659A.409 is amended to read:

659A.409. Except as provided by laws governing the consumption of alcoholic beverages by minors and the frequenting by minors of places of public accommodation where alcoholic beverages are served, and except for special rates or services offered to persons 50 years of age or older, it is an unlawful practice for any person acting on behalf of any place of public accommodation as defined in ORS 659A.400 to publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that any of the accommodations, advantages, facilities, services or privileges of the place of public accommodation will be refused, withheld from or denied to, or that any discrimination will be made against, any person on account of race, **color**, religion, sex, **sexual orientation**, **national origin**, marital status[, *color, national origin*] or age if the individual is 18 years of age or older.

SECTION 8. ORS 659A.421 is amended to read:

659A.421. (1) *[No person shall]* **A person may not**, because of **the** race, color, **religion**, sex, **sexual orientation**, **national origin**, marital status, *[source of income, familial status, religion or national origin]* **familial status or source of income** of any person:

- (a) Refuse to sell, lease or rent any real property to a purchaser.
- (b) Expel a purchaser from any real property.
- (c) Make any distinction, discrimination or restriction against a purchaser in the price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the furnishing of any facilities or services in connection therewith.
- (d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.
- (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing of real property *[which]* **that** indicates any preference, limitation, specification or discrimination based on race, color, **religion**, sex, **sexual orientation**, **national origin**, marital status, **familial status or source of income**[, *religion or national origin*].
- (f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that violates this subsection and subsection (3) of this section.
- (g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected by this section.

(2)(a) *[No]* **A** person whose business includes engaging in residential real estate related transactions *[shall]* **may not** discriminate against any person in making **a transaction** available *[such a transaction]*, or in the terms or conditions of *[such a]* **the** transaction, because of race, color, **religion**, sex, *[marital status, source of income, familial status, religion or national origin]* **sexual orientation**, **national origin**, **marital status**, **familial status or source of income**.

(b) As used in this subsection, residential real estate related transaction means any of the following:

- (A) The making or purchasing of loans or providing other financial assistance:
 - (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - (ii) For securing residential real estate; or
 - (B) The selling, brokering or appraising of residential real property.
- (3) *[No]* **A** real estate licensee *[shall]* **may not** accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease thereof because of race, color, **religion**, sex, *[marital status, source of income, familial status, religion or national origin]* **sexual orientation**, **national origin**, **marital status**, **familial status or source of income**.

(4) *[No person shall]* **A person may not**, for profit, induce or attempt to induce any other person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, **religion**, sex, *[marital status, source of income, familial status, religion or national origin]* **sexual orientation**, **national origin**, **marital status**, **familial status or source of income**.

(5) For purposes of subsections (1) to (4) of this section, “source of income” does not include federal rent subsidy payments under 42 U.S.C. 1437f, income from specific occupations or income derived in an illegal manner.

(6) Subsections (1) and (3) of this section do not apply with respect to sex distinction, discrimination or restriction if the real property involved is such that the application of subsections (1) and (3) of this section would necessarily result in common use of bath or bedroom facilities by unrelated persons of opposite sex.

(7)(a) This section does not apply to familial status distinction, discrimination or restriction with respect to housing for older persons.

(b) As used in this subsection, “housing for older persons” means housing:

(A) Provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined by the state or federal program;

(B) Intended for, and solely occupied by, persons 62 years of age or older; or

(C) Intended and operated for occupancy by at least one person 55 years of age or older per unit. Housing qualifies as housing for older persons under this subparagraph if:

(i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or older per unit; and

(ii) Policies and procedures [*which*] **that** demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older are published and adhered to.

(c) Housing [*shall*] **does** not fail to meet the requirements for housing for older persons if:

(A) Persons residing in [*such*] **the** housing as of September 13, 1988, do not meet the requirements of paragraph (b)(B) or (C) of this subsection. However, new occupants of [*such*] **the** housing shall meet the age requirements of paragraph (b)(B) or (C) of this subsection; or

(B) The housing includes unoccupied units[. *However, such*], **if the** units are reserved for occupancy by persons who meet the age requirements of paragraph (b)(B) or (C) of this subsection.

(d) Nothing in this section limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(8) In the sale, lease or rental of real estate, [*no person shall*] **a person may not** disclose to any person that an occupant or owner of real property has or died from human immunodeficiency virus or acquired immune deficiency syndrome.

(9) The provisions of subsection (1)(a) to (d) and (f) of this section that prohibit actions based upon [*familial status or*] sex, **sexual orientation or familial status** do not apply to the renting of space within a single-family residence if the owner actually maintains and occupies the residence as the owner’s primary residence and all occupants share some common space within the residence.

(10) Any violation of this section is an unlawful practice.

SECTION 9. ORS 659A.424 is amended to read:

659A.424. (1) As used in this section:

(a) “Facially neutral housing policy” means a guideline, practice, rule, or screening or admission criterion regarding a real property transaction that applies equally to all persons.

(b) “Protected class” means a group of persons distinguished by race, color, **religion**, sex, **sexual orientation, national origin**, marital status, [*source of income, familial status, religion, national origin*] **familial status, source of income** or disability.

(c) “Real property transaction” means an act described in ORS 659A.145 or 659A.421 involving the renting or leasing of residential real property subject to ORS chapter 90.

(2) A court or the Commissioner of the Bureau of Labor and Industries may find that a person has violated ORS 659A.145 or 659A.421 if:

(a) The person applies a facially neutral housing policy to a member of a protected class in a real property transaction involving a residential tenancy subject to ORS chapter 90; and

(b) Application of the policy adversely impacts members of the protected class to a greater extent than the policy adversely impacts persons generally.

(3) In determining under subsection (2) of this section whether a violation has occurred and, if so, what relief should be granted, a court or the commissioner shall consider:

- (a) The significance of the adverse impact on the protected class;
 - (b) The importance and necessity of any business purpose for the facially neutral housing policy;
- and
- (c) The availability of less discriminatory alternatives for achieving the business purpose for the facially neutral housing policy.

SECTION 10. ORS 659A.805 is amended to read:

659A.805. (1) In accordance with any applicable provision of ORS chapter 183, the Commissioner of the Bureau of Labor and Industries may adopt reasonable rules:

(a) Establishing what acts and communications constitute a notice, sign or advertisement that public accommodation or real property will be refused, withheld from, or denied to any person or that discrimination will be made against the person because of race, **color**, religion, sex, **sexual orientation, national origin**, marital status, [*color, national origin or,*] **disability or:**

(A) With respect to public accommodation, age.

(B) **With respect to real property, familial status or source of income.**

(b) Establishing what inquiries in connection with employment and prospective employment express a limitation, specification or discrimination as to race, **color**, religion, [*color,*] sex, **sexual orientation, national origin, [or] marital status, age or disability.**

(c) Establishing what inquiries in connection with employment and prospective employment soliciting information as to race, **color**, religion, [*color,*] sex, **sexual orientation, national origin, [or] marital status, age or disability** are based on bona fide [*job*] **occupational** qualifications.

(d) For internal operation and practice and procedure before the commissioner under this chapter.

(e) Covering any other matter required to carry out the purposes of this chapter.

(2) In adopting rules under this section the commissioner shall consider the following factors, among others:

(a) The relevance of information requested to job performance in connection with which it is requested.

(b) Available reasonable alternative ways of obtaining requested information without soliciting responses as to race, **color**, religion, [*color,*] sex, **sexual orientation, national origin, marital status, [national origin or] age, disability, familial status or source of income.**

(c) Whether a statement or inquiry soliciting information as to race, **color**, religion, [*color,*] sex, **sexual orientation, national origin, marital status, [national origin or] age, disability, familial status or source of income** communicates an idea independent of an intention to limit, specify or discriminate as to race, **color**, religion, [*color,*] sex, **sexual orientation, national origin, marital status, [national origin or] age, disability, familial status or source of income.**

(d) Whether the independent idea communicated is relevant to a legitimate objective of the kind of transaction [*which*] **that** it contemplates.

(e) The ease with which the independent idea relating to a legitimate objective of the kind of transaction contemplated could be communicated without connoting an intention to discriminate as to race, **color**, religion, [*color,*] sex, **sexual orientation, national origin, marital status, [national origin or] age, disability, familial status or source of income.**

SECTION 11. ORS 659A.815 is amended to read:

659A.815. (1) The Commissioner of the Bureau of Labor and Industries shall create such advisory agencies and intergroup-relations councils[*, local, regional or statewide, as in the judgment of*] **as** the commissioner [*will*] **believes necessary to** aid in effectuating the purposes of this chapter. The commissioner may empower [*them*] **advisory agencies and councils:**

(a) To study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, **color**, religion, [*color,*] sex, [*or*] **sexual orientation, national origin, marital status, age, disability, familial status or source of income.**

(b) To foster, through community effort or otherwise, goodwill, cooperation and conciliation among the groups and elements of the population of the state.

