

# House Bill 2742

Sponsored by Representative NELSON; Representative MUNOZ (Pre-session filed.)

## SUMMARY

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

Digest: The Act makes creates new laws with respect to people with disabilities. (Flesch Readability Score: 67.7).

Directs the Bureau of Labor and Industries to create guidance and informational materials to assist employers in complying with the laws regarding reasonable accommodation.

Requires the bureau to establish a program to administer and coordinate low-cost or no-cost mediation services for the resolution of disputes concerning reasonable accommodation.

Prohibits employers from denying an employee the right to have union representation in discussions concerning reasonable accommodation.

Extends prohibition against discrimination in government services, programs and activities, to local governments.

Prohibits employers from using minimum physical requirements to screen out persons with disabilities.

Requires state contracting agencies and state agencies to include outreach, retention and recruitment of persons with disabilities in carrying out the agencies' affirmative action policies.

## A BILL FOR AN ACT

1  
2 Relating to persons with disabilities; creating new provisions; and amending ORS 279A.100,  
3 659A.012, 659A.112, 659A.118 and 659A.142.

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

## DISABILITY DISCRIMINATION

5  
6  
7  
8 **SECTION 1. Sections 2 and 3 of this 2025 Act are added to and made a part of ORS**  
9 **659A.103 to 659A.145.**

10 **SECTION 2. The Bureau of Labor and Industries shall create guidance and informational**  
11 **materials to assist employers in complying with the provisions of ORS 659A.112, 659A.118 and**  
12 **659A.121 concerning reasonable accommodation. The bureau shall make the materials avail-**  
13 **able to employers on the bureau's website.**

14 **SECTION 3. (1) The Bureau of Labor and Industries shall establish a program to admin-**  
15 **ister and coordinate low-cost or no-cost mediation services for the resolution of disputes**  
16 **related to reasonable accommodation under ORS 659A.112.**

17 **(2) The bureau may contract with, or use the services of, a private mediation organiza-**  
18 **tion, a community-based program, another state agency or a combination of organizations**  
19 **and agencies to provide the mediation services described in this section.**

20 **SECTION 4. ORS 659A.112 is amended to read:**

21 659A.112. (1) It is an unlawful employment practice for any employer to refuse to hire, employ  
22 or promote, to bar or discharge from employment or to discriminate in compensation or in terms,  
23 conditions or privileges of employment on the basis of disability.

24 (2) An employer violates subsection (1) of this section if the employer does any of the following:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (a) The employer limits, segregates or classifies a job applicant or employee in a way that ad-  
 2 versely affects the opportunities or status of the applicant or employee because the applicant or  
 3 employee has a disability.

4 (b) The employer participates in a contractual or other arrangement or relationship that has the  
 5 effect of subjecting a qualified job applicant or employee with a disability to the discrimination  
 6 prohibited by ORS 659A.112 to 659A.139, including but not limited to participating in a relationship  
 7 with an employment or referral agency, a labor union, an organization providing fringe benefits to  
 8 an employee of the employer, or an organization providing training and apprenticeship programs.

9 (c) The employer utilizes standards, criteria or methods of administration that have the effect  
 10 of discrimination on the basis of disability, or that perpetuate the discrimination of others who are  
 11 subject to common administrative control.

12 (d) The employer excludes or otherwise denies equal jobs or benefits to a qualified individual  
 13 because the individual is known to have a relationship or association with an individual with a  
 14 disability.

15 (e) The employer does not make reasonable accommodation to the known physical or mental  
 16 limitations of a qualified individual with a disability who is a job applicant or employee, unless the  
 17 employer can demonstrate that the accommodation would impose an undue hardship on the opera-  
 18 tion of the business of the employer.

19 (f) The employer denies employment opportunities to a job applicant or employee who is a  
 20 qualified individual with a disability, if the denial is based on the need of the employer to make  
 21 reasonable accommodation to the physical or mental impairments of the employee or applicant.

