

House Bill 2250

Introduced and printed pursuant to House Rule 12.00. Pre-session file (at the request of House Interim Committee on Consumer Protection and Government Efficiency)

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**.

Authorizes Oregon Department of Administrative Services to adopt rules related to electronic fingerprint capture services.

Directs Oregon Department of Administrative Services to adopt rules establishing factors that must be considered when making fitness determinations and process for appealing fitness determinations.

Applies laws requiring use of uniform rules for purposes of making fitness determinations to certain state agencies and other entities exempt from such rules under current law.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to criminal records checks; creating new provisions; amending ORS 181.516, 181.525, 181.533, 181.534, 181.537, 181.547, 181.612, 242.550, 267.237, 326.603, 326.604, 329A.270, 329A.300, 329A.330, 329A.370, 329A.390, 336.631, 338.115, 339.388, 342.143, 342.175, 342.865, 345.030, 443.004 and 443.735; repealing ORS 326.606; and declaring an emergency.

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

ELECTRONIC FINGERPRINT CAPTURE

SECTION 1. ORS 181.516 is amended to read:

181.516. (1)(a) Except as provided in subsection (2) of this section, the Department of State Police and any other governmental agency authorized to report, receive or disseminate criminal offender information shall use electronic fingerprint capture technology to take and submit a person's fingerprints for purposes of conducting criminal records checks under ORS 181.533, 181.534 or 267.237 or for any other purpose authorized by law.

(b)(A) The Oregon Department of Administrative Services shall adopt rules to implement this section.

[(b)] **(B) In adopting rules under this paragraph, the Oregon Department of Administrative Services may adopt [by rule] exemptions from the requirement described in paragraph (a) of this subsection.**

(2)(a) This section applies to the Department **of State Police** only with respect to the administration of criminal records checks under ORS 181.533, 181.534 and 267.237.

(b) This section does not apply to a criminal justice agency, as defined in ORS 181.010, that is authorized by federal law to receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

(3) To meet the requirements of this section, the Department **of State Police** and other governmental agencies described in subsection (1) of this section may:

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) Directly provide electronic fingerprint capture services; *[or]*

2 (b) Enter into a contract described in subsection (4) of this section for the provision of elec-
3 tronic fingerprint capture services[.]; **or**

4 **(c) Provide electronic fingerprint capture services in any other manner allowed by the**
5 **Oregon Department of Administrative Services by rule or order.**

6 (4) The Oregon Department of Administrative Services shall develop a standard contract by
7 which the Department of State Police and other governmental agencies described in subsection (1)
8 of this section may contract for the provision of electronic fingerprint capture services. Contracts
9 developed under this subsection must account for the variety of uses and levels of service necessary
10 to accommodate the needs of the Department of State Police, other governmental agencies described
11 in subsection (1) of this section, qualified entities as defined in ORS 181.533, qualified entities as
12 defined in ORS 181.537, qualified entities as defined in ORS 267.237 and any other entity required
13 by law or rule to conduct criminal records checks for purposes not related to the administration of
14 the criminal justice system.

15
16 **UNIFORM RULES FOR FITNESS DETERMINATIONS**

17
18 **SECTION 2.** ORS 181.547 is amended to read:

19 181.547. (1) As used in this section[.]:

20 **(a) “Authorized agency” means an authorized agency as defined in ORS 181.533 or 181.534.**

21 **(b) “Direct access” means access to an individual or the personal information of an individual.**

22 **(c) “District” has the meaning given that term in ORS 267.237.**

23 **(d) “Qualified entity” has the meaning given that term in ORS 181.537.**

24 (2) The Oregon Department of Administrative Services, in consultation with the Department of
25 State Police, shall adopt rules *[specifying]*:

26 (a) **Specifying** categories of individuals who are subject to criminal records checks that:

27 (A) An authorized agency[*as defined in ORS 181.533 or 181.534,*] may use to make fitness de-
28 terminations under ORS 181.533 [(4)(a)] and 181.534 [(11)]; *[or]*

29 (B) [*Qualified entities*] **A qualified entity** may use to make fitness determinations under ORS
30 181.537 [(10)(c).]; **or**

31 **(C) A district may use to make fitness determinations under ORS 267.237.**

32 (b) **Specifying** the information, for each category, that may be required from a subject individual
33 to permit a criminal records check.

34 (c) **Specifying** the types of crimes that may be considered in reviewing criminal offender infor-
35 mation of a subject individual for each category.

36 (d) **Specifying** when a nationwide fingerprint-based criminal records check must be conducted.

37 **(e) Establishing the factors, for each category, that must be considered if a subject in-**
38 **dividual has been convicted of or arrested for a crime or has made a false statement related**
39 **to the subject individual’s criminal history.**

40 **(f) Establishing the process for appealing a fitness determination.**

41 (3) The Oregon Department of Administrative Services shall consider the additional cost of ob-
42 taining a nationwide fingerprint-based criminal records check when adopting rules under subsection
43 (2)(d) of this section.

44 (4) Categories adopted under subsection (2)(a) of this section shall separate individuals into
45 categories comprising:

- 1 (a) Individuals who have direct access to or who provide services for children;
- 2 (b) Individuals who have direct access to or who provide services for the elderly;
- 3 (c) Individuals who have direct access to or who provide services for persons with disabilities;
- 4 (d) Individuals who have direct access to or who provide services for persons with a mental
- 5 illness;
- 6 (e) Individuals who have direct access to or who provide services for the general public;
- 7 (f) Individuals licensed, registered, certified or otherwise authorized to practice a profession or
- 8 trade in this state and individuals applying for licensure, registration, certification or authorization
- 9 to practice a profession or trade in this state; and
- 10 (g) Any other population of individuals specified by the Oregon Department of Administrative
- 11 Services by rule.

12 **(5) An authorized agency, qualified entity or district, or an employee of an authorized**
13 **agency, qualified entity or district who is acting within the course and scope of the**
14 **employee's employment, is immune from any civil liability that might otherwise be incurred**
15 **or imposed for making a fitness determination in accordance with this section.**

16 **SECTION 3.** ORS 267.237 is amended to read:

17 267.237. (1) As used in this section:

18 (a) "District" means a mass transit district organized under ORS 267.010 to 267.390 or a trans-
19 portation district organized under ORS 267.510 to 267.650.

20 (b) "Qualified entity" means an individual or business or organization, whether public, private,
21 for-profit, nonprofit or voluntary, that, under contract with a district, provides individuals to operate
22 motor vehicles for the transportation of passengers in the public transportation system of the dis-
23 trict.

24 (c) "Subject individual" means a person subject to a criminal records check as specified by re-
25 solution of a mass transit district or a transportation district.

26 (2) A mass transit district or a transportation district shall request the Department of State
27 Police to conduct criminal records checks of subject individuals if the checks are required in order
28 to protect vulnerable Oregonians:

29 (a) To implement a federal or state statute, executive order or rule that expressly refers to
30 criminal conduct and contains requirements or exclusions expressly based on such conduct;

31 (b) For district employment purposes when hiring individuals to operate motor vehicles of the
32 district; or

33 (c) For the purposes of employment decisions made by a district for qualified entities that, under
34 contracts with the district, employ individuals to operate motor vehicles for the transportation of
35 passengers in the public transportation system of the district.

36 (3) A mass transit district that has a population of more than 500,000 may request the Depart-
37 ment of State Police to conduct a criminal records check of a subject individual who is:

38 (a) Seeking employment by the district in a position that provides the individual with access to
39 critical infrastructure or security sensitive facilities or information; or

40 (b) Seeking to provide services to the district that will result in the individual's having access
41 to critical infrastructure or security sensitive facilities or information.