(c) To make recommendations to the commissioner for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education.

(2) [Such] **The** advisory agencies and councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary expenses in accordance with laws and regulations governing state officers.

(3) The commissioner may make provision for technical and clerical assistance to [such] **the advisory** agencies and councils and for the expenses of [such] **the** assistance.

SECTION 12. ORS 659A.885 is amended to read:

659A.885. (1) Any individual 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 [such] **any** other equitable relief [as] **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:

(a) The judge shall determine the facts in an action under this subsection; and

(b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (3).

(2) An action may be brought under subsection (1) of this section alleging a violation of ORS 25.337, 25.424, 171.120, 399.235, 476.574, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.100 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.203, 659A.218, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318 or 659A.421 (1) or (3).

(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424, 659A.040, 659A.043, 659A.046, 659A.069, 659A.100 to 659A.145, 659A.230, 659A.250 to 659A.262, 659A.318 or 659A.421 (1) or (3):

(a) The court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater, and punitive damages;

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

(c) Upon appeal of any judgment finding a violation, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (1); and

(d) Any attorney fee agreement shall be subject to approval by the court.

(4) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574, 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$250, whichever is greater.

(5) Any individual against whom any distinction, discrimination or restriction on account of race, color, religion, sex, **sexual orientation**, national origin, marital status or age, if the individual is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS 659A.400, by any **employee or** person acting on behalf of [such] **the** place or by any person aiding or abetting [such] **the** place or person in violation of ORS 659A.406, may bring an action against the operator or manager of [such] **the** place, the employee or person acting on behalf of [such] **the** place or the aider or abettor of [such] **the** place or person. Notwithstanding subsection (1) of this section, in an action under this subsection:

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

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

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

- (d) The court shall award reasonable attorney fees to a prevailing plaintiff;
- (e) The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails only if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court; and
- (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (1).

SECTION 13. ORS 10.030 is amended to read:

10.030. (1) Except as otherwise specifically provided by statute, the opportunity for jury service [shall] **may** not be denied or limited on the basis of race, [national origin, gender,] **religion, sex, sexual orientation, national origin,** age, [religious belief,] income, occupation or any other factor that discriminates against a cognizable group in this state.

(2) Any person is eligible to act as a juror in a civil trial unless the person:

- (a) Is not a citizen of the United States;
- (b) Does not live in the county in which summoned for jury service;
- (c) Is less than 18 years of age; or
- (d) Has had rights and privileges withdrawn and not restored under ORS 137.281.

(3)(a) Any person is eligible to act as a juror in a criminal trial, beginning on or after December 5, 1996, unless the person:

- (A) Is not a citizen of the United States;
- (B) Does not live in the county in which summoned for jury service;
- (C) Is less than 18 years of age;
- (D) Has had rights and privileges withdrawn and not restored under ORS 137.281; or
- (E) Has been convicted of a felony or served a felony sentence within the prior 15 years.

(b) As used in this subsection:

(A) "Felony sentence" includes any incarceration, post-prison supervision, parole or probation imposed upon conviction of a felony or served as a result of conviction of a felony.

(B) "Has been convicted of a felony" has the meaning given that term in ORS 166.270.

(4) A person who is blind, hearing or speech impaired or physically disabled [shall not be] **is not** ineligible to act as a juror [or] **and may not** be excluded from a jury list or jury service on the basis of blindness, hearing or speech impairment or physical disability alone.

(5) [No] **A** person is [eligible] **ineligible** to act as a juror in any circuit court of this state within 24 months after being discharged from jury service in a federal court in this state or circuit court of this state unless that person's service as a juror is required because of a need for additional jurors.

(6) In addition to the disqualifications listed in subsection (2) of this section, a person is ineligible to act as a juror on a grand jury if the person has been convicted of a felony, other than a felony traffic offense, or has served a felony sentence, other than a sentence for a felony traffic offense, within the prior 15 years. As used in this subsection, "conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

SECTION 14. ORS 20.107 is amended to read:

20.107. (1) In any civil judicial proceeding, including judicial review of an administrative proceeding based on a claim of unlawful discrimination, the court shall award to the prevailing plaintiff attorney and expert witness fees reasonably and necessarily incurred in connection with the discrimination claim, at the trial court or agency level and on appeal. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court or agency.

(2) In making an award under this section, the court shall calculate attorney and expert witness fees on the basis of a reasonable hourly rate at the time the award is made, multiplied by the amount of time actually and reasonably spent in connection with the discrimination claim.

(3) When an award under this section is made against a state agency or an officer or employee of a state agency, the award shall be paid by the agency directly from funds available to it.

(4) As used in this section, “unlawful discrimination” means discrimination based upon personal characteristics including, but not limited to, [*gender,*] **race, religion, sex, sexual orientation**, national origin, [*age*] **alienage**, marital status[, *race, religion or alienage*] **or age**.

SECTION 15. ORS 30.860 is amended to read:

30.860. (1) [*No*] **A** person or governmental entity [*shall*] **may not** discriminate against, boycott, blacklist[,] **or** refuse to buy from, sell to or trade with any person because of foreign government imposed or sanctioned discrimination based upon the [*national origin,*] race, [*or*] religion, **sex, sexual orientation or national origin** of [*such*] **the** person or of [*such*] **the** person’s partners, members, directors, stockholders, agents, employees, business associates, suppliers or customers.

(2) Any person directly injured in business or property by a violation of subsection (1) of this section may sue whoever knowingly practices, or conspires to practice, activities prohibited by subsection (1) of this section, and shall recover threefold the damages sustained. The court shall award reasonable attorney fees to the prevailing plaintiff in an action under this section. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse decision of a trial court.

SECTION 16. ORS 93.270 is amended to read:

93.270. (1) [*No*] **A** person conveying or contracting to convey fee title to real property [*shall*] **may not** include in an instrument for [*such*] **that** purpose a provision:

(a) Restricting the use of the real property by any person or group of persons by reason of **race**, color, [*race,*] religion, **sex, sexual orientation**, national origin or [*physical or mental handicap*] **disability**.

(b) Restricting the use of the real property by any home or facility that is licensed by or under the authority of the department under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide residential care alone or in conjunction with treatment or training or a combination thereof.

(2) Any [*such*] provision in an instrument executed in violation of subsection (1) of this section is void and unenforceable.

(3) [*No*] **An** instrument that contains a provision restricting the use of real property in a manner listed in subsection (1)(b) of this section [*shall*] **does not** give rise to any public or private right of action to enforce the restriction.

(4)(a) [*No*] **An** instrument that contains a provision restricting the use of real property by requiring roofing materials with a lower fire rating than that required in the state building code established under ORS chapter 455 [*shall*] **does not** give rise to any public or private right of action to enforce the restriction in an area determined by a local jurisdiction as a wildfire hazard zone. Prohibitions on public or private right of action under this paragraph are limited solely to considerations of fire rating.

(b) As used in this subsection, “wildfire hazard zones” are areas that are legally declared by a governmental agency having jurisdiction over the area to have special hazards caused by a combination of combustible natural fuels, topography and climatic conditions that result in a significant hazard of catastrophic fire over relatively long periods each year. Wildfire hazard zones shall be determined using criteria established by the State Forestry Department.

SECTION 17. ORS 109.035 is amended to read:

109.035. (1) As used in this section:

(a) “Custody order” includes any order or judgment establishing or modifying custody of, or parenting time or visitation with, a minor child as described in ORS 107.095, 107.105 (1), 107.135 or 109.103.

(b) “Foreign country” means any country that:

(A) Is not a signatory to the Hague Convention on the Civil Aspects of International Child Abduction;

(B) Does not provide for the extradition to the United States of a parental abductor and minor child;

(C) Has local laws or practices that would restrict the other parent of the minor child from freely traveling to or exiting from the country because of the [*gender*,] race, [*or*] religion, **sex or sexual orientation** of the other parent;

(D) Has local laws or practices that would restrict the ability of the minor child from legally leaving the country after the child reaches the age of majority because of the [*gender*,] race, [*or*] religion, **sex or sexual orientation** of the child; or

(E) Poses a significant risk that the physical health or safety of the minor child would be endangered in the country because of war, human rights violations or specific circumstances related to the needs of the child.

(2) A court that finds by clear and convincing evidence a risk of international abduction of a minor child may issue a court order requiring a parent who is subject to a custody order and who plans to travel with a minor child to a foreign country to provide security, bond or other guarantee as described in subsection (4) of this section.

(3) In determining whether a risk of international abduction of a minor child exists, a court shall consider the following factors involving a parent who is subject to a custody order:

(a) The parent has taken or retained, attempted to take or retain or threatened to take or retain a minor child in violation of state law or a valid custody order and the parent is unable to present clear and convincing evidence that the parent believed in good faith that the conduct was necessary to avoid imminent harm to the parent or the child;

(b) The parent has recently engaged in a pattern of activities that indicates the parent is planning to abduct the minor child from this country;

(c) The parent has strong familial, emotional or cultural connections to this country or another country, regardless of citizenship or residency status; and

(d) Any other relevant factors.