22 (g) The employer uses qualification standards, employment tests or other selection criteria, in-  
 23 cluding those based on an individual's uncorrected vision or unaided hearing, that screen out or  
 24 tend to screen out an individual with a disability or a class of individuals with disabilities unless  
 25 the standard, test or other selection criterion, as used by the employer, is shown to be job-related  
 26 for the position in question and is consistent with business necessity.

27 (h) The employer fails to select and administer tests relating to employment in the most effective  
 28 manner to ensure that when the test is administered to a job applicant or employee who has a dis-  
 29 ability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills,  
 30 aptitude or other characteristics of the applicant or employee that the test purports to measure,  
 31 rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant.  
 32 The provisions of this paragraph do not limit the ability of an employer to select or administer tests  
 33 designed to measure sensory, manual or speaking skills of an employee or job applicant.

34 **(i) The employer uses minimum physical requirements set forth in a job posting to screen**  
 35 **out individuals with disabilities without connecting how the physical requirements are es-**  
 36 **sential functions of the job.**

37 **SECTION 5.** ORS 659A.118 is amended to read:

38 659A.118. (1) For the purposes of ORS 659A.112, reasonable accommodation may include:

39 (a) Making existing facilities used by employees readily accessible to and usable by individuals  
 40 with disabilities.

41 (b) Job restructuring, part-time or modified work schedules or reassignment to a vacant position.

42 (c) Acquisition or modification of equipment or devices.

43 (d) Appropriate adjustment or modification of examinations, training materials or policies.

44 (e) The provision of qualified readers or interpreters.

45 (2) An employer is not required to provide a reasonable accommodation to an individual who

1 satisfies the criteria for being an individual with a disability for the purposes of ORS 659A.103 to  
2 659A.145 solely because the individual meets the criterion described in ORS 659A.104 (1)(c).

3 **(3) An employer may not deny a request by an employee who is represented by a labor**  
4 **organization to have a representative accompany the employee in any discussion over mat-**  
5 **ters concerning reasonable accommodation.**

6 **SECTION 6.** ORS 659A.142 is amended to read:

7 659A.142. (1) As used in this section:

8 (a) "Health care facility" has the meaning given that term in ORS 442.015.

9 (b) "Health professional regulatory board" has the meaning given that term in ORS 676.160.

10 (c) **"Local government" means any city, county, school district or other special district**  
11 **in this state.**

12 [(c)] (d) "Medical resources" includes but is not limited to:

13 (A) Medical devices or equipment.

14 (B) Prescription drugs.

15 (C) Laboratory testing.

16 [(d)] (e) "Provider" means:

17 (A) An individual licensed or certified by a health professional regulatory board.

18 (B) A health care facility.

19 [(e)] (f) "State government" has the meaning given that term in ORS 174.111.

20 (2) It is an unlawful employment practice for an employment agency to fail or refuse to refer for  
21 employment, or otherwise discriminate against, any individual because that individual has a disa-  
22 bility, or to classify or refer for employment any individual because that individual has a disability.

23 (3) It is an unlawful employment practice for a labor organization, because an individual has a  
24 disability, to exclude or to expel from its membership such individual or to discriminate in any way  
25 against such individual.

26 (4) It is an unlawful practice for any place of public accommodation, resort or amusement as  
27 defined in ORS 659A.400, or any person acting on behalf of such place, to make any distinction,  
28 discrimination or restriction because a customer or patron is an individual with a disability.

29 (5)(a) It is an unlawful practice for state **or local** government to exclude an individual from  
30 participation in or deny an individual the benefits of the services, programs or activities of state  
31 **or local** government or to make any distinction, discrimination or restriction because the individual  
32 has a disability.

33 (b) Paragraph (a) of this subsection is intended to ensure equal access to available services,  
34 programs and activities of state **and local** government.

35 (c) Paragraph (a) of this subsection is not intended to:

36 (A) Create an independent entitlement to any service, program or activity of state **or local**  
37 government; or

38 (B) Require state **or local** government to take any action that state **or local** government can  
39 demonstrate would result in a fundamental alteration in the nature of a service, program or activity  
40 of state **or local** government or would result in undue financial or administrative burdens on state  
41 **or local** government.