42 (4) In order to determine the suitability of the subject individual, a district shall require the
43 subject individual to furnish to the district a full set of fingerprints to enable a criminal records
44 check to be conducted. The district shall submit the completed fingerprint cards to the Department
45 of State Police along with the applicable Oregon and Federal Bureau of Investigation processing

1 fees. If no disqualifying record is identified at the state level, the Department of State Police shall
 2 forward the fingerprints to the Federal Bureau of Investigation for a national criminal records
 3 check.

4 (5) The Federal Bureau of Investigation shall either return or destroy the fingerprint cards used
 5 to conduct the criminal records check and shall not keep any record of the fingerprints. However,
 6 if the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, a
 7 district shall cease to cause the cards to be sent to the federal bureau but shall continue to process
 8 the information through other available resources.

9 (6) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of
 10 State Police, the department shall destroy the fingerprint cards and shall retain no facsimiles or
 11 other material from which a fingerprint can be reproduced.

12 (7) If only a state criminal records check is conducted, the Department of State Police shall
 13 destroy the fingerprint cards after the criminal records check is completed and the results of the
 14 criminal records check provided to the district and shall retain no facsimiles or other material from
 15 which a fingerprint can be reproduced.

16 (8) The district and the Department of State Police shall permit a subject individual to inspect
 17 the individual's own Oregon and Federal Bureau of Investigation criminal offender records after
 18 positive fingerprint identification has been made.

19 [(9)(a)] **(9)** A district, *[using guidelines established by a resolution of the district]* **subject to rules**
 20 **adopted by the Oregon Department of Administrative Services under ORS 181.547**, shall de-
 21 termine *[under this section]* whether a subject individual is fit to operate motor vehicles for the
 22 transportation of passengers in the public transportation system of the district or to hold a position
 23 or provide services that provide the individual with access to critical infrastructure or security
 24 sensitive facilities or information[, *based on the criminal records check obtained pursuant to this sec-*
 25 *tion, any false statements made by the individual regarding the criminal history of the individual and*
 26 *any refusal to submit or consent to a criminal records check including fingerprint identification].* If a
 27 subject individual is determined to be unfit, then that person shall not be allowed to operate motor
 28 vehicles for the transportation of passengers in the public transportation system of the district or
 29 to hold the position or provide services that provide the individual with access to critical
 30 infrastructure or security sensitive facilities or information.

31 [(b) *In making the fitness determination, the district shall consider:*]

32 [(A) *The nature of the crime;*]

33 [(B) *The facts that support the conviction or pending indictment or indicate the making of the false*
 34 *statement;*]

35 [(C) *The relevancy, if any, of the crime or the false statement to the specific requirements of the*
 36 *subject individual's present or proposed position or employment; and]*

37 [(D) *Intervening circumstances relevant to the responsibilities and circumstances of the position or*
 38 *employment. Intervening circumstances include but are not limited to the passage of time since the*
 39 *commission of the crime, the age of the person at the time of the crime, the likelihood of a repetition*
 40 *of offenses, the subsequent commission of another relevant crime and a recommendation of an*
 41 *employer.*]

42 [(c) *A district and an employee of the district are immune from any civil liability that might oth-*
 43 *erwise be incurred or imposed for actions taken in determining pursuant to this subsection that a*
 44 *subject individual is fit or not fit to hold a position or be employed. A district, an employee of the*
 45 *district and an employer or employer's agent who in good faith comply with this section and the deci-*

1 sion of the district or employee of the district are not liable for the failure to hire a prospective em-
 2 ployee or the decision to discharge an employee on the basis of the district's or employee's decision.
 3 A district and an employee of the district are immune from any civil liability for the lawful dissem-
 4 ination of information obtained under this section when the disclosure is:]

5 [(A) For the purpose of providing notice to the subject individual or the employer of the subject
 6 individual of a determination of fitness under this section;]

7 [(B) Required by law; or]

8 [(C) Necessary to support a claim or defense related to denying employment to the subject individ-
 9 ual.]

10 [(10) A district shall establish by resolution a process by which a subject individual may appeal
 11 the determination that the subject individual is disqualified for a position or employment pursuant to
 12 this section. Challenges to the accuracy or completeness of information provided by the Department of
 13 State Police, the Federal Bureau of Investigation and agencies reporting information to the department
 14 or bureau must be made through the department, bureau or agency and not through the appeal process
 15 required by this subsection.]

16 [(11)] (10) A district shall develop a system that maintains information regarding criminal re-
 17 cords checks in order to minimize the administrative burden that criminal records check require-
 18 ments impose upon subject individuals and providers. Records maintained under this subsection for
 19 subject individuals are confidential and may not be disseminated except for the purposes of this
 20 section and in accordance with the relevant resolutions of the district. Nothing in this subsection
 21 permits a district to retain fingerprint cards of subject individuals.

22 [(12)] (11) A district, in consultation with the Department of State Police and affected provider
 23 groups, shall adopt resolutions to implement this section and other statutes relating to criminal
 24 offender information. The resolutions [shall] **may** include but need not be limited to:

25 (a) Specifying which employees are authorized to make criminal record inquiries;

26 (b) [Specifying] **Identifying applicable** categories of subject individuals **as specified by the**
 27 **Oregon Department of Administrative Services under ORS 181.547** who are subject to criminal
 28 records checks **by the district**;

29 (c) [Specifying the] **Identifying applicable** information[, including fingerprints,] that may be re-
 30 quired from a subject individual to permit a criminal records check **as specified by the Oregon**
 31 **Department of Administrative Services under ORS 181.547**;

32 (d) Specifying which services or qualified entities are subject to this section;

33 [(e) Specifying which crimes may be considered in reviewing criminal offender information for a
 34 subject individual;]

35 [(f) Specifying when a nationwide criminal records check shall be conducted on a subject individual
 36 through the Department of State Police. The additional cost of obtaining a nationwide criminal records
 37 check and the risk to vulnerable Oregonians should be taken into consideration when enacting resolu-
 38 tions under this subsection;]

39 [(g)] (e) Specifying when a district, in lieu of conducting a completely new criminal records
 40 check, may proceed to make a fitness determination under this section using the information main-
 41 tained by the district under subsection [(11)] (10) of this section; and

42 [(h)] (f) Determining when a subject individual may be hired on a probationary basis pending a
 43 criminal records check[. At a minimum], **provided that** if there is any indication of criminal be-
 44 havior by the subject individual, the resolution must require that, if the individual is hired, the in-
 45 dividual can be hired only on a probationary basis and must be actively supervised at all times when

1 the individual is in contact with children, the elderly or persons with disabilities.

2 [(13)] (12) Criminal offender information is confidential. The Department of State Police shall
 3 adopt rules to restrict dissemination of information received under this section to persons with a
 4 demonstrated and legitimate need to know the information. Any district receiving information pur-
 5 suant to this section is bound by the rules of disclosure adopted by the department.

6 [(14)] (13) If a subject individual refuses to consent to the criminal records check or refuses to
 7 be fingerprinted, the district or qualified entity shall deny or terminate the employment of the indi-
 8 vidual, or revoke or deny any applicable position, authority to provide services or employment.

9 [(15)] (14) A district shall define by resolution the conditions under which subject individuals
 10 may participate in training, orientation and work activities pending completion of a criminal records
 11 check through the Law Enforcement Data System or nationwide criminal records check. At a mini-
 12 mum, subject individuals shall be actively supervised at all times that they are in contact with
 13 children, the elderly and persons with disabilities during such periods of training, orientation and
 14 work. Subject individuals may continue probationary employment while awaiting the nationwide
 15 criminal records check as long as the individual’s criminal records check through the Law
 16 Enforcement Data System did not result in disqualification and there are no other indications of
 17 criminal behavior.

18 [(16)] (15) If a district or a qualified entity requires a criminal records check of employees or
 19 other persons, the application forms of the district or qualified entity must contain a notice that
 20 employment is subject to fingerprinting and a criminal records check as required by this section.

