

CHAPTER 2

Upon receipt of a written application to the state registrar, any adopted person 21 years of age and older born in the state of Oregon shall be issued a certified copy of his/her unaltered, original and unamended certificate of birth in the custody of the state registrar, with procedures, filing fees, and waiting periods identical to those imposed upon non-adopted citizens of the State of Oregon pursuant to ORS 432.120 and 432.146. Contains no exceptions.

The Act set forth above (Ballot Measure 58) was proposed by initiative petition and was approved by the voters at the regular general election on November 3, 1998. By proclamation of the Governor dated December 3, 1998, the Act was declared to have received an affirmative majority of the total number of votes cast thereon and to be in full force and effect as provided in Article IV, section 1, Oregon Constitution. Effective date December 3, 1998.

CHAPTER 3

SECTION 1. ORS 254.465 is amended to read: 254.465. The following rules apply to elections conducted by mail:

(1) A presidential preference primary election described in ORS 254.056 shall be conducted by mail in all counties, under the supervision of the Secretary of State.

(2) [Except as provided in subsection (1) of this section,] An election held on the date of the biennial primary or general election shall [not] be conducted by mail.

(3) A state election not described in subsections (1) or (2) of this section may be conducted by mail. The Secretary of State by rule shall direct that a state election authorized to be conducted by mail under this subsection be conducted uniformly by mail or at polling places.

(4) A county clerk may conduct an election not described in subsections (1) to (3) of this section by mail in the county, in a city or in a district defined in ORS 255.012, under the supervision of the Secretary of State. In deciding to conduct an election by mail, the county clerk may consider requests from the governing body of the county, city or district and shall consider whether conducting the election by mail will be economically and administratively feasible.

(5) The Secretary of State shall adopt rules to provide for uniformity in the conduct of state elections by mail.

The Act set forth above (Ballot Measure 60) was proposed by initiative petition and was approved by the voters at the regular general election on November 3, 1998. By proclamation of the Governor dated December 3, 1998, the Act was declared to have received an affirmative majority of the total number of votes cast thereon and to be in full force and effect as provided in Article IV, section 1, Oregon Constitution. Effective date December 3, 1998.

CHAPTER 4**The Oregon Medical Marijuana Act**

SECTION 1. Sections 1 through 19 of this Act shall be known as the Oregon Medical Marijuana Act.

SECTION 2. The people of the state of Oregon hereby find that:

(1) Patients and doctors have found marijuana to be an effective treatment for suffering caused by debilitating medical conditions, and therefore, marijuana should be treated like other medicines;

(2) Oregonians suffering from debilitating medical conditions should be allowed to use small amounts of marijuana without fear of civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use;

(3) Sections 1 to 19 of this Act are intended to allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice; and

(4) Section 1 to 19 of this Act are intended to make only those changes to existing Oregon laws that are necessary to protect patients and their doctors from criminal and civil penalties, and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes.

SECTION 3. As used in sections 1 to 19 of this Act:

(1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(2) "Debilitating medical condition" means:

(a) Cancer, glaucoma, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

- (i) Cachexia;
- (ii) Severe pain;
- (iii) Severe nausea;

(iv) Seizures, including but not limited to seizures caused by epilepsy; or

(v) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis; or

(c) Any other medical condition or treatment for a medical condition adopted by the division by rule or approved by the division pursuant to a petition submitted pursuant to section 14 of this Act.

(3) "Delivery" has the meaning given that term in ORS 475.005.

(4) "Designated primary caregiver" means an individual eighteen years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the division. "Designated primary caregiver" does not include the person's attending physician.

(5) "Division" means the Health Division of the Oregon Department of Human Resources.

(6) "Marijuana" has the meaning given that term in ORS 475.005.

(7) "Medical use of marijuana" means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.

(8) "Production" has the same meaning given that term in ORS 475.005.

(9) "Registry identification card" means a document issued by the division that identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

(10) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed in sections 1 to 19 of this Act. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(11) "Written documentation" means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records.

SECTION 4. (1) Except as provided in sections 5 and 11 of this Act, a person engaged in or assisting in the medical use of marijuana is exempted from the criminal laws of the state for possession, delivery or production of marijuana, aiding and abetting another in the possession, delivery or production of marijuana or any other criminal offense in which possession, delivery or production of marijuana is an element if the following conditions have been satisfied:

(a) The person holds a registry identification card issued pursuant to this section, has applied for a registry identification card pursuant to subsection (9) of this section, or is the designated primary caregiver of a cardholder or applicant; and

(b) The person who has a debilitating medical condition and his or her primary caregiver are col-

lectively in possession of, delivering or producing marijuana for medical use in the amounts allowed in section 7 of this Act.