42 (6)(a) It is an unlawful practice for a provider or any person acting on behalf of a provider to  
43 discriminate by doing any of the following based on the patient's race, color, national origin, sex,  
44 sexual orientation, gender identity, age or disability:

45 (A) Deny medical treatment to the patient that is likely to benefit the patient based on an in-

1 individualized assessment of the patient using objective medical evidence; or

2 (B) Limit or restrict in any manner the allocation of medical resources to the patient.

3 (b) In determining whether medical treatment is likely to benefit a patient under paragraph  
4 (a)(A) of this subsection, a provider shall consult with the patient and others legally authorized to  
5 act on behalf of the patient, if available.

6 (c) This subsection does not:

7 (A) Restrict the authority of a patient, or an individual legally authorized to act on behalf of a  
8 patient, to consent to or decline medical treatment;

9 (B) Require the provision of medical treatment that is prohibited by state or federal law; or

10 (C) Restrict a provider, after completing the individualized assessment described in paragraph  
11 (a)(A) of this subsection and the consultation described in paragraph (b) of this subsection, from  
12 providing objective information to the patient about the risks and benefits of treatment.

13 (7) Receipt or alleged receipt of treatment for a mental disorder does not constitute evidence  
14 of an individual's inability to acquire, rent or maintain property.

15  
16 **OUTREACH, RECRUITMENT AND RETENTION PLANS**

17  
18 **SECTION 7.** ORS 279A.100 is amended to read:

19 279A.100. (1) As used in this section:

20 (a) "Affirmative action" means a program designed to ensure equal opportunity in employment  
21 and business for persons otherwise disadvantaged by reason of race, color, religion, sex, national  
22 origin, age or physical or mental disability or a policy to give a preference in awarding public  
23 contracts to disabled veterans.

24 (b) "Disabled veteran" has the meaning given that term in ORS 408.225.

25 (2) The provisions of the Public Contracting Code may not be construed to prohibit a contract-  
26 ing agency from engaging in public contracting practices designed to promote affirmative action  
27 goals, policies or programs for disadvantaged or minority groups or to give a preference in awarding  
28 public contracts to disabled veterans.

29 (3) In carrying out an affirmative action goal, policy or program, a contracting agency:

30 (a) By appropriate ordinance, resolution or rule may limit competition for a public contract for  
31 goods and services, or for any other public contract estimated to cost \$50,000 or less, to contracting  
32 entities owned or controlled by persons described in subsection (1) of this section.

33 (b) **Establish and execute a plan for outreach, recruitment and retention of persons with**  
34 **disabilities to perform work on public improvement projects.**

35 **SECTION 8.** ORS 659A.012 is amended to read:

36 659A.012. (1) To achieve the public policy of the State of Oregon for persons in the state to at-  
37 tain employment and advancement without discrimination because of race, religion, color, sex, mar-  
38 ital status, national origin, disability or age, every state agency shall be required to include in the  
39 evaluation of all management personnel the manager's or supervisor's effectiveness in achieving af-  
40 firmative action objectives as a key consideration of the manager's or supervisor's performance.

41 (2) To achieve the public policy of the State of Oregon for persons in the state to attain em-  
42 ployment and advancement without discrimination because of race, religion, color, sex, marital sta-  
43 tus, national origin, age or disability, every state agency shall be required to present the affirmative  
44 action objectives and performance of that agency of the current biennium and those for the follow-  
45 ing biennium to the Governor of the State of Oregon and to the Legislative Assembly. These plans

1 shall:

2 (a) Be reviewed as part of the budget review process.

3 (b) **Include strategies for outreach, recruitment and retention of persons with disabili-**  
4 **ties.**

5 **SECTION 9. The unit captions used in this 2025 Act are provided only for the convenience**  
6 **of the reader and do not become part of the statutory law of this state or express any leg-**  
7 **islative intent in the enactment of this 2025 Act.**

8

---