21 **SECTION 4.** ORS 181.533 is amended to read:

22 181.533. (1) As used in this section:

23 (a) “Authorized agency” means the Department of State Police or other governmental agency
 24 designated by the State of Oregon to report, receive or disseminate criminal offender information.

25 (b) “Qualified entity” means a business or organization that:

26 (A) Provides care or placement services, or licenses or certifies others to provide care or
 27 placement services, for children, elderly persons or dependent persons;

28 (B) Is not governed by a state regulatory or licensing agency; and

29 (C) Has been determined by an authorized agency to meet the criteria established by the au-
 30 thorized agency by rule under subsection (9) of this section.

31 (c) “Subject individual” means a person who is employed or seeks to be employed by a qualified
 32 entity or who is providing services or seeks to provide services to a qualified entity on a contractual
 33 or volunteer basis.

34 (2) An entity may request from an authorized agency a criminal records check for purposes of
 35 evaluating the fitness of a subject individual as an employee, contractor or volunteer. The author-
 36 ized agency may access state and federal criminal records under this subsection only through use
 37 of the subject individual’s fingerprints.

38 (3) Before an authorized agency may conduct a criminal records check under this section:

39 (a) The authorized agency must determine whether the entity requesting the criminal records
 40 check is a qualified entity; **and**

41 [(b) The qualified entity must establish criteria, subject to rules adopted by the Oregon Department
 42 of Administrative Services under ORS 181.547, to be used by the authorized agency in reviewing the
 43 criminal offender information for a final record check determination;]

44 [(c) The qualified entity must provide the criteria established under paragraph (b) of this subsection
 45 to the authorized agency; and]

1 [(d)] (b) The qualified entity must have informed the subject individual that the qualified entity
2 might request a fingerprint-based criminal records check and that the subject individual may obtain
3 a copy of the record check report from, or challenge the accuracy or completeness of the record
4 check report through, the authorized agency or the Federal Bureau of Investigation.

5 (4)(a) Upon receipt of a subject individual's criminal offender information, the authorized agency
6 shall **submit the criminal offender information to the Department of Human Services. The**
7 **Department of Human Services shall, subject to** *[use the criteria provided to the authorized*
8 *agency by the qualified entity under subsection (3)(c) of this section and]* rules adopted by the Oregon
9 Department of Administrative Services under ORS 181.547, *[to]* make a fitness determination. *[In*
10 *making the final record check determination, the authorized agency may consider only information that*
11 *the Department of State Police may disclose under ORS 181.560.]* **After making a fitness determi-**
12 **nation under this subsection, the Department of Human Services shall inform the authorized**
13 **agency of the results of the fitness determination.**

14 *[(b) An authorized agency is immune from civil liability that might otherwise be incurred or im-*
15 *posed for making the final record check determination under this subsection.]*

16 **(b) An authorized agency and the Department of Human Services may enter into an**
17 **agreement under which the Department of Human Services provides the results of a fitness**
18 **determination made under this subsection directly to the qualified entity requesting the in-**
19 **formation.**

20 (5) An authorized agency may not transfer a fingerprint card used to conduct the criminal re-
21 cords check unless the public agency or person receiving the fingerprint card agrees to destroy or
22 return the fingerprint card to the authorized agency.

23 (6) If the public agency or person returns a fingerprint card to the authorized agency, the au-
24 thorized agency shall destroy the fingerprint card. The authorized agency may not keep a record
25 of the fingerprints.

26 (7) The authorized agency **or the Department of Human Services** shall permit a subject in-
27 dividual to inspect the individual's Oregon and Federal Bureau of Investigation criminal offender
28 information after positive identification has been established based upon fingerprints.

29 (8) Challenges to the accuracy or completeness of information provided by *[the authorized*
30 *agency,]* the Federal Bureau of Investigation and agencies reporting information to *[the authorized*
31 *agency or]* the federal bureau must be made through *[the authorized agency or]* the federal bureau.

32 (9) The authorized agency shall adopt rules to implement this section. The rules may include but
33 are not limited to:

34 (a) Criteria to be used by the authorized agency to determine whether an entity is a qualified
35 entity; and

36 (b) Fees to be charged for conducting criminal records checks under this section in amounts not
37 to exceed the actual costs of acquiring and furnishing criminal offender information.

38 **SECTION 5.** ORS 181.534 is amended to read:

39 181.534. (1) As used in this section:

40 (a) "Authorized agency" means state government as defined in ORS 174.111 and the Oregon
41 State Bar. "Authorized agency" does not include:

42 (A) The Oregon State Lottery Commission or the Oregon State Lottery; or

43 (B) A criminal justice agency, as defined in ORS 181.010, that is authorized by federal law to
44 receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

45 (b) "Subject individual" means a person from whom an authorized agency may require finger-

1 prints pursuant to statute for the purpose of enabling the authorized agency to request a state or
 2 nationwide criminal records check.

3 (2) An authorized agency may request that the Department of State Police conduct a criminal
 4 records check on a subject individual for non-criminal justice purposes. If a nationwide criminal
 5 records check of a subject individual is necessary, the authorized agency may request that the De-
 6 partment of State Police conduct the check, including fingerprint identification, through the Federal
 7 Bureau of Investigation.

8 (3) The Department of State Police shall provide the results of a criminal records check con-
 9 ducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

10 (4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to
 11 conduct the criminal records check and may not keep any record of the fingerprints. If the federal
 12 bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department
 13 of State Police shall cease to send the cards to the federal bureau but shall continue to process the
 14 information through other available resources.

15 (5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of
 16 State Police, the department shall destroy the fingerprint cards and shall retain no facsimiles or
 17 other material from which a fingerprint can be reproduced.

18 (6) If only a state criminal records check is conducted, the Department of State Police shall
 19 destroy the fingerprint cards after the criminal records check is completed and the results of the
 20 criminal records check provided to the authorized agency and shall retain no facsimiles or other
 21 material from which a fingerprint can be reproduced.

22 (7) An authorized agency may conduct criminal records checks on subject individuals through
 23 the Law Enforcement Data System maintained by the Department of State Police in accordance with
 24 rules adopted, and procedures established, by the Department of State Police.

25 (8) An authorized agency and the Department of State Police shall permit a subject individual
 26 for whom a fingerprint-based criminal records check was conducted to inspect the individual's own
 27 state and national criminal offender records and, if requested by the subject individual, provide the
 28 individual with a copy of the individual's own state and national criminal offender records.

29 (9) Each authorized agency, in consultation with the Department of State Police, *[shall]* **may**
 30 adopt rules to implement this section and other statutes relating to criminal offender information
 31 obtained through fingerprint-based criminal records checks. The rules *[shall]* **may** include but need
 32 not be limited to:

33 (a) Identifying applicable categories of subject individuals as specified by the Oregon Depart-
 34 ment of Administrative Services under ORS 181.547 who are subject to criminal records checks by
 35 the authorized agency.

36 (b) Identifying applicable information that may be required from a subject individual to permit
 37 a criminal records check as specified by the Oregon Department of Administrative Services under
 38 ORS 181.547.

39 (c) Specifying which programs or services are subject to this section.

40 (d) If the authorized agency uses criminal records checks for agency employment purposes:

41 (A) Determining when and under what conditions a subject individual may be hired on a pre-
 42 liminary basis pending a criminal records check; and

43 (B) Defining the conditions under which a subject individual may participate in training, orien-
 44 tation and work activities pending completion of a criminal records check.

45 (e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing

1 criminal offender information.