(4) A security, bond or other guarantee required by a court under this section may include, but is not limited to, any of the following:

(a) A bond or security deposit in an amount that is sufficient to offset the cost of recovering the minor child if the child is abducted;

(b) Supervised parenting time; or

(c) Passport and travel controls, including but not limited to controls that:

(A) Prohibit the parent from removing the minor child from this state or this country;

(B) Require the parent to surrender a passport or an international travel visa that is issued in the name of the minor child or jointly in the names of the parent and the child;

(C) Prohibit the parent from applying for a new or replacement passport or international travel visa on behalf of the minor child; and

(D) Require the parent to provide to a relevant embassy or consulate and to the Office of Children's Issues in the United States Department of State the following documents:

(i) Written notice of passport and travel controls required under this paragraph; and

(ii) A certified copy of a court order issued under this section.

(5) After considering the factors under subsection (3) of this section and requiring a security, bond or other guarantee under this section, the court shall issue a written determination supported by findings of fact and conclusions of law.

(6) Nothing in this section is intended to limit the inherent power of a court in matters relating to children.

SECTION 18. ORS 166.155 is amended to read:

166.155. (1) A person commits the crime of intimidation in the second degree if the person:

(a) Tampers or interferes with property, having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another because of the person's perception of the other's race, color, religion, [*national origin or*] sexual orientation **or national origin**;

(b) Intentionally subjects another to offensive physical contact because of the person's perception of the other's race, color, religion, [*national origin or*] sexual orientation **or national origin**; or

(c) Intentionally, because of the person's perception of race, color, religion, [*national origin or*] sexual orientation **or national origin** of another or of a member of the other's family, subjects [*such*] **the** other person to alarm by threatening:

(A) To inflict serious physical injury upon or to commit a felony affecting [*such*] **the** other person, or a member of the person's family; or

(B) To cause substantial damage to the property of the other person or of a member of the other person's family.

(2) Intimidation in the second degree is a Class A misdemeanor.

(3) For purposes of this section[.],

[(a)] "property" means any tangible personal property or real property.

[(b)] "*Sexual orientation*" means *heterosexuality, homosexuality or bisexuality.*

SECTION 19. ORS 166.165 is amended to read:

166.165. (1) Two or more persons acting together commit the crime of intimidation in the first degree, if the persons:

(a)(A) Intentionally, knowingly or recklessly cause physical injury to another person because of the actors' perception of that person's race, color, religion, [*national origin or*] sexual orientation **or national origin**; or

(B) With criminal negligence cause physical injury to another person by means of a deadly weapon because of the actors' perception of that person's race, color, religion, [*national origin or*] sexual orientation **or national origin**;

(b) Intentionally, because of the actors' perception of another person's race, color, religion, [*national origin or*] sexual orientation **or national origin**, place another person in fear of imminent serious physical injury; or

(c) Commit such acts as would constitute the crime of intimidation in the second degree, if undertaken by one person acting alone.

(2) Intimidation in the first degree is a Class C felony.

[(3)] "*Sexual orientation*" has the meaning given that term in ORS 166.155.]

SECTION 20. ORS 179.750 is amended to read:

179.750. (1) Discrimination may not be made in the admission, accommodation, care, education or treatment of any person in a state institution because the person does or does not contribute to the cost of the care.

(2) Discrimination may not be made in the provision of or access to educational facilities and services and recreational facilities and services to any person in the state institutions enumerated in ORS 420.005 or Department of Corrections institutions as defined in ORS 421.005 on the basis of race, religion, sex, **sexual orientation, national origin or** marital status [*or national origin*] of the person. This subsection does not require combined domiciliary facilities at the state institutions to which it applies.

SECTION 21. ORS 192.630 is amended to read:

192.630. (1) All meetings of the governing body of a public body shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610 to 192.690.

(2) A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to 192.690.

(3) A governing body may not hold a meeting at any place where discrimination on the basis of race, [*creed,*] color, **creed**, sex, [*age,*] **sexual orientation**, national origin, **age** or disability is practiced. However, the fact that organizations with restricted membership hold meetings at the place does not restrict its use by a public body if use of the place by a restricted membership organization is not the primary purpose of the place or its predominate use.

(4) Meetings of the governing body of a public body shall be held within the geographic boundaries over which the public body has jurisdiction, or at the administrative headquarters of the public body or at the other nearest practical location. Training sessions may be held outside the jurisdiction as long as no deliberations toward a decision are involved. A joint meeting of two or more governing bodies or of one or more governing bodies and the elected officials of one or more federally recognized Oregon Indian tribes shall be held within the geographic boundaries over which one of the participating public bodies or one of the Oregon Indian tribes has jurisdiction or at the nearest practical location. Meetings may be held in locations other than those described in this subsection in the event of an actual emergency necessitating immediate action.

(5)(a) It is discrimination on the basis of disability for a governing body of a public body to meet in a place inaccessible to the disabled, or, upon request of a deaf or hard-of-hearing person, to fail to make a good faith effort to have an interpreter for deaf or hard-of-hearing persons provided at a regularly scheduled meeting. The sole remedy for discrimination on the basis of disability shall be as provided in ORS 192.680.

(b) The person requesting the interpreter shall give the governing body at least 48 hours' notice of the request for an interpreter, shall provide the name of the requester, sign language preference and any other relevant information the governing body may request.

(c) If a meeting is held upon less than 48 hours' notice, reasonable effort shall be made to have an interpreter present, but the requirement for an interpreter does not apply to emergency meetings.

(d) If certification of interpreters occurs under state or federal law, the Department of Human Services or other state or local agency shall try to refer only certified interpreters to governing bodies for purposes of this subsection.

(e) As used in this subsection, "good faith effort" includes, but is not limited to, contacting the department or other state or local agency that maintains a list of qualified interpreters and arranging for the referral of one or more [*such persons*] **qualified interpreters** to provide interpreter services.

SECTION 22. ORS 240.306 is amended to read:

240.306. (1) Recruiting, selecting and promoting employees shall be on the basis of their relative ability, knowledge, experience and skills, determined by open competition and consideration of qualified applicants, without regard to an individual's race, color, religion, sex, [*marital status,*] **sexual orientation**, national origin, [*political affiliation,*] **marital status**, age, disability, **political affiliation** or other nonjob related factors, with proper regard for an individual's privacy. Nothing in this subsection shall be construed to enlarge or diminish the obligation of the state or the rights of employees concerning claims of employment discrimination as prescribed by applicable state and federal employment discrimination laws.

(2) The Oregon Department of Administrative Services shall establish procedures to provide for statewide open recruitment and selection for classifications [*which*] **that** are common to state agencies. [*Such*] **The** procedures shall include adequate public notice, affirmative action to seek out underutilized members of protected minorities, and job related testing. The department may delegate to individual operating agencies the responsibility for recruitment and selection of classifications where appropriate.

(3) Competition for appropriate positions may be limited to facilitate employment of those with a substantial disability or who are economically disadvantaged, or for purposes of implementing a specified affirmative action program.

(4) Appointments to positions in state service shall be made on the basis of qualifications and merit by selection from eligible lists established by the department or a delegated operating agency.

(5)(a) Noncompetitive selection and appointment procedures may be used for unskilled or semi-skilled positions, or where job related ranking measures are not practical or appropriate.

(b) Noncompetitive selection and appointment or direct appointment also may be used by agency appointing authorities to fill positions that:

- (A) Require special or unique skills such as expert professional level or executive positions; or
- (B) Have critical timing requirements affecting recruitment.

(6) Minimum qualifications and performance requirements and duties of a classification may be appropriately modified to permit the appointment and promotion of trainees to positions normally filled at full proficiency level.

(7) The department or delegated agencies shall establish systems to provide opportunities for promotion through meritorious service, training, education and career development assignments. The department shall certify to the eligibility of persons selected for promotion or delegate that responsibility to operating agencies in appropriate situations. Provision shall be made to bring persons into state service through open competition at higher levels [*where such*] **when the** competition provides abilities not available among existing employees, enrich state service or contribute to improved employment opportunity for underrepresented groups.

SECTION 23. ORS 338.125 is amended to read:

338.125. (1) Student enrollment in a public charter school shall be voluntary. All students who reside within the school district where the public charter school is located are eligible for enrollment at a public charter school. If the number of applications from students who reside within the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process. However, after a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students:

(a) Who were enrolled in the school in the prior year; or

(b) Who have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year.

(2)(a) If space is available a public charter school may admit students who do not reside in the school district in which the public charter school is located.