(2) The division shall establish and maintain a program for the issuance of registry identification cards to person who meet the requirements of this section. Except as provided in subsection (3) of this section, the division shall issue a registry identification card to any person who pays a fee in the amount established by the division and provides the following:

(a) Valid, written documentation from the person's attending physician stating that the person has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition;

(b) The name, address and date of birth of the person;

(c) The name, address and telephone number of the person's attending physician; and

(d) The name and address of the person's designated primary caregiver, if the person has designated a primary caregiver at the time of application.

(3) The division shall issue a registry identification card to a person who is under eighteen years of age if the person submits the materials required under subsection (2) of this section, and one of the person's parents or legal guardians signs a written statement that:

(a) The person's attending physician has explained to the person and to one of the person's parents or legal guardians the possible risks and benefits of the medical use of marijuana;

(b) The parent or legal guardian consents to the use of marijuana by the person for medical purposes;

(c) The parent or legal guardian agrees to serve as the person's designated primary caregiver; and

(d) The parent or legal guardian agrees to control the acquisition of marijuana and the dosage and frequency of use by the person.

(4) A person applying for a registry identification card pursuant to this section may submit the information required in this section to a county health department for transmittal to the division. A county health department that receives the information pursuant to this subsection shall transmit the information to the division within five days of receipt of the information. Information received by a county health department pursuant to this subsection shall be confidential and not subject to disclosure, except as required to transmit the information to the division.

(5) The division shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within thirty days of receipt of the application.

(a) The division may deny an application only for the following reasons:

(i) The applicant did not provide the information required pursuant to this section to establish his or her debilitating medical condition and to doc-

ument his or her consultation with an attending physician regarding the medical use of marijuana in connection with such condition, as provided in subsections (2) and (3) of this section; or

(ii) The division determines that the information provided was falsified.

(b) Denial of a registry identification card shall be considered a final division action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of eighteen years of age whose application has been denied, the person's parent or legal guardian, shall have standing to contest the division's action.

(c) Any person whose application has been denied may not reapply for six months from the date of the denial, unless so authorized by the division or a court of competent jurisdiction.

(6)(a) If the division has verified the information submitted pursuant to subsections (2) and (3) of this section and none of the reasons for denial listed in subsection (5)(a) of this section is applicable, the division shall issue a serially numbered registry identification card within five days of verification of the information. The registry identification card shall state:

(i) The cardholder's name, address and date of birth;

(ii) The date of issuance and expiration date of the registry identification card;

(iii) The name and address of the person's designated primary caregiver, if any; and

(iv) Such other information as the division may specify by rule.

(b) When the person to whom the division has issued a registry identification card pursuant to this section has specified a designated primary caregiver, the division shall issue an identification card to the designated primary caregiver. The primary caregiver's registry identification card shall contain the information provided in subsection 4 (6)(a)(i)-(iv).

(7)(a) A person who possesses a registry identification card shall:

(i) Notify the division of any change in the person's name, address, attending physician or designated primary caregiver; and

(ii) Annually submit to the division:

(A) updated written documentation of the person's debilitating medical condition; and

(B) the name of the person's designated primary caregiver if a primary caregiver has been designated for the upcoming year.

(b) If a person who possesses a registry identification card fails to comply with this subsection, the card shall be deemed expired. If a registry identification card expires, the identification card of any designated primary caregiver of the cardholder shall also expire.

(8) A person who possesses a registry identification card pursuant to this section and who has been diagnosed by the person's attending physician as no longer having a debilitating medical condition shall return the registry identification card to the

division within seven calendar days of notification of the diagnosis. Any designated primary caregiver shall return his or her identification card within the same period of time.

(9) A person who has applied for a registry identification card pursuant to this section but whose application has not yet been approved or denied, and who is contacted by any law enforcement officer in connection with his or her administration, possession, delivery or production of marijuana for medical use may provide to the law enforcement officer a copy of the written documentation submitted to the division pursuant to subsections (2) or (3) of this section and proof of the date of mailing or other transmission of the documentation to the division. This documentation shall have the same legal effect as a registry identification card until such time as the person receives notification that the application has been approved or denied.