2 [(10) *The Department of State Police shall verify that an authorized agency has adopted the rules*
3 *required by subsection (9) of this section.*]

4 [(11)(a)] **(10)(a)** Except as otherwise provided in ORS 181.612[, 342.143, 342.223, 443.735 and
5 475.304] **and 475.300 to 475.346** and paragraph (b) of this subsection, an authorized agency, using
6 [*the rules adopted by the authorized agency under subsection (9) of this section and*] the rules adopted
7 by the Oregon Department of Administrative Services under ORS 181.547, shall determine whether
8 a subject individual is fit to hold a position, provide services, be employed or be granted a license,
9 certification, registration or permit[, *based on the criminal records check obtained pursuant to this*
10 *section, on any false statements made by the individual regarding the criminal history of the individual*
11 *and on any refusal to submit or consent to a criminal records check including fingerprint*
12 *identification*]. If a subject individual is determined to be unfit, then the individual may not hold the
13 position, provide services, be employed or be granted a license, certification, registration or permit.

14 (b) An individual prohibited from receiving public funds for employment under ORS 443.004 (3)
15 is not entitled to a determination of fitness as a subject individual under paragraph (a) of this sub-
16 section.

17 (c)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness de-
18 termination of an individual under this subsection may request results of a previously made fitness
19 determination from an authorized agency that has already made a fitness determination for the in-
20 dividual. An authorized agency that receives a request under this paragraph shall provide the re-
21 quested information.

22 (B) An authorized agency may make a request under this paragraph only for individuals:

23 (i) Who are applying to hold a position, provide services, be employed or be granted a license,
24 certification, registration or permit;

25 (ii) Who are in a category of individuals as specified by the Oregon Department of Administra-
26 tive Services **by rule** under ORS 181.547; and

27 (iii) For whom a fitness determination has already been made.

28 [(12) *Except as otherwise provided in ORS 181.612, in making the fitness determination under*
29 *subsection (11) of this section, the authorized agency shall consider:*]

30 [(a) *The nature of the crime;*]

31 [(b) *The facts that support the conviction or pending indictment or that indicate the making of the*
32 *false statement;*]

33 [(c) *The relevancy, if any, of the crime or the false statement to the specific requirements of the*
34 *subject individual's present or proposed position, services, employment, license, certification or regis-*
35 *tration; and*]

36 [(d) *Intervening circumstances relevant to the responsibilities and circumstances of the position,*
37 *services, employment, license, certification, registration or permit. Intervening circumstances include*
38 *but are not limited to:*]

39 [(A) *The passage of time since the commission of the crime;*]

40 [(B) *The age of the subject individual at the time of the crime;*]

41 [(C) *The likelihood of a repetition of offenses or of the commission of another crime;*]

42 [(D) *The subsequent commission of another relevant crime;*]

43 [(E) *Whether the conviction was set aside and the legal effect of setting aside the conviction; and*]

44 [(F) *A recommendation of an employer.*]

45 [(13) *An authorized agency and an employee of an authorized agency acting within the course and*

1 scope of employment are immune from any civil liability that might otherwise be incurred or imposed
 2 for determining, pursuant to subsection (11) of this section, that a subject individual is fit or not fit to
 3 hold a position, provide services, be employed or be granted a license, certification, registration or
 4 permit. An authorized agency and an employee of an authorized agency acting within the course and
 5 scope of employment who in good faith comply with this section are not liable for employment-related
 6 decisions based on determinations made under subsection (11) of this section. An authorized agency
 7 or an employee of an authorized agency acting within the course and scope of employment is not liable
 8 for defamation or invasion of privacy in connection with the lawful dissemination of information law-
 9 fully obtained under this section.]

10 [(14)(a) Each authorized agency shall establish by rule a contested case process by which a subject
 11 individual may appeal the determination that the individual is fit or not fit to hold a position, provide
 12 services, be employed or be granted a license, certification, registration or permit on the basis of in-
 13 formation obtained as the result of a criminal records check conducted pursuant to this section. Chal-
 14 lenges to the accuracy or completeness of information provided by the Department of State Police, the
 15 Federal Bureau of Investigation and agencies reporting information to the Department of State Police
 16 or Federal Bureau of Investigation must be made through the Department of State Police, Federal
 17 Bureau of Investigation or reporting agency and not through the contested case process required by this
 18 paragraph.]

19 [(b) A subject individual who is employed by an authorized agency and who is determined not to
 20 be fit for a position on the basis of information obtained as the result of a criminal records check
 21 conducted pursuant to this section may appeal the determination through the contested case process
 22 adopted under this subsection or applicable personnel rules, policies and collective bargaining pro-
 23 visions. An individual's decision to appeal a determination through personnel rules, policies and col-
 24 lective bargaining provisions is an election of remedies as to the rights of the individual with respect
 25 to the fitness determination and is a waiver of the contested case process.]

26 [(c) An individual prohibited from receiving public funds for employment under ORS 443.004 (3)
 27 is not entitled to appeal a determination under paragraph (a) or (b) of this subsection.]

28 [(15)] (11) Criminal offender information is confidential. Authorized agencies and the Depart-
 29 ment of State Police shall adopt rules to restrict dissemination of information received under this
 30 section to persons with a demonstrated and legitimate need to know the information.

31 [(16)] (12) If a subject individual refuses to consent to the criminal records check or refuses to
 32 be fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or
 33 deny any applicable position, authority to provide services, license, certification, registration or
 34 permit.

35 [(17)] (13) If an authorized agency requires a criminal records check of employees, prospective
 36 employees, contractors, vendors or volunteers or applicants for a license, certification, registration
 37 or permit, the application forms of the authorized agency must contain a notice that the person is
 38 subject to fingerprinting and a criminal records check.

39 **SECTION 6.** ORS 181.537 is amended to read:

40 181.537. (1) As used in this section:

41 (a) "Care" means the provision of care, treatment, education, training, instruction, supervision,
 42 placement services, recreation or support to children, the elderly or persons with disabilities.

43 (b) "Native American tribe" has the meaning given that term in ORS 181.538 (4).

44 (c) "Qualified entity" means a community mental health program, a community developmental
 45 disabilities program, a local health department, the government of a Native American tribe or an

1 agency of a Native American tribe responsible for child welfare or an individual or business or or-
 2 ganization, whether public, private, for-profit, nonprofit or voluntary, that provides care, including
 3 a business or organization that licenses, certifies or registers others to provide care.

4 (2) For the purpose of requesting a state or nationwide criminal records check under ORS
 5 181.534, the Department of Human Services, the Oregon Health Authority and the Employment De-
 6 partment may require the fingerprints of a person:

7 (a) Who is employed by or is applying for employment with either department or the authority;

8 (b) Who provides or seeks to provide services to either department or the authority as a con-
 9 tractor, subcontractor, vendor or volunteer who:

10 (A) May have contact with recipients of care;

11 (B) Has access to personal information about employees of either department or the authority,
 12 recipients of care from either department or the authority or members of the public, including Social
 13 Security numbers, dates of birth, driver license numbers, medical information, personal financial in-
 14 formation or criminal background information;

15 (C) Has access to information the disclosure of which is prohibited by state or federal laws,
 16 rules or regulations, or information that is defined as confidential under state or federal laws, rules
 17 or regulations;

18 (D) Has access to property held in trust or to private property in the temporary custody of the
 19 state;

20 (E) Has payroll or fiscal functions or responsibility for:

21 (i) Receiving, receipting or depositing money or negotiable instruments;

22 (ii) Billing, collections, setting up financial accounts or other financial transactions; or

23 (iii) Purchasing or selling property;

24 (F) Provides security, design or construction services for government buildings, grounds or fa-
 25 cilities;

26 (G) Has access to critical infrastructure or secure facilities information; or

27 (H) Is providing information technology services and has control over or access to information
 28 technology systems;

29 (c) For the purposes of licensing, certifying, registering or otherwise regulating or administering
 30 programs, persons or qualified entities that provide care;

31 (d) For the purposes of employment decisions by or for qualified entities that are regulated or
 32 otherwise subject to oversight by the Department of Human Services or the Oregon Health Au-
 33 thority and that provide care;

34 (e) For the purposes of employment decisions made by a mass transit district or transportation
 35 district for qualified entities that, under contracts with the district or the Oregon Health Authority,
 36 employ persons to operate motor vehicles for the transportation of medical assistance program cli-
 37 ents; or

38 (f) For the purposes of licensure, certification or registration of foster homes by the government
 39 of a Native American tribe or an agency of a Native American tribe responsible for child welfare.