(b) Notwithstanding paragraph (a) of this subsection, if a public charter school offers any online courses as part of the curriculum of the school, then 50 percent or more of the students who attend the public charter school must reside in the school district in which the public charter school is located.

(3) A public charter school may not limit student admission based on **race, religion, sex, sexual orientation**, ethnicity, national origin, [*race, religion,*] disability, [*gender,*] income level, proficiency in the English language or athletic ability, but may limit admission to students within a given age group or grade level.

(4) A public charter school may conduct fund-raising activities. However, a public charter school [*shall*] **may** not require a student to participate in fund-raising activities as a condition of admission to the public charter school.

SECTION 24. ORS 418.648 is amended to read:

418.648. A foster parent has the right to:

(1) Be treated with dignity, respect and trust as a member of a team, including respect for the family values and routines of the foster parent.

(2) Be included as a valued member of a team that provides care and planning for a foster child placed in the home of the foster parent.

(3) Receive support services, as resources permit, from the Department of Human Services that are designed to assist in the care of the foster child placed in the home of the foster parent.

(4) Be informed of any condition that relates solely to a foster child placed in the home of the foster parent that may jeopardize the health or safety of the foster parent or other members of the home or alter the manner in which foster care should be provided to the foster child. The information shall include complete access to written reports, psychological evaluations and diagnoses that relate solely to a foster child placed in the home of the foster parent provided that confidential information given to a foster parent must be kept confidential by the foster parent, except as necessary to promote or to protect the health and welfare of the foster child and the community.

(5) Have input into a permanency plan for a foster child placed in the home of the foster parent.

(6) Receive assistance from the department in dealing with family loss and separation when the foster child leaves the home of the foster parent.

(7) Be informed of all policies and procedures of the department that relate to the role of the foster parent.

(8) Be informed of how to receive services and to have access to department personnel or service providers 24 hours a day, seven days a week.

(9) Initiate an inactive referral status for a reasonable period of time, not to exceed 12 months, to allow a foster parent relief from caring for foster children.

(10) Not be discriminated against on the basis of race, color, religion, sex, **sexual orientation**, national origin, age or disability.

(11) Be notified of the foster parent's right to limited participation in proceedings in the juvenile court and provided with an explanation of that right.

SECTION 25. ORS 418.925 is amended to read:

418.925. As used in ORS 418.925 to 418.945, "refugee child" is a person under 18 years of age who has entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, **sex, sexual orientation**, nationality, membership in a particular group or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, **sex, sexual orientation**, nationality, membership in a particular group or political opinion.

SECTION 26. ORS 430.550 is amended to read:

430.550. [No] A person, otherwise eligible, [shall] **may not** be denied evaluation or treatment under ORS 430.450 to 430.555 on account of [age,] **the person's race, religion, sex, [race,] sexual orientation**, nationality, [religious preference] **age** or ability to pay.

SECTION 27. ORS 443.739 is amended to read:

443.739. Residents of adult foster homes have the following rights. Providers shall guarantee these rights and help residents exercise them. The provider shall post a copy of the Residents' Bill of Rights in the entry or other equally prominent place in the adult foster home. The Residents' Bill of Rights states that each resident of an adult foster home has the right to:

- (1) Be treated as an adult, with respect and dignity.
- (2) Be informed of all resident rights and all house rules.
- (3) Be encouraged and assisted to exercise legal rights, including the right to vote.
- (4) Be informed of the resident's medical condition and the right to consent to or refuse treatment.
- (5) Receive appropriate care and services, and prompt medical care as needed.
- (6) A safe and secure environment.
- (7) Be free from mental and physical abuse.
- (8) Be free from chemical or physical restraints except as ordered by a physician or other qualified practitioner.
- (9) Complete privacy when receiving treatment or personal care.
- (10) Associate and communicate privately with any person the resident chooses.
- (11) Send and receive personal mail unopened.
- (12) Participate in activities of social, religious and community groups.
- (13) Have medical and personal information kept confidential.
- (14) Keep and use a reasonable amount of personal clothing and belongings, and to have a reasonable amount of private, secure storage space.
- (15) Manage the resident's own money and financial affairs unless legally restricted.
- (16) Be free from financial exploitation. The provider [shall] **may not** charge or ask for application fees or nonrefundable deposits and [shall] **may not** solicit, accept or receive money or property from a resident other than the amount agreed to for services.
- (17) A written agreement regarding the services to be provided and the rate schedule to be charged. The provider must give 30 days' written notice before any change in the rates or the ownership of the home.

(18) Not to be transferred or moved out of the adult foster home without 30 days' advance written notice and an opportunity for a hearing. A provider may transfer or discharge a resident only for medical reasons including a medical emergency described in ORS 443.738 (11)(b), or for the welfare of the resident or other residents, or for nonpayment.

(19) Be free of discrimination in regard to race, color, [*national origin*,] **religion**, sex, **sexual orientation** or [*religion*] **national origin**.

(20) Make suggestions and complaints without fear of retaliation.

SECTION 28. ORS 458.505 is amended to read:

458.505. (1) The community action agency network, established initially under the federal Economic Opportunity Act of 1964, shall be the delivery system for federal antipoverty programs in Oregon, including the Community Services Block Grant, Low Income Energy Assistance Program, State Department of Energy Weatherization Program and such others as may become available.

(2) Funds for such programs shall be distributed to the community action agencies by the Housing and Community Services Department with the advice of the Community Action Directors of Oregon.

(3) In areas not served by a community action agency, funds other than federal community services funds may be distributed to and administered by organizations that are found by the Housing and Community Services Department to serve the antipoverty purpose of the community action agency network.

(4) In addition to complying with all applicable requirements of federal law, a community action agency shall:

(a) Be an office, division or agency of the designating political subdivision or a not for profit organization in compliance with ORS chapter 65.

(b) Have a community action board of at least nine but no more than 33 members, constituted so that:

(A) One-third of the members of the board are elected public officials currently serving or their designees. If the number of elected officials reasonably available and willing to serve is less than one-third of the membership, membership of appointed public officials may be counted as meeting the one-third requirement;

(B) At least one-third of the members are persons chosen through democratic selection procedures adequate to assure that they are representatives of the poor in the area served; and

(C) The remainder of the members are officials or members of business, industry, labor, religious, welfare, education or other major groups and interests in the community.

(c) If the agency is a private not for profit organization, be governed by the Community Action Board. The board shall have all duties, responsibilities and powers normally associated with such boards, including, but not limited to:

(A) Selection, appointment and dismissal of the executive director of the agency;

(B) Approval of all contracts, grant applications and budgets and operational policies of the agency;

(C) Evaluation of programs; and

(D) Securing an annual audit of the agency.

(d) If the organization is an office, division or agency of a political subdivision, be administered by the board [*which*] **that** shall provide for the operation of the agency and be directly responsible to the governing board of the political subdivision. The administering board at a minimum, shall:

(A) Review and approve program policy;

(B) Be involved in and consulted on the hiring and firing of the agency director;

(C) Monitor and evaluate program effectiveness;

(D) Ensure the effectiveness of community involvement in the planning process; and

(E) Assume all duties delegated to it by the governing board.

(e) Have a clearly defined, specified service area. Community action service areas [*shall*] **may** not overlap.

(f) Have an accounting system [*which*] **that** meets generally accepted accounting principles and be so certified by an independent certified accountant.

(g) Provide assurances against the use of government funds for political activity by the community action agency.

(h) Provide assurances that no person shall, on the grounds of race, color, [*national origin or*] sex, **sexual orientation or national origin** be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available through the community action program.

(i) Provide assurances the community action agency shall comply with any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified individual with disabilities as provided in section 504 of the Rehabilitation Act of 1973.

(5) For the purposes of this section, the Oregon Human Development Corporation is eligible to receive federal community service funds and low-income energy assistance funds.

(6) The Housing and Community Services Department shall:

(a) Administer federal and state antipoverty programs.

(b) Apply for all available antipoverty funds on behalf of eligible entities as defined in this section.

(c) In conjunction with the Community Action Directors of Oregon, develop a collaborative role in advocating for, and addressing the needs of, all low income Oregonians.

(d) Biennially produce and make available to the public a status report on efforts by it and state agencies to reduce the incidence of poverty in Oregon. This report shall contain figures regarding the numbers and types of persons living in poverty in Oregon.

(e) On a regular basis provide information to the Community Action Directors of Oregon on the activities and expenditures of the Housing and Community Services Department.

(f) As resources are available, provide resources for technical assistance, training and program assistance to eligible entities.

(g) As resources are available, provide resources for the training and technical assistance needs of the Community Action Directors of Oregon.

(h) Conduct a planning process to meet the needs of low income people in Oregon. That process shall fully integrate the Oregon Human Development Corporation into the antipoverty delivery system. The planning process shall include development of a plan for minimum level of services and funding for low income migrant and seasonal farmworkers from the antipoverty programs administered by the agency.