SECTION 5. (1) No person authorized to possess, deliver or produce marijuana for medical use pursuant to sections 1 to 19 of this Act shall be excepted from the criminal laws of this state or shall be deemed to have established an affirmative defense to criminal charges of which possession, delivery or production of marijuana is an element if the person, in connection with the facts giving rise to such charges:

(a) Drives under the influence of marijuana as provided in ORS 813.010;

(b) Engages in the medical use of marijuana in a public place as that term is defined in ORS 161.015, or in public view;

(c) Delivers marijuana to any individual who the person knows is not in possession of a registry identification card; or

(d) Delivers marijuana for consideration to any individual, even if the individual is in possession of a registry identification card.

(2) In addition to any other penalty allowed by law, a person who the division finds has willfully violated the provisions of sections 1 to 19 of this Act or rules adopted under sections 1 to 19 of this Act may be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of up to six months, at the discretion of the division.

SECTION 6. (1) Except as provided in sections 5 and 11 of this Act, it is an affirmative defense to a criminal charge of possession or production of marijuana, or any other criminal offense in which possession or production of marijuana is an element, that the person charged with the offense is a person who:

(a) Has been diagnosed with a debilitating medication condition and been advised by his or her attending physician the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition;

(b) Is engaged in the medical use of marijuana; and

(c) Possesses or produces marijuana only in the amounts allowed in section 7 (1) of this Act, or in

excess of those amounts if the person proves by a preponderance of the evidence that the greater amount is medically necessary to mitigate the symptoms or effects of the person's debilitating medical condition.

(2) It is not necessary for a person asserting an affirmative defense pursuant to this section to have received a registry identification card in order to assert the affirmative defense established in this section.

(3) No person who claims that marijuana provides medically necessary benefits and who is charged with a crime pertaining to such use of marijuana shall be precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, provided that the amount of marijuana at issue is no greater than permitted under section 7 of this Act.

SECTION 7. (1) A person who possesses a registry identification card issued pursuant to section 4 of this Act may engage in, and a designated primary caregiver of such a person may assist in, the medical use of marijuana only as justified to mitigate the symptoms or effects of the person's debilitating medical condition. Except as allowed in subsection (2) of this section, a registry identification cardholder and that person's designated primary caregiver may not collectively possess, deliver or produce more than the following:

(a) If the person is present at a location at which marijuana is not produced, including any residence associated with that location, one ounce of usable marijuana; and

(b) If the person is present at a location at which marijuana is produced, including any residence associated with that location, three mature marijuana plants, four immature marijuana plants and one ounce of usable marijuana per each mature plant.

(2) If the individuals described in subsection (1) of this section possess, deliver or produce marijuana in excess of the amounts allowed in subsection (1) of this section, such individuals are not excepted from the criminal laws of the state but may establish an affirmative defense to such charges, by a preponderance of the evidence, that the greater amount is medically necessary to mitigate the symptoms or effects of the person's debilitating medical condition.

(3) The Health Division shall define by rule when a marijuana plant is mature and when it is immature for purposes of this section.

SECTION 8. (1) Possession of a registry identification card or designated primary caregiver identification card pursuant to section 4 of this Act shall not alone constitute probable cause to search the person or property of the cardholder or otherwise subject the person or property of the cardholder to inspection by any governmental agency.

(2) Any property interest possessed, owned or used in connection with the medical use of

marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers shall not be harmed, neglected, injured or destroyed while in the possession of any law enforcement agency. No such property interest may be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense. Marijuana and paraphernalia used to administer marijuana that was seized by any law enforcement office shall be returned immediately upon a determination by the district attorney in whose county the property was seized, or his or her designee, that the person from whom the marijuana or paraphernalia used to administer marijuana was seized is entitled to the protections contained in sections 1 to 19 of this Act. Such determination may be evidenced, for example, be a decision not to prosecute, the dismissal of charges, or acquittal.

SECTION 9. No attending physician may be subjected to civil penalty or discipline by the Board of Medical Examiners for:

(1) Advising a person whom the attending physician has diagnosed as having a debilitating medical condition, or a person who the attending physician knows has been so diagnosed by another physician licensed under ORS chapter 677, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, provided the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition; or

(2) Providing the written documentation necessary for issuance of a registry identification card under section 4 of this Act, if the documentation is based on the attending physician's personal assessment of the applicant's medical history and current medical condition and the physician has discussed the potential medical risks and benefits of the medical use of marijuana with the applicant.