40 (3) The Department of Human Services and the Oregon Health Authority may conduct criminal
 41 records checks on a person through the Law Enforcement Data System maintained by the Depart-
 42 ment of State Police, if deemed necessary by the Department of Human Services or the Oregon
 43 Health Authority to protect children, elderly persons, persons with disabilities or other vulnerable
 44 persons.

45 (4) The Department of Human Services and the Oregon Health Authority may furnish to quali-

1 fied entities, in accordance with the rules of the Department of Human Services or the Oregon
 2 Health Authority and the rules of the Department of State Police, information received from the
 3 Law Enforcement Data System. However, any criminal offender records and information furnished
 4 to the Department of Human Services or the Oregon Health Authority by the Federal Bureau of
 5 Investigation through the Department of State Police may not be disseminated to qualified entities.

6 (5)(a) Except as otherwise provided in ORS [~~443.735 and 475.304~~] **475.300 to 475.346**, a qualified
 7 entity, [*using*] **subject to** rules adopted by [*the Department of Human Services or the Oregon Health*
 8 *Authority under ORS 181.534 (9) and rules adopted by*] the Oregon Department of Administrative
 9 Services under ORS 181.547, shall determine under this section whether a person is fit to hold a
 10 position, provide services, be employed or, if the qualified entity has authority to make such a de-
 11 termination, be licensed, certified or registered[, *based on the criminal records check obtained pur-*
 12 *suant to ORS 181.534, any false statements made by the person regarding the criminal history of the*
 13 *person and any refusal to submit or consent to a criminal records check including fingerprint identifi-*
 14 *cation*]. If a person is determined to be unfit, then that person may not hold the position, provide
 15 services or be employed, licensed, certified or registered.

16 (b) A person prohibited from receiving public funds for employment under ORS 443.004 (3) is not
 17 entitled to a determination of fitness under paragraph (a) of this subsection.

18 [(6) *In making the fitness determination under subsection (5) of this section, the qualified entity*
 19 *shall consider:*]

20 [(a) *The nature of the crime;*]

21 [(b) *The facts that support the conviction or pending indictment or indicate the making of the false*
 22 *statement;*]

23 [(c) *The relevancy, if any, of the crime or the false statement to the specific requirements of the*
 24 *person's present or proposed position, services, employment, license, certification or registration; and*]

25 [(d) *Intervening circumstances relevant to the responsibilities and circumstances of the position,*
 26 *services, employment, license, certification or registration. Intervening circumstances include but are*
 27 *not limited to the passage of time since the commission of the crime, the age of the person at the time*
 28 *of the crime, the likelihood of a repetition of offenses, the subsequent commission of another relevant*
 29 *crime and a recommendation of an employer.*]

30 [(7) *The Department of Human Services, the Oregon Health Authority and the Employment De-*
 31 *partment may make fitness determinations based on criminal offender records and information fur-*
 32 *nished by the Federal Bureau of Investigation through the Department of State Police only as described*
 33 *in ORS 181.534.*]

34 [(8) *A qualified entity and an employee of a qualified entity acting within the course and scope of*
 35 *employment are immune from any civil liability that might otherwise be incurred or imposed for de-*
 36 *termining pursuant to subsection (5) of this section that a person is fit or not fit to hold a position,*
 37 *provide services or be employed, licensed, certified or registered. A qualified entity, employee of a*
 38 *qualified entity acting within the course and scope of employment and an employer or employer's agent*
 39 *who in good faith comply with this section and the decision of the qualified entity or employee of the*
 40 *qualified entity acting within the course and scope of employment are not liable for the failure to hire*
 41 *a prospective employee or the decision to discharge an employee on the basis of the qualified entity's*
 42 *decision. An employee of the state acting within the course and scope of employment is not liable for*
 43 *defamation or invasion of privacy in connection with the lawful dissemination of information lawfully*
 44 *obtained under this section.*]

45 [(9)] (6) The Department of Human Services and the Oregon Health Authority, subject to rules

1 adopted by the Oregon Department of Administrative Services under ORS 181.547, shall develop
 2 systems that maintain information regarding criminal records checks in order to minimize the ad-
 3 ministrative burden imposed by this section and ORS 181.534. Records maintained under this sub-
 4 section are confidential and may not be disseminated except for the purposes of this section and in
 5 accordance with the rules of the Department of Human Services, the Oregon Health Authority and
 6 the Department of State Police. Nothing in this subsection permits the Department of Human Ser-
 7 vices to retain fingerprint cards obtained pursuant to this section.

8 [(10)] (7) In addition to the rules required by ORS 181.534, the Department of Human Services
 9 and the Oregon Health Authority, in consultation with the Department of State Police, shall adopt
 10 rules:

11 (a) Specifying which qualified entities are subject to this section;

12 (b) Specifying which qualified entities may request criminal offender information;

13 (c) Specifying which qualified entities are responsible for deciding, subject to rules adopted by
 14 the Oregon Department of Administrative Services under ORS 181.547, whether a subject individual
 15 is not fit for a position, service, license, certification, registration or employment; and

16 (d) Specifying when a qualified entity, in lieu of conducting a completely new criminal records
 17 check, may proceed to make a fitness determination under subsection (5) of this section using the
 18 information maintained by the Department of Human Services and the Oregon Health Authority
 19 pursuant to subsection [(9)] (6) of this section.

20 [(11)] (8) If a person refuses to consent to the criminal records check or refuses to be finger-
 21 printed, the qualified entity shall deny or terminate the employment of the person, or revoke or deny
 22 any applicable position, authority to provide services, employment, license, certification or regis-
 23 tration.

24 [(12)] (9) If the qualified entity requires a criminal records check of employees or other persons,
 25 the application forms of the qualified entity must contain a notice that employment is subject to
 26 fingerprinting and a criminal records check.

27 **SECTION 7.** ORS 342.143 is amended to read:

28 342.143. (1) [No] **The Teacher and Standards and Practices Commission may not issue a**
 29 **teaching, personnel service or administrative license [may be issued] to any person until the person**
 30 **has attained the age of 18 years and has furnished satisfactory evidence of proper educational**
 31 **training.**

32 (2) The Teacher Standards and Practices Commission may require an applicant for a teaching,
 33 personnel service or administrative license or for registration as a public charter school teacher or
 34 administrator to furnish evidence satisfactory to the commission of good moral character, mental
 35 and physical health, and such other evidence as [it] **the commission, subject to rules adopted by**
 36 **the Oregon Department of Administrative Services under ORS 181.547,** may deem necessary to
 37 establish the applicant's fitness to serve as a teacher or administrator.

38 [(3) Without limiting the powers of the Teacher Standards and Practices Commission under sub-
 39 section (2) of this section:]

40 [(a) No teaching, personnel service or administrative license or registration as a public charter
 41 school teacher or administrator may be issued to any person who:]

42 [(A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,
 43 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433,
 44 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part),
 45 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087,

1 167.007, 167.008, 167.012, 167.017, 167.057, 167.062, 167.075, 167.080, 167.090, 475.808, 475.810, 475.812,
 2 475.818, 475.820, 475.822, 475.828, 475.830, 475.832, 475.848, 475.852, 475.858, 475.860, 475.862, 475.868,
 3 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or 475.906.]

4 [(B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in
 5 subparagraph (A) of this paragraph.]

6 [(C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as de-
 7 fined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph.]

8 [(D) Has had a teaching, personnel service or administrative license or registration revoked in
 9 another jurisdiction for a reason that is substantially equivalent, as defined by rule, to a reason de-
 10 scribed in ORS 342.175 and the revocation is not subject to further appeal. A person whose privilege
 11 to apply for a license or registration is denied under this subparagraph may apply for reinstatement
 12 of the privilege as provided in ORS 342.175 (4).]