(i) Limit its administrative budget in an effort to maximize the availability of antipoverty federal and state funds for expenditures by local eligible entities.

SECTION 29. ORS 659.850 is amended to read:

659.850. (1) As used in this section, discrimination means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on [*age, disability, national origin, race, marital status, religion or sex*] **race, color, religion, sex, sexual orientation, national origin, marital status, age or disability. Discrimination does not include enforcement of an otherwise valid dress code or policy, as long as the code or policy provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual.**

(2) [*No*] **A** person [*in Oregon shall*] **may not** be subjected to discrimination in any public elementary, secondary or community college education program or service, school or interschool activity or in any higher education program or service, school or interschool activity where the program, service, school or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly.

(3) The State Board of Education and the State Board of Higher Education shall establish rules necessary to [*insure*] **ensure** compliance with subsection (2) of this section in the manner required by ORS chapter 183.

SECTION 30. ORS 660.139 is amended to read:

660.139. (1) Unless the State Apprenticeship and Training Council determines there is an adverse impact on apprenticeship opportunities based on an individual's race, sex, **sexual orientation** or ethnic group, an applicant who is otherwise eligible for selection as an apprentice under the selection method used by the local joint committee may, with the consent of the applicant, be indentured to a family business or the applicant's current employer without regard to whether another employer would otherwise be entitled to indenture the apprentice under the selection method used by the local joint committee.

(2) As used in this section:

(a) "Current employer" means the employer with whom the applicant has been a full-time, regular employee for at least six months before the applicant is selected into the apprenticeship program.

(b) "Family business" means a business owned in whole or in part by a parent or grandparent of the applicant.

SECTION 31. ORS 744.353 is amended to read:

744.353. (1) A licensee [*shall*] **may** not pay or offer to pay a finder's fee, commission or other compensation to a person described in this subsection, in connection with a policy insuring the life of an individual with a terminal illness or condition. The prohibition under this subsection applies with respect to payments or offers of payment to:

(a) The physician, attorney or accountant of the policyholder, of the certificate holder or of the insured individual when the individual is other than the policyholder or certificate holder.

(b) Any person other than a physician, attorney or accountant described in paragraph (a) of this subsection, who provides medical, legal or financial planning services to the policyholder, to the certificate holder or to the insured individual when the individual is other than the policyholder or certificate holder.

(c) Any person other than one described in paragraph (a) or (b) of this subsection who acts as an agent of the policyholder, certificate holder or insured individual.

(2) A licensee [*shall*] **may** not solicit an investor who could influence the treatment of the illness or condition of the individual whose life would be the subject of a life settlement contract.

(3) All information solicited or obtained from a policyholder or certificate holder by a licensee [*shall be*] **is** subject to ORS 746.600 to 746.690. For purposes of this subsection, a licensee [*shall be*] **is** considered an insurance-support organization within the meaning of ORS 746.600.

(4) A licensee [*shall*] **may** not discriminate in the making of a life settlement contract on the basis of race, [*age*] **religion, creed,** sex, **sexual orientation,** national origin, [*creed, religion, occupation,*] marital [*or family*] **status, age, familial** status[, *sexual orientation,*] **or occupation** or discriminate between persons who have dependents and persons who do not have dependents.

SECTION 32. ORS 236.380 is repealed.

SECTION 33. ORS 353.100 is amended to read:

353.100. (1) The provisions of ORS chapters 35, 190, 192, 244 and 295 and ORS 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 243.650 to 243.782, 297.040, 307.090 and 307.112 [*shall*] apply to Oregon Health and Science University under the same terms as they apply to public bodies other than the state.

(2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279A, 279B, 279C, 283, 291, 292, 293, 294 and 297 and ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 183.710 to 183.725, 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035, [236.380,] 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 279.835 to 279.855, 282.010 to 282.150, 357.805 to 357.895 and 656.017 (2) [*shall*] **do** not apply to the university or any not-for-profit organization or other entity if the equity of the entity is owned exclusively by the university and if the organization or entity is created by the university to advance any of the university's statutory missions.

(3) The university, as a distinct governmental entity, or any organization or entity described in subsection (2) of this section [*shall not be*] **is not** subject to any provision of law enacted after

January 1, 1995, with respect to any governmental entity, unless the provision specifically provides that it applies to the university or to the organization or entity.

SECTION 34. ORS 421.352 is amended to read:

421.352. (1) The provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279A, 279B, 279C, 283, 291, 292 and 293 and ORS 35.550 to 35.575, 183.710 to 183.725, 183.745, 183.750, 184.345, 190.430, 190.490, 200.035, [236.380,] 236.605 to 236.640, 243.303, 243.305, 243.315, 243.325 to 243.335, 243.345, 243.350, 243.696, 279.835 to 279.855, 282.010 to 282.150 and 656.017 (2) [shall] do not apply to Oregon Corrections Enterprises.

(2) Oregon Corrections Enterprises [shall not be] is not subject to any provision of law enacted after December 2, 1999, that governs state agencies generally unless the provision specifically provides that it applies to Oregon Corrections Enterprises.

SECTION 35. The amendments to ORS 30.860, 93.270, 109.035, 166.155, 166.165, 179.750, 418.648, 443.739, 458.505, 659.850, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 660.139 and 744.353 by sections 4, 5, 6, 7, 8, 15, 16, 17, 18, 19, 20, 24, 27, 28, 29, 30 and 31 of this 2007 Act apply to acts committed on or after the effective date of this 2007 Act.

SECTION 36. The amendments to ORS 10.030 by section 13 of this 2007 Act apply to opportunities for jury service arising on or after the effective date of this 2007 Act.

SECTION 37. The amendments to ORS 20.107 by section 14 of this 2007 Act apply to claims of unlawful discrimination filed on or after the effective date of this 2007 Act.

SECTION 38. The amendments to ORS 192.630 by section 21 of this 2007 Act apply to meetings held on or after the effective date of this 2007 Act.

SECTION 39. The amendments to ORS 240.306 by section 22 of this 2007 Act apply to employee recruitment, selection and promotion on or after the effective date of this 2007 Act.

SECTION 40. The amendments to ORS 338.125 by section 23 of this 2007 Act apply to students admitted on or after the effective date of this 2007 Act.

SECTION 41. The amendments to ORS 430.550 by section 26 of this 2007 Act apply to evaluations or treatment performed on or after the effective date of this 2007 Act.

SECTION 42. The amendments to ORS 10.030, 20.107, 30.860, 93.270, 109.035, 166.155, 166.165, 174.100, 179.750, 192.630, 240.306, 338.125, 353.100, 418.648, 418.925, 421.352, 430.550, 443.739, 458.505, 659.850, 659A.003, 659A.006, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 659A.424, 659A.805, 659A.815, 659A.885, 660.139 and 744.353 by sections 1 to 31, 33 and 34 of this 2007 Act and the repeal of ORS 236.380 by section 32 of this 2007 Act may be cited as the Oregon Equality Act.

Passed by Senate March 21, 2007

Repassed by Senate April 19, 2007

.....
Secretary of Senate

.....
President of Senate

Passed by House April 17, 2007

.....
Speaker of House

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2007

.....
Secretary of State

Application to Change the Name and/or Sex on a Record of Live Birth to Support Gender Identity Information Sheet

About House Bill 2673 and what it does

Effective January 1, 2018, an individual's attestation is accepted to change the name and/or sex designation on an Oregon birth certificate if the change is requested to support the registrant's gender identity and sex on the birth certificate is different from the individual's gender identity.

Who is eligible?

Anyone who was born in Oregon and who needs to change their name or sex designation on their birth certificate to reflect their gender identity is eligible. Individuals who previously changed their name but have not changed their sex will be eligible to change their sex designation on their birth record under the new law. An applicant (the individual making the request) must submit documentation under OAR 333-011-0272 or -0275.

Who can make the request (who is the applicant)?

Who can be the applicant depends on the registrant's (person whose birth is the subject of the record) age. Change of name or sex designation for gender identity purposes may be requested by:

- *If the registrant is age 18 or older or an emancipated minor* (court documentation of emancipation is required), the registrant; or
- *If the registrant is less than 18 years of age:*
 - A parent on the birth record; or
 - The registrant's legal guardian (court documentation required); or
- A legal representative of one of the above (with documentation of authorization to act).

Name prior to amendment must match the birth record

We strongly recommend ordering your current birth record if you have not done so within the last twelve months. It is essential that the information on your application, including full name as it appears on the birth record, match the information on your birth record. We replace one certified copy of a birth record without charge up to one year from the date issued after an amendment, so this should not be an additional cost if a certified copy is needed with the new name and/or sex.