SECTION 10. No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based on the licensee's medical use of marijuana in accordance with the provisions of sections 1 to 19 of this Act or actions taken by the licensee that are necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses a lawful registry identification card issued pursuant to section 4 of this Act.

SECTION 11. Nothing in sections 1 to 19 of this Act shall protect a person from a criminal cause of action based on possession, production, or delivery of marijuana that is not authorized by sections 1 to 19 of this Act.

SECTION 12. (1) The division shall create and maintain a list of the persons to whom the division has issued registry identification cards pursuant to section 4 of this Act and the names of any designated primary caregivers. Except as provided in subsection (2) of this section, the list shall be confidential and not subject to public disclosure.

(2) Names and other identifying information from the list established pursuant to subsection (1) of this section may be released to:

(a) Authorized employees of the division as necessary to perform official duties of the division; and

(b) Authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card or that a person is the designated primary caregiver of such a person.

SECTION 13. (1) If a person who possesses a registry identification card issued pursuant to section 4 of this Act chooses to have a designated primary caregiver, the person must designate the primary caregiver by including the primary caregiver's name and address:

(a) On the person's application for a registry identification card;

(b) In the annual updated information required under section 4 of this Act; or

(c) In a written, signed statement submitted to the division.

(2) A person described in this section may have only one designated primary caregiver at any given time.

SECTION 14. Any person may submit a petition to the division requesting that a particular disease or condition be included among the diseases and conditions that qualify as debilitating medical conditions under section 3 of this Act. The division shall adopt rules establishing the manner in which the division will evaluate petitions submitted under this section. Any rules adopted pursuant to this section shall require the division to approve or deny a petition within 180 days of receipt of the petition by the division. Denial of a petition shall be considered a final division action subject to judicial review.

SECTION 15. The division shall adopt all rules necessary for the implementation and administration of sections 1 to 19 of this Act.

SECTION 16. Nothing in sections 1 to 19 of this Act shall be construed to require:

(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or

(2) An employer to accommodate the medical use of marijuana in any workplace.

SECTION 17. The division may take any actions on or before the effective date of this Act that are necessary for the proper and timely implementation and administration of sections 1 to 19 of this Act.

SECTION 18. Any section of this Act being held invalid as to any person or circumstance shall not affect the application of any other section of this Act that can be given full effect without the invalid section or application.

SECTION 19. All provisions of this Act shall apply to acts or offenses committed on or after December 3, 1998, except that sections 4, 12 and 14 shall become effective on May 1, 1999.

The Act set forth above (Ballot Measure 67) was proposed by initiative petition and was approved by the voters at the regular general election on November 3, 1998. By proclamation of the Governor dated December 3, 1998, the Act was declared to have received an affirmative majority of the total number of votes cast thereon and to be in full force and effect as provided in Article IV, section 1, Oregon Constitution. Effective date December 3, 1998.

CHAPTER 5

AN ACT

SB 28

Relating to garnishment; creating new provisions; and amending ORS 29.145, 29.147, 29.411 and 29.415 and sections 142 and 143, chapter 746, Oregon Laws 1997.

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

SECTION 1. Section 2 of this 1999 Act is added to and made a part of ORS 29.285 to 29.335.

SECTION 2. (1) A garnishee shall give priority to any order to withhold income entitled to priority under ORS 25.722. A garnishee must comply with the requirements of this section if the garnishee receives an order to withhold income that is entitled to priority under ORS 25.722 at any time before the garnishee mails or delivers the final amount due under the garnishment.

(2) If the garnishee has not yet delivered the garnishee's certificate required under ORS 29.235 when the garnishee receives an order to withhold income entitled to priority under ORS 25.722, the garnishee must deliver the garnishee's certificate pursuant to ORS 29.235, noting on the certificate that the garnishee has received an order to withhold income of the debtor and that compliance with the order will reduce or eliminate the income of the debtor that would otherwise be paid over by the garnishee in response to the garnishment.

(3) The garnishee shall prepare a notice of receipt of order to withhold income in the form provided by subsection (4) of this section, and deliver it to the persons listed in ORS 29.235 (6), if:

(a) The garnishee is served with a writ of continuing garnishment under ORS 29.401 to 29.415;

(b) The garnishee receives an order to withhold income entitled to priority under ORS 25.722 after the garnishee delivers the garnishee's certificate required under ORS 29.235; and

(c) Compliance with the order to withhold income might reduce or eliminate subsequent payments under the garnishment.