13 [(b) The Teacher Standards and Practices Commission may refuse to issue a license or registration
 14 to any person who has been convicted of a crime involving the illegal use, sale or possession of con-
 15 trolled substances.]

16 **(3) The Teacher and Standards and Practices Commission may not issue a teaching,**
 17 **personnel service or administrative license or register a public charter school teacher or**
 18 **administrator if the applicant for licensure or registration has had a teaching, personnel**
 19 **service or administrative license or registration revoked in another jurisdiction for a reason**
 20 **that is substantially equivalent, as defined by rule, to a reason described in ORS 342.175 and**
 21 **the revocation is not subject to further appeal. A person whose privilege to apply for a li-**
 22 **cence or registration is denied under this paragraph may apply for reinstatement of the**
 23 **privilege as provided in ORS 342.175 (4).**

24 (4) In denying the issuance of a license or registration under this section, the commission shall
 25 follow the procedure set forth in ORS 342.176 and 342.177.

26 [(5) The Department of Education shall provide school districts and public charter schools a copy
 27 of the list contained in subsection (3) of this section.]

28 **SECTION 8.** ORS 443.004 is amended to read:

29 443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete
 30 a criminal records check under ORS 181.534 on:

31 (a) An employee of a residential facility or an adult foster home;

32 (b) Any individual who is paid directly or indirectly with public funds who has or will have
 33 contact with a recipient of support services or a resident of an adult foster home or a residential
 34 facility; and

35 (c) A home care worker registering with the Home Care Commission or renewing a registration
 36 with the Home Care Commission.

37 (2)(a) A home health agency shall conduct a criminal background check before hiring or con-
 38 tracting with an individual and before allowing an individual to volunteer to provide services on
 39 behalf of the home health agency, if the individual will have direct contact with a patient of the
 40 home health agency.

41 (b) An in-home care agency shall conduct a criminal background check before hiring or con-
 42 tracting with an individual and before allowing an individual to volunteer to provide services on
 43 behalf of the in-home care agency, if the individual will have direct contact with a client of the in-
 44 home care agency.

45 (c) The authority shall prescribe by rule the process for conducting a criminal background

1 check.

2 (3) Public funds may not be used to support, in whole or in part, the employment in any capacity
3 having contact with a recipient of support services or a resident of a residential facility or an adult
4 foster home, of an individual[, *other than a mental health or substance abuse treatment provider,*] who
5 has been convicted[:] **of a crime specified by rule of the Oregon Department of Administrative**
6 **Services under ORS 181.547 (2)(c).**

7 [(a) *Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,*
8 *163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,*
9 *163.467, 163.535, 163.537, 163.547, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d),*
10 *164.215, 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.013, 165.022, 165.032, 165.800, 165.803,*
11 *167.012, 167.017, 167.057, 167.320 or 167.322;*]

12 [(b) *Notwithstanding paragraph (a) of this subsection, of a crime described in ORS 163.465,*
13 *163.467, 163.700, 164.055, 164.125 or 164.377, the date of conviction for which was within the five years*
14 *immediately preceding employment in any capacity of an individual, other than a mental health or*
15 *substance abuse treatment provider, having contact with a recipient of support services, a resident of*
16 *a residential facility or a resident of an adult foster home, when the recipient or resident is 65 years*
17 *of age or older;*]

18 [(c) *Of a crime listed in ORS 181.805;*]

19 [(d) *In the last 10 years, of a crime involving the delivery or manufacture of a controlled*
20 *substance;*]

21 [(e) *Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to (d)*
22 *of this subsection; or]*

23 [(f) *Of a crime in another jurisdiction that is substantially equivalent, as defined by rule, to a crime*
24 *described in paragraphs (a) to (e) of this subsection.*]

25 (4) If the criminal background check conducted by a home health agency or in-home care agency
26 under subsection (2) of this section reveals that the individual who is subject to the criminal back-
27 ground check has been convicted of [*any of the crimes described in subsection (3) of this section,*] **a**
28 **crime specified by rule of the Oregon Department of Administrative Services under ORS**
29 **181.547 (2)(c)**, the home health agency or in-home care agency may not employ the individual.

30 [(5) *Public funds may not be used to support, in whole or in part, the employment, in any capacity*
31 *having contact with a recipient of support services or a resident of a residential facility or an adult*
32 *foster home, of a mental health or substance abuse treatment provider who has been convicted of com-*
33 *mitting, or convicted of an attempt, conspiracy or solicitation to commit, a crime described in ORS*
34 *163.095, 163.115, 163.375, 163.405, 163.411 or 163.427.*]

35 [(6)] (5) Upon the request of a mental health or substance abuse treatment provider, the De-
36 partment **of Human Services** or **the Oregon Youth** Authority shall maintain a record of the re-
37 sults of any fitness determination made under ORS 181.534 [(11) and (12)]. The department or
38 authority may disclose the record only to a person the provider specifically authorizes, by a written
39 release, to receive the information.

40 [(7)] (6) If the department or authority has a record of substantiated abuse committed by an
41 employee or potential employee of a home health agency, in-home care agency, adult foster home
42 or residential facility, regardless of whether criminal charges were filed, the department or author-
43 ity shall notify, in writing, the employer and the employee or potential employee.

44 [(8)] (7) As used in this section:

45 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

1 (b) "Home care worker" has the meaning given that term in ORS 410.600.

2 (c) "Home health agency" has the meaning given that term in ORS 443.005.

3 (d) "In-home care agency" has the meaning given that term in ORS 443.305.

4 (e) "Mental health or substance abuse treatment provider" means:

5 (A) A peer support specialist;

6 (B) An employee of a residential treatment facility or a residential treatment home that is li-
7 censed under ORS 443.415 to provide treatment for individuals with alcohol or drug dependence;

8 (C) An individual who provides treatment or services for persons with substance use disorders;

9 or

10 (D) An individual who provides mental health treatment or services.

11 (f) "Peer support specialist" means a person who:

12 (A) Is providing peer support services as defined by the authority by rule;

13 (B) Is under the supervision of a qualified clinical supervisor;

14 (C) Has completed training required by the authority; and

15 (D) Is currently receiving or has formerly received mental health services, or is in recovery from
16 a substance use disorder and meets the abstinence requirements for staff providing services in al-
17 cohool or other drug treatment programs.

18 (g) "Residential facility" has the meaning given that term in ORS 443.400.

19 **SECTION 9.** ORS 443.735 is amended to read:

20 443.735. (1) Applications for a license to maintain and operate an adult foster home shall be
21 made on forms provided by the licensing agency. Each application shall be accompanied by a fee
22 of \$20 per bed requested for licensing.

23 (2) Upon receipt of an application and fee, the licensing agency shall conduct an investigation.

24 (3) The licensing agency [shall] **may** not issue an initial license unless:

25 (a) The applicant and adult foster home are in compliance with ORS 443.002 and 443.705 to
26 443.825 and the rules of the licensing agency;

27 (b) The licensing agency has completed an inspection of the adult foster home;

28 (c) The licensing agency has completed a criminal records check under ORS 181.534 on the ap-
29 plicant and any person, other than a resident, 16 years of age or older who will be residing in the
30 adult foster home[. *The criminal records check shall be conducted in accordance with rules adopted*
31 *under ORS 181.534*];

32 (d) The licensing agency has determined that the registry maintained under ORS 441.678 con-
33 tains no finding that the applicant or any nursing assistant employed by the applicant has been re-
34 sponsible for abuse; and

35 (e) The applicant has demonstrated to the licensing agency the financial ability and resources
36 necessary to operate the adult foster home. The licensing agency shall adopt rules as the agency
37 deems appropriate that establish the financial standards an applicant must meet to qualify for issu-
38 ance of a license and that protect financial information from public disclosure. The demonstration
39 of financial ability under this paragraph shall include, but need not be limited to, providing the li-
40 censing agency with a list of any unsatisfied judgments, pending litigation and unpaid taxes and
41 notifying the agency regarding whether the applicant is in bankruptcy. If the applicant is unable to
42 demonstrate the financial ability and resources required by this paragraph, the licensing agency may
43 require the applicant to furnish a financial guarantee as a condition of initial licensure.