Use by government agencies

This is a new process and we are unsure if other agencies, such as Passport, will accept these amended certificates to change information already on file with the agency. For records that amended sex, nothing on the record will indicate an amendment occurred. This will make it difficult to connect the current record with the previous name on documentation at other agencies. In some cases, agencies might require a court order to recognize the new name and/or sex. We will work with applicants that ask us to explain the process to another agency, but we do not control the rules or procedures of other agencies. If you do not have an existing file with an agency (such as have never had a passport), there should be no reason for the agency to question the record.

What documentation you will receive

Upon approval of your request to make an administrative change of name and/or sex to support gender identity, the applicant will receive documentation that includes: a new certified copy of the record of live birth for the registrant (if ordered), a copy of the application form requesting the change, and correspondence from the State Registrar on the final decision. If denied, the applicant will receive correspondence indicating the reason for denial.

Submitting the form in person:

800 NE Oregon St., Suite 225
Portland, Oregon 97232
9:00 a.m. – 4:00 p.m.

Email: CHS.Amendments@state.or.us

Web: healthoregon.org/changevitalrecords

Mailing the form:

Oregon Vital Records
PO Box 14050
Portland, OR 97293-0050

Phone: 971-673-1137

Applicable Fees

Amendment Fee \$35.00
Certified Copy Cost \$25.00
Additional Copies \$25.00

You can get this document in other languages, large print, braille or a format you prefer. Contact the Center for Health Statistics at 971-673-1190. We accept all relay calls or you can dial 711.

Application to Change the Name and/or Sex on a Record of Live Birth to Support Gender Identity

CLEARLY PRINT OR TYPE INFORMATION. To make the change(s) indicated below, a signature is required in the presence of a Notary Public. The cost to amend/change a record is \$35. See the front page *Information Sheet* for instructions and further details.

APPLICANT INFORMATION:

- 1. Applicant current legal name: _____
(First) (Middle) (Last)
- 2. Address of applicant: _____
(Street and Number) (City or Town) (State/Country) (ZIP)
- 3. Mailing Address if different: _____
(Street and Number) (City or Town) (State/Country) (ZIP)
- 4. Telephone: _____ 5. Email of applicant: _____
- 6. Applicant's relationship to registrant: _____

REGISTRANT INFORMATION ON THE RECORD TO BE AMENDED:

- 7. Full name as it appears on birth record: _____
(First) (Middle) (Last)
- 8. Date of birth: _____ 9. Sex as it appears on the record: _____ 10. City or County of birth: _____
(MM/DD/YYYY) (M or F)
- 11. Mother/Parent full name on registrant's birth record: _____
(First) (Middle) (Last name at mother's/parent's birth)
- 12. Father/Parent full name on registrant's birth record: _____
(First) (Middle) (Last name at father's/parent's birth)

I am requesting that:

<input type="checkbox"/> the legal name on the birth certificate identified above be changed	
Name as it now appears: _____	
(First)	(Middle)
Name as it should appear: _____	
(First)	(Middle)
<input type="checkbox"/> the sex on the birth certificate identified above be changed	
Sex currently shown on record: <input type="checkbox"/> M (Male) <input type="checkbox"/> F (Female) <input type="checkbox"/> U (Undetermined)	Sex as it should appear: <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> X (Non-binary)

Applicant:

Sign your name ONLY in the presence of a Notary Public. Applicant must be the registrant if the registrant is age 18 or older.

Attestation:

I attest that this request is for the purpose of affirming my/the registrant's gender identity which is different than the sex shown on the current birth certificate. I understand making a false statement on this application is a Class C felony under ORS 432.993 and could result in imprisonment up to five years.

- ▶ Signature of Applicant: _____
- ▶ Signature of Notary: _____
My commission expires: _____
Subscribed to before me on this _____ day of _____ 20____
State of _____ County of _____

Seal/Stamp

NOTARY INSTRUCTIONS: If notary is using a raised seal, indicate in which state you are registered as a notary and the date your commission expires. Notary signature and seal must appear in this form. Do not attach a separate notary statement.

CHANGE OF NAME OR SEX



HOW DO I CHANGE MY NAME OR LEGAL SEX?

FOR YOURSELF:

Fill out the *Petition for Change of Name / Sex* and *Judgment for Change of Name/Sex* forms for adults. Choose the options that apply to you (name, sex, or both).

FOR A MINOR CHILD: (You must be a parent, legal guardian, or legal representative for the child)

Fill out the *Petition for Change of Name / Sex* and *Judgment for Change of Name/Sex* forms for minors. Choose the options that apply (name, sex, or both). You are the Petitioner.

If the *Petition* is for a name change for a minor child, then after you file your *Petition* and get a case number, you must send written notice to:

- the other parent (if you are a parent) *unless* the child has not lived with the other parent *and* the other parent does not contribute (and has not tried to contribute) to the support of the child
- both parents (if you are not a parent)
- all legal guardians

After you send notice, complete and file the *Declaration of Notice* form with the court

WHERE DO I FILE?

Name Change – If you are filing for yourself, file in the circuit court for the county where you live. If you are filing for a minor child, file in the county where the child lives.

Sex Change – You can file in any circuit court in Oregon. If you are also asking for a name change, file in the county where you live (or the child, if you are filing for a minor). If you want, you can file separate name and sex change forms in different counties. You will have to pay filing fees for both.

Go to www.courts.oregon.gov/courts/Pages/default.aspx for the location and address of each circuit court in the state

HOW MUCH DOES IT COST TO FILE?

Go to <http://www.courts.oregon.gov/Pages/fees.aspx> for the filing fee

DO I HAVE TO GO TO COURT AFTER I FILE?

Not unless the court tells you to or sends you a hearing notice. In some situations, a judge may want to talk to you or to the other parent if the *Petition* is for a minor child.

WHAT HAPPENS NEXT?

The court will enter the judgment into the court's records (called the Register of Actions). The judgment is effective once it's entered. The court will send you a *Notice of Entry of Judgment*. If you want a copy of the Judgment for yourself, call the court to find out how to get one.

NOTE: The court will not send the judgment to any other agencies or recipients. If you want your (or your child's) birth certificate, driver's license, Social Security card, or any other record changed, you must provide a copy of the signed Judgment to each provider according to their requirements.

DO I NEED A LAWYER?

You do not need a lawyer to file for a change of name or sex. If you have questions about how the law works or what other issues may arise from a name or sex change, you may want to talk to a lawyer. Court staff cannot give you legal advice. If you need help finding a lawyer, call the Oregon State Bar's Lawyer Referral Service at 503.684.3763 or 800.452.7636.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

In the Matter of:

Case No: _____

PETITION FOR CHANGE OF

NAME **SEX**

Petitioner (*current name*)

Adult

I am the Petitioner. I am at least 18 years old or I have been emancipated by court order. I ask the court for a judgment (*check all that apply*):

changing my name (*use complete names. First, Middle, Last*)

from: _____

to: _____

changing my sex

to: male female nonbinary

I have undergone surgical, hormonal, or other treatment appropriate to me for the purpose of affirming my gender identity

Public Interest (*check all that apply in Oregon or any other state*)

For any boxes you mark, explain, including the state and case numbers if available

I owe child support arrears or am currently ordered to pay child support _____

I have a protective order, stalking order, or restraining order in effect against me

I am currently on probation, parole, or under post-prison supervision _____

I am required to register as a sex offender _____

I have formerly used the following names (*include all names you have used, whether legally or used by custom*)

I ask that this record be SEALED by the court because: (*check all that apply*)

I am a participant in the Address Confidentiality Program under ORS 192.826

I am requesting a change of sex and I want the record to be sealed

I hereby declare that the above statements are true to the best of my knowledge and belief. I understand they are made for use as evidence in court and I am subject to penalty for perjury.

Date

Signature

Name (printed) (*current name*)

Contact Address

City, State, ZIP

Contact Phone

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

In the Matter of:

Case No: _____

Petitioner (*current name*)

**GENERAL JUDGMENT RE:
CHANGE OF NAME SEX**
Adult

For court use only:

<input type="checkbox"/> This record is ordered SEALED at Petitioner's request because: <input type="checkbox"/> Petitioner is a participant in the ORS 192.826 Address Confidentiality Program (ACP) <input type="checkbox"/> Petitioner has requested a change of sex and that the record be sealed <i>or</i> <input type="checkbox"/> Petitioner is a participant in the Address Confidentiality Program (ACP) and has requested a change of name only. The court finds good cause to not order the case record sealed <i>(explain):</i>
--

The court finds that the requested identity record changes are not against the public interest

The court orders, based on the application by Petitioner, the following:

Petitioner's name is changed: (*use complete names, First, Middle, Last*)
from: _____
to: _____

Petitioner's sex is changed to: male female nonbinary
Petitioner has attested to undergoing surgical, hormonal, or other appropriate treatment for the purpose of affirming gender identity

Other: _____

Judge Signature:

Certificate of Readiness per UTCR 5.100

This judgment is ready for signature because it is submitted ex parte as allowed by statute

Submitted by Petitioner

Date

Signature

Name (printed)

Contact Address

City, State, ZIP

Contact Phone

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BENTON

In the Matter of the Sex Change of:
JACKSON NICHOLAS,
Petitioner.

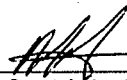
Case No.: 17CV01994
GENERAL JUDGMENT OF SEX
CHANGE

Based upon the Petition, and the Court finding that proper notice to interested parties has been given; that the above-named Petitioner has undergone surgical, hormonal, or other treatment appropriate for them for the purpose of gender transition; that sexual reassignment has been completed; and that no person has shown any cause why the requested General Judgment of Sex Change should not be granted,

IT IS HEREBY ORDERED AND ADJUDGED:

1. The sex of Petitioner is changed from male to non-binary.
2. Notice of these legal changes shall be posted in a public place in the Benton County Courthouse, as required by law.
3. Petitioner was born in Oregon. The sex on the record of live birth maintained by the Oregon State Registrar for the Center for Health Statistics shall be changed to reflect the judgment of this Court.

Signed: 3/8/2017 09:31 AM


Circuit Court Judge Matthew J. Donohue

Prepared and submitted by:
Lorena Reynolds, OSB No. 981319
Attorney for Petitioner

The Reynolds Law Firm, PC
225 SW Fourth Street
Corvallis, OR 97333-4872
(541) 738-1800 / (541) 738-1801 Fax
info@ReynoldsLaw.us

FORM 4

FILED

16 JUN 10 AM 11:18 THE CIRCUIT COURT OF THE STATE OF OREGON
4TH JUDICIAL DISTRICT FOR THE COUNTY OF MULTNOMAH

Probate Department

IN THE MATTER OF THE SEX CHANGE)

Case No.: 16CV13991

of)

GENERAL JUDGMENT OF SEX
CHANGE

JAMIE SHUPE,

Petitioner

Based on the Petition, and the court finding that proper notice to interested parties has been given; that the above-named person has undergone surgical, hormonal, or other treatment appropriate for this person for the purpose of gender transition; that sexual reassignment has been completed; and that no person has shown cause why the requested General Judgment should not be granted,

IT IS HEREBY ORDERED AND ADJUDGED:

The sex of Jamie Shupe is hereby changed from female to non-binary. Notice of this legal change shall be posted in a public place in Multnomah County as required by law.

6/10/16

Amy Holmes Hehn

AMY HOLMES HEHN
CIRCUIT COURT JUDGE

Verified Correct Copy of Original 6/13/2016

EXECUTIVE ORDER NO. 19-08

ENSURING EQUAL TREATMENT UNDER LAW TO OREGON'S LGBT+ COMMUNITY

Whereas, on October 15, 1987, Executive Order No. 87-20 was issued, which, for the first time in Oregon history, prohibited agencies within the Executive Branch of state government from discriminating on the basis of sexual orientation in employment and provision of services; and

Whereas, Executive Order 87-20 begins:

In the 200th year of our Constitution, Americans are reminded once again that each generation is obligated to preserve and extend both the right to live our private lives as we see fit, and the right to equal treatment under law. In America, to deny a person a job or access to vital social services for reason unrelated to his or her abilities or needs is a fundamental injustice;

and

Whereas, the aspiration of Executive Order 87-20 — to guarantee equal treatment under law for sexual minorities — remains as relevant, and indeed urgent, today as it was 32 years ago; and

Whereas, the requirements of Executive Order 87-20 must now be updated to reflect current law and understandings about sexual orientation and gender identity; and

Whereas, the State of Oregon must strive to be ever more inclusive and welcoming to all of its people, regardless of sexual orientation or gender identity.

NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. Definitions:

- a. “Sexual orientation or gender identity” means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality, or gender identity, regardless of whether the individual’s gender identity, appearance, expression, or behavior differs from that traditionally associated with the individual’s sex at birth.

EXECUTIVE ORDER NO. 19-08**PAGE TWO**

b. “State agency” means any agency within the Executive Department as defined in ORS 174.112, other than the Oregon Secretary of State, Oregon State Treasury, Oregon Department of Justice, and Oregon Bureau of Labor and Industries.

2. Non-discrimination in Employment.

No officer, employee, or agency within the executive branch of state government shall discriminate against any person on the basis of sexual orientation or gender identity in the recruitment, hiring, classification, assignment, compensation, promotion, discipline, or termination of any employee.

3. Non-discrimination in Discharging Government Functions.

No officer, employee, or agency within the executive branch of state government shall discriminate against any person on the basis of sexual orientation or gender identity in carrying out the duties of state government, in the provision of public services, or in state contracting or awarding of grants.

4. Treatment Consistent with Gender Identity.

State agencies shall treat all persons consistent with their gender identification, to the extent permitted by governing law, practicable, and consistent with the direction of the Office of the Governor.

5. Access to Gender-Designated Facilities.

State agencies shall permit persons to use restrooms and other gender-designated facilities consistent with their gender identity, to the extent permitted by governing law, practicable, and consistent with the direction of the Office of the Governor. The Department of Administrative Services shall develop and adopt policies and procedures related to management of buildings occupied by state agencies that ensures access to restrooms regardless of gender identity, including:

a. Buildings with existing single-stall restrooms shall designate them “all user” restrooms.

EXECUTIVE ORDER NO. 19-08
PAGE THREE

- b. Signage on multi-stall restrooms shall identify the nearest publicly accessible “all user” restroom, whether it be within the building or in another publicly-accessible location.
 - c. New construction shall include at least one single-stall “all user” restroom, to the extent practicable.
 - d. State agencies shall consider access to gender-designated facilities when negotiating, entering, and renewing leases.
6. Data.
When collecting demographic data on state employees or members of the public with regard to sex or gender, state agencies shall offer, in addition to “Male” and “Female,” at least a third option designated as “Nonbinary/Other” (or, as an alternative to the gender markers “M” and “F,” the marker “X”), to the extent practicable and permitted by governing law.
7. Employment Policies.
The Department of Administrative Services Chief Human Resource Office shall develop policies, standards, or other guidance to direct state agencies in respectfully accommodating state employees and members of the public who are transgender, nonbinary, or otherwise gender non-conforming.

Done at Salem, Oregon, this ___ day of October, 2019.

Kate Brown
GOVERNOR

ATTEST:

Bev Clarno
SECRETARY OF STATE



TO: Senate Judiciary Committee
FROM: Brook Shelley
RE: Vote YES on HB 2673
DATE: April 24, 2017

Chair Prozanski and members of the committee:

My name is Brook Shelley and I serve as Co-Chair of the Basic Rights Oregon Board of Directors. I am pleased to bring forward HB 2673 on behalf of transgender Oregonians across the state.

Basic Rights Oregon works to ensure that all lesbian, gay, bisexual, transgender, and queer Oregonians experience equality. This legislation is a necessary step in the right direction to ensure the rights of all Oregonians.

As the organizational sponsor of this bill, we strongly urge your support for HB 2673 with the -3 (dash three) amendment, because it will greatly reduce discrimination for transgender people by allowing us to safely, efficiently, and affordably obtain personal documentation that accurately reflects our gender identity.

While Oregon is on the forefront of LGBTQ equality nationally thanks to great work of the legislature, transgender Oregonians remain among our most vulnerable and misunderstood community members. For those unfamiliar, transgender is the term to describe a person whose gender is not the same as the sex they were assigned at birth.

Unfortunately, because of the lack of awareness and acceptance in society, more than 40 percent of us attempt suicide in our lifetimes, and we also are four times more likely to live in poverty than other residents of our state.

HB 2673 will mitigate this crisis, as identity documents are a crucial part of personal, social, and workforce acceptance. Unfortunately, the current court process is intrusive, expensive, and hard to navigate.

Currently, updating your birth certificate requires a transgender person to go through a court to request a legal name change or gender marker amendment. Next, we take the court order to the OHA's Center for Health Statistics Department, which administers vital records. Because of the current court process, many in our community are at risk of being asked sensitive, private medical information in open court, being outed to the public and consequently being discriminated against or harmed. Considering the harassment and discrimination transgender people continue to experience, this risk is an undue burden for many of us. Additionally, the court process is inconsistent from county to county, and quite expensive as it adds another layer of court and attorney fees. As many of us are impoverished, the price is often too high for us to access.

HB 2673 would make two simple fixes to existing Oregon law to ensure that transgender Oregonians can obtain accurate documentation that reflects their gender identity.

First, it would centralize the administrative process to change a name and gender marker on a birth certificate by creating a single, streamlined process at Oregon Health Authority (OHA) for transgender Oregonians. This proposed change would not eliminate the court order option, but would provide a safe, effective method for transgender people and remove our barriers to access. Our records would still be subject to

existing verification processes in OHA's Center for Health Statistics department. This process would closely resemble the federal process for updating social security documentation.