44 (4) The licensing agency may not renew a license under this section unless:

45 (a) The applicant and the adult foster home are in compliance with ORS 443.002 and 443.705 to

1 443.825 and the rules of the licensing agency;

2 (b) The licensing agency has completed an inspection of the adult foster home;

3 (c) The licensing agency has completed a criminal records check under ORS 181.534 on the ap-
4 plicant and any person, other than a resident, 16 years of age or older who will be residing in the
5 adult foster home[. *The criminal records check under this paragraph shall be conducted in accordance*
6 *with rules adopted under ORS 181.534*]; and

7 (d) The licensing agency has determined that the registry maintained under ORS 441.678 con-
8 tains no finding that the applicant or any nursing assistant employed by the applicant has been re-
9 sponsible for abuse.

10 (5)(a) In seeking an initial license and renewal of a license when an adult foster home has been
11 licensed for less than 24 months, the burden of proof shall be upon the provider and the adult foster
12 home to establish compliance with ORS 443.705 to 443.825 and the rules of the licensing agency.

13 (b) In proceedings for renewal of a license when an adult foster home has been licensed for at
14 least 24 continuous months, the burden of proof shall be upon the licensing agency to establish
15 noncompliance with ORS 443.705 to 443.825 and the rules of the agency.

16 (6)(a) Persons who have been convicted of one or more crimes that, as determined by rules of
17 the [*licensing agency*] **Oregon Department of Administrative Services under ORS 181.547**
18 **(2)(c)**, are substantially related to the qualifications, functions or duties of a provider, substitute
19 caregiver or other household member of an adult foster home shall be prohibited from operating,
20 working in or residing in an adult foster home.

21 [*(b) The licensing agency shall adopt rules that distinguish the criminal convictions and types of*
22 *abuse that permanently prohibit a person from operating, working in or living in an adult foster home*
23 *from the convictions and types of abuse that do not permanently prohibit the person from operating,*
24 *working in or living in an adult foster home.*]

25 [(c)] (b) A provider may not hire, retain in employment or allow to live in an adult foster home,
26 other than as a resident, any person who the provider knows has been convicted of a disqualifying
27 crime or has been found responsible for a disqualifying type of abuse.

28 (7) A license under ORS 443.725 is effective for one year from the date of issue unless sooner
29 revoked. Each license shall state the name of the resident manager of the adult foster home, the
30 names of all providers who own the adult foster home, the address of the premises to which the li-
31 cense applies, the maximum number of residents and the classification of the adult foster home. If,
32 during the period covered by the license, a resident manager changes, the provider must within 15
33 days request modification of the license. The request must be accompanied by a fee of \$10.

34 (8) No license under ORS 443.725 is transferable or applicable to any location, persons operating
35 the adult foster home or the person owning the adult foster home other than that indicated on the
36 application for licensing.

37 (9) The licensing agency shall not issue a license to operate an additional adult foster home to
38 a provider unless the provider has demonstrated the qualifications and capacity to operate the
39 provider's existing licensed adult foster homes and has demonstrated the ability to provide to the
40 residents of those adult foster homes care that is adequate and substantially free from abuse and
41 neglect.

42 (10)(a) All moneys collected under ORS 443.725 to 443.780 from adult foster homes that are li-
43 censed to serve persons with mental, emotional or behavioral disturbances or alcohol or drug de-
44 pendence shall be deposited in a special account in the General Fund, and are appropriated
45 continuously for payment of expenses incurred by the Oregon Health Authority.

1 (b) All moneys collected under ORS 443.725 to 443.780 from adult foster homes licensed to serve
 2 persons who are elderly, have physical disabilities or have developmental disabilities shall be de-
 3 posited in the Quality Care Fund established in ORS 443.001.

4 (11) Notwithstanding any other provision of this section or ORS 443.725 or 443.738, the licensing
 5 agency may issue a 60-day provisional license to a qualified person if the agency determines that
 6 an emergency situation exists after being notified that the licensed provider of an adult foster home
 7 is no longer overseeing operation of the adult foster home.

8
 9 **CLARIFYING REFERENCES**

10
 11 **SECTION 10.** ORS 329A.270 is amended to read:

12 329A.270. (1) A certification or registration authorized by ORS 329A.030 and 329A.250 to
 13 329A.450 and issued to a child care facility may be renewed upon submission of an application and
 14 payment of the required fee not later than 30 days prior to the expiration date of the current cer-
 15 tification or registration if the Office of Child Care finds that the child care facility that is seeking
 16 renewal of the certification or registration is in compliance with the requirements of ORS 181.537,
 17 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181.534, 181.537,
 18 **181.547**, 329A.030 and 329A.250 to 329A.450.

19 (2) Upon submission of an application for renewal in proper time, manner and form, and payment
 20 of the required fee, the current certification or registration, unless officially revoked, shall remain
 21 in force until the Office of Child Care has acted on the application for renewal and has given notice
 22 of the action taken.

23 **SECTION 11.** ORS 329A.300 is amended to read:

24 329A.300. (1) Upon receipt of an application for a certification, accompanied by the required fee,
 25 the Office of Child Care shall issue a certification if the office finds that the child care facility and
 26 its operations are in compliance with the requirements of ORS 181.537, 329A.030 and 329A.250 to
 27 329A.450 and the rules promulgated pursuant to ORS 181.534, 181.537, **181.547**, 329A.030 and
 28 329A.250 to 329A.450.

29 (2) The Office of Child Care may issue a temporary certification, subject to reasonable terms
 30 and conditions, for a period not longer than 180 days to a child care facility that does not comply
 31 with the requirements and rules if the office finds that the health and safety of any child will not
 32 be endangered thereby. Not more than one temporary certification shall be issued for the same child
 33 care facility in any 12-month period.

34 (3) The Office of Child Care shall serve as the state agency authorized, upon request, to certify
 35 compliance with applicable federal child care standards or requirements by any facility providing
 36 child care in the state.

37 **SECTION 12.** ORS 329A.330 is amended to read:

38 329A.330. (1) A provider operating a family child care home where care is provided in the family
 39 living quarters of the provider's home that is not subject to the certification requirements of ORS
 40 329A.280 may not operate a child care facility without registering with the Office of Child Care.

41 (2) A child care facility holding a registration may care for a maximum of 10 children, including
 42 the provider's own children. Of the 10 children:

- 43 (a) No more than six may be younger than school age; and
- 44 (b) No more than two may be 24 months of age or younger.

45 (3)(a) To obtain a registration, a provider must apply to the Office of Child Care by submitting

1 a completed application work sheet and a nonrefundable fee. The fee shall vary according to the
2 number of children for which the facility is requesting to be registered, and shall be determined and
3 applied through rules adopted by the Early Learning Council under ORS 329A.275. The fee shall be
4 deposited as provided in ORS 329A.310 (2). The office may waive any or all of the fee if the office
5 determines that imposition of the fee would impose a hardship on the provider.

6 (b) Upon receipt of an initial or renewal application satisfactory to the office, the office shall
7 conduct an on-site review of the child care facility under this section. The on-site review shall be
8 conducted within 30 days of the receipt of a satisfactory application.