Second, the bill would modernize outdated public posting requirements in the court process. Currently, even if a court takes electronic petitions, a person may have to physically go to the court and post their petition on a public board twice. This onerous and outdated practice puts all Oregonians at risk of identity theft and adds logistical difficulty. However, it especially puts transgender individuals at risk of being publicly outed and discriminated against.

The -3 (dash three) amendment will allow the Health Authority and the Oregon Judicial Department sufficient time to prepare to implement the bill. It will also allow transgender Oregonians to access the court process for a gender marker amendment in any circuit court in the state and ensure that they can seal the record of their gender amendment petition for privacy and safety concerns.

As a senior engineer, I am one of the fortunate ones. When I decided to leave Texas, a state that does not recognize my gender, my skills were sought after by companies across the country. I chose Oregon because of the robust technology industry and the value our state puts on equality. However, we are not done.

Passing HB 2673 with the -3 (dash three) amendment is an important step in our effort to ensure that all Oregonians are treated with dignity and respect and can live free from discrimination. We strongly urge this committee to pass this bill.

Thank you for the opportunity to testify today.

N.J.S.A. 26:8-40.12

26:8-40.12. Gender reassignment surgery; amendment of birth certificate

Effective: February 1, 2019

[Currentness](#)

The State registrar shall issue an amended certificate of birth to a person born in this State who requests an amended certificate of birth which shows the gender and, if applicable, the name of the person as it has been changed.

a. The State registrar shall issue the amended certificate of birth upon receipt of: (1) a certified copy of an order from a court of competent jurisdiction which indicates that the name of the person has been changed, if the person has changed his or her name; and (2) a form provided by the State registrar and completed by the person, or the person's guardian, which affirms the following language: "I, (petitioner's full name), hereby attest under penalty of perjury that the request for a change in gender to (female, male, or undesignated/non-binary) is to conform my legal gender to my gender identity and is not for any fraudulent purpose."

b. The amended certificate of birth shall be of the same general type as the original certificate of birth, and shall not be marked as amended.

c. When an amended certificate of birth is issued, the State registrar shall notify the appropriate local registrar of vital statistics who shall enter the amended certificate in his local record and place his copy of the original certificate under seal.

d. The State registrar shall place the original certificate of birth and all papers pertaining to the amended certificate of birth under seal. The seal shall not be broken except by order of a court of competent jurisdiction, or upon the request of the person who is the subject of the certificate of birth, or the parent or guardian, if the person is a minor.

Thereafter, whenever a certified copy of the certificate of birth is prepared, it shall be made from the amended certificate of birth except when an order of a court of competent jurisdiction requires that a certified copy be made of the original certificate of birth.

e. In the case of a resident of this State who was born in another state or in a foreign jurisdiction, if such other state or foreign jurisdiction requires a court order in order to amend a certificate of birth to reflect a change in gender, a court in this State shall have jurisdiction to issue an order declaring a person's gender upon receipt of a statement affirming under penalty of perjury that the request for a declaration of female, male, or undesignated/non-binary gender is to conform with gender identity and not for any fraudulent purpose.

f. The fee for issuing the amended certificate of birth is \$6.00.

Credits

L.1984, c. 191, § 1, eff. Nov. 19, 1984. Amended by [L.2018, c. 58, § 1, eff. Feb. 1, 2019](#).

Editors' Notes

ASSEMBLY APPROPRIATIONS COMMITTEE STATEMENT WITH COMMITTEE AMENDMENTS

Senate Bill No. 478 (First Reprint)--L.2018, c. 58

DATED: MAY 17, 2018

The Assembly Appropriations Committee reports favorably Senate Bill No. 478 (1R), with committee amendments.

As amended this bill, designated as the "Babs Siperstein Law," revises the process for obtaining an amended certificate of birth due to a person's change in gender.

The bill requires the State registrar of vital statistics to issue an amended certificate of birth to a person born in this State who submits a request for an amended certificate of birth. In contrast, under current law, the State registrar is to issue an amended certificate of birth only upon receipt of a medical certificate from the person's physician indicating that the person's gender has been changed through surgical procedure. This bill changes the law to provide that a person need only complete and submit a form, provided by the State registrar, which affirms under penalty of perjury that the request for a change in gender--to female, male, or undesignated/non-binary--is made for the purpose of conforming with that person's gender identity and is not for any fraudulent purpose. The amended birth certificate is of the same general type as the original, without indication that the birth certificate has been amended.

Upon such a request, the State registrar is to place the original certificate of birth and all papers pertaining to the amended certificate of birth under seal. The seal may be broken upon court order or the request of the person who is the subject of the certificate of birth, or, if the person is a minor, a parent or guardian.

The bill also provides that in the case of a resident of this State who was born in another state or

26:8-40.12. Gender reassignment surgery; amendment of birth..., NJ ST 26:8-40.12

a foreign jurisdiction, if such other state or foreign jurisdiction requires a court order to amend a certificate of birth to reflect a change in gender, a court in this State has jurisdiction to issue an order declaring the person's gender, upon receipt of a statement affirming under penalty of perjury that the request for a declaration of female, male, or undesignated/non-binary gender is made for the purpose of conforming with gender identity and not for any fraudulent purpose.

As amended and reported, this bill is identical to Assembly Bill No. 1718 (2R), as also amended and reported by the committee.

N. J. S. A. 26:8-40.12, NJ ST 26:8-40.12

Current with laws through L.2019, c. 266 and J.R. No. 22

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C.R.S.A. § 25-2-113.8

§ 25-2-113.8. Birth certificate modernization act--new birth certificate following a change in gender designation--short title

Effective: January 1, 2020

[Currentness](#)

<Text of section effective January 1, 2020>

- (1) The short title of this section is “Jude’s Law”.
- (2)(a) A birth certificate issued at the time of birth must identify the person’s sex as male or female.
- (b) An amended birth certificate may be issued to change the sex designation of the person to male, female, or “X” pursuant to the requirements of this section. “X” is a designation that is neither male nor female.
- (3) The state registrar shall issue a new birth certificate to a person who was born in this state and who has a gender different from the sex denoted on that person’s birth certificate when the state registrar receives:
- (a) A written request from the person, or from the person’s parent, if the person is a minor, or from the person’s guardian or legal representative, signed under penalty of law, to issue a new birth certificate with a gender designation that differs from the sex designated on the person’s original birth certificate; and
- (b)(I) A statement, in a form or format designated by the state registrar, from the person, or from the person’s parent, if the person is a minor, or from the person’s guardian or legal representative, signed under penalty of law, confirming the sex designation on the person’s birth certificate does not align with the person’s gender identity; and
- (II) If the person is a minor under the age of eighteen, a statement, in a form or format designated by the state registrar, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or an equivalent license in good standing from another jurisdiction, stating that:
- (A) The minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards, and, in the provider’s professional opinion, the minor’s gender designation should be changed accordingly; or
- (B) The minor has an intersex condition, and, in the provider’s professional opinion, the minor’s gender

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designation should be changed accordingly.

(4) Notwithstanding subsection (3) of this section, the state registrar shall issue a new birth certificate to a person with a court order indicating the sex or gender of the person born in the state of Colorado has been changed.

(5) The state registrar may only amend a gender designation for an individual's birth certificate one time upon the individual's request. Any further requests from the individual for additional gender designation changes require the submission of a court order indicating that the gender designation change is required.

(6) The state registrar is authorized to contact the medical or mental health care provider to verify a statement made pursuant to subsection (3)(b)(II) of this section.

(7) If a new birth certificate is issued pursuant to this section, the birth certificate must reflect, or be reissued to reflect, any legal name change made before or simultaneous to the change in gender designation, as long as appropriate documentation of the name change is submitted.

(8) The state registrar shall not request any additional information or records other than those required by subsection (3) or (4) of this section to process a request to modify a gender designation. The state registrar shall not disclose information relating to a gender correction, including to other government employees, unless required in order to conduct official business.

(9) When the state registrar receives the documentation described in subsection (3) of this section, the state registrar shall issue a new birth certificate reflecting the new gender designation and, if applicable, the person's new name. Notwithstanding [section 25-2-115\(1\)](#), the new birth certificate supersedes the original as the official public record and must not be marked as amended or indicate in any other manner that the gender designation or name on the certificate has been changed.

(10) In the case of a person who is a resident of this state and was born in another state or in a foreign jurisdiction, if the other state or foreign jurisdiction requires a court decree in order to amend a birth certificate to reflect a change in gender, the courts in this state have jurisdiction to issue such a decree.

(11) The state registrar shall promptly notify the department of revenue when an individual is issued a new birth certificate pursuant to this section.

Credits

Added by [Laws 2019, Ch. 377, § 1, eff. Jan. 1, 2020](#).

C. R. S. A. § 25-2-113.8, CO ST § 25-2-113.8
Current through the end of the 2019 Regular Session.

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