9 (4) The office shall issue a registration to a provider operating a family child care home if:

10 (a) The provider has completed a child care overview class administered by the office;

11 (b) The provider has completed two hours of training on child abuse and neglect issues;

12 (c) The provider is currently certified in infant and child first aid and cardiopulmonary resus-
13 citation;

14 (d) The provider is certified as a food handler under ORS 624.570; and

15 (e) The office determines that the application meets the requirements of ORS 181.537, 329A.030
16 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181.534, 181.537, **181.547**,
17 329A.030 and 329A.250 to 329A.450, and receives a satisfactory records check, including criminal
18 records and protective services records.

19 (5) Unless the registration is revoked as provided in ORS 329A.350, the registration is valid for
20 a period of two years from the date of issuance. The office may renew a registration of a provider
21 operating a family child care home if the provider:

22 (a) Is currently certified in infant and child first aid and cardiopulmonary resuscitation;

23 (b) Has completed a minimum of eight hours of training related to child care during the most
24 recent registration period; and

25 (c) Is certified as a food handler under ORS 624.570.

26 (6) A registration authorizes operation of the facility only on the premises described in the
27 registration and only by the person named in the registration.

28 (7) The Early Learning Council shall adopt rules:

29 (a) Creating the application work sheet required under subsection (3) of this section;

30 (b) Defining full-time and part-time care;

31 (c) Establishing under what circumstances the adult to child ratio requirements may be tempo-
32 rarily waived; and

33 (d) Establishing health and safety procedures and standards on:

34 (A) The number and type of toilets and sinks available to children;

35 (B) Availability of steps or blocks for use by children;

36 (C) Room temperature;

37 (D) Lighting of rooms occupied by children;

38 (E) Glass panels on doors;

39 (F) Condition of floors;

40 (G) Availability of emergency telephone numbers; and

41 (H) Smoking.

42 (8) The office shall adopt the application work sheet required by subsection (3) of this section.
43 The work sheet must include, but need not be limited to, the following:

44 (a) The number and ages of the children to be cared for at the facility; and

45 (b) The health and safety procedures in place and followed at the facility.

1 (9) The office, upon good cause shown, may waive one or more of the registration requirements.
2 The office may waive a requirement only if appropriate conditions or safeguards are imposed to
3 protect the welfare of the children and the consumer interests of the parents of the children. The
4 office may not waive the on-site review requirement for applicants applying for an initial registra-
5 tion or renewal of a registration.

6 (10) The Early Learning Council, by rule, shall develop a list of recommended standards con-
7 sistent with standards established by professional organizations regarding child care programs for
8 child care facilities. Compliance with the standards is not required for a registration, but the office
9 shall encourage voluntary compliance and shall provide technical assistance to a child care facility
10 attempting to comply with the standards. The child care facility shall distribute the list of recom-
11 mended minimum standards to the parents of all children cared for at the facility.

12 (11) In adopting rules relating to registration, the Early Learning Council shall consult with the
13 appropriate legislative committee in developing the rules to be adopted. If the rules are being
14 adopted during a period when the Legislative Assembly is not in session, the Early Learning Council
15 shall consult with the appropriate interim legislative committee.

16 **SECTION 13.** ORS 329A.370 is amended to read:

17 329A.370. Without the necessity of prior administrative proceedings or hearing and entry of an
18 order or at any time during such proceedings if they have been commenced, the Office of Child Care
19 may institute proceedings to enjoin the operation of any child care facility operating in violation
20 of ORS 181.537, 329A.030 and 329A.250 to 329A.450 or the rules promulgated pursuant to ORS
21 181.534, 181.537, **181.547**, 329A.030 and 329A.250 to 329A.450.

22 **SECTION 14.** ORS 329A.390 is amended to read:

23 329A.390. (1) Whenever an authorized representative of the Office of Child Care is advised or
24 has reason to believe that child care that is subject to regulation by the office is being provided
25 without a certification, registration or record, the authorized representative may visit and conduct
26 an on-site investigation of the premises of the facility at any reasonable time to determine whether
27 the facility is subject to the requirements of ORS 181.537, 329A.030 and 329A.250 to 329A.450.

28 (2) At any reasonable time, an authorized representative of the Office of Child Care may conduct
29 an on-site investigation of the premises of any certified or registered child care facility to determine
30 whether the child care facility is in conformity with ORS 181.537, 329A.030 and 329A.250 to 329A.450
31 and the rules promulgated pursuant to ORS 181.534, 181.537, **181.547**, 329A.030 and 329A.250 to
32 329A.450.

33 (3) An authorized representative of the Office of Child Care shall conduct an on-site investi-
34 gation of the premises of any certified or registered child care facility or of any other child care
35 facility that is subject to regulation by the office if the office receives a serious complaint about the
36 child care facility. The Early Learning Council, by rule, shall adopt a definition for “serious com-
37 plaint.”

38 (4) Any state agency that receives a complaint about a certified or registered child care facility,
39 a preschool recorded program or a school-age recorded program shall notify the Office of Child Care
40 about the complaint and any subsequent action taken by the state agency based on that complaint.

41 (5) The director and operator of a child care facility, a preschool recorded program or a
42 school-age recorded program shall permit an authorized representative of the office to inspect re-
43 cords of the facility or program and shall furnish promptly reports and information required by the
44 office.

45 **SECTION 15.** ORS 336.631 is amended to read:

1 336.631. (1) Prior to contracting with or distributing any public funds to a private alternative
 2 education program, a district school board shall:

3 (a) Annually approve the private alternative education program;

4 (b) Determine that the private alternative education program is registered with the Department
 5 of Education; and

6 (c) Determine that the private alternative education program complies with the requirements
 7 of subsection (2) of this section and ORS 336.625 (3)(c).

8 (2) The following laws apply to private alternative education programs that are registered with
 9 the Department of Education under ORS 336.635 in the same manner as the laws apply to school
 10 districts and public schools:

11 (a) Federal law;

12 (b) ORS 181.534, **181.547**, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

13 (c) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

14 (d) ORS 659.850, 659.855 and 659.860 (discrimination);

15 (e) ORS 339.122 (advertisement requirements);

16 (f) Health and safety statutes and rules; and

17 (g) Any statute, rule or school district policy that is specified in a contract between the school
 18 district board and the private alternative education program.

19 (3) Prior to placement of a student in a private alternative education program, the resident
 20 district shall determine whether the proposed placement best serves the student's educational needs
 21 and interests and assists the student in achieving the district and state academic standards.

22 (4) Contracts between a school district and a private alternative education program shall be
 23 included in the assessment of effectiveness provided for in ORS 329.085.

24 **SECTION 16.** ORS 336.631, as amended by section 6, chapter 839, Oregon Laws 2007, and sec-
 25 tion 8, chapter 72, Oregon Laws 2010, is amended to read:

26 336.631. (1) Prior to contracting with or distributing any public funds to a private alternative
 27 education program, a district school board shall:

28 (a) Annually approve the private alternative education program;

29 (b) Determine that the private alternative education program is registered with the Department
 30 of Education; and

31 (c) Determine that the private alternative education program complies with the requirements
 32 of subsection (2) of this section and ORS 336.625 (3)(c).

33 (2) The following laws apply to private alternative education programs that are registered with
 34 the Department of Education under ORS 336.635 in the same manner as the laws apply to school
 35 districts and public schools:

36 (a) Federal law;

37 (b) ORS 181.534, **181.547**, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

38 (c) ORS 329.496 (physical education);

39 (d) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

40 (e) ORS 659.850, 659.855 and 659.860 (discrimination);

41 (f) ORS 339.122 (advertisement requirements);

42 (g) Health and safety statutes and rules; and

43 (h) Any statute, rule or school district policy that is specified in a contract between the school
 44 district board and the private alternative education program.

45 (3) Prior to placement of a student in a private alternative education program, the resident

1 district shall determine whether the proposed placement best serves the student's educational needs
2 and interests and assists the student in achieving the district and state academic standards.

3 (4) Contracts between a school district and a private alternative education program shall be
4 included in the assessment of effectiveness provided for in ORS 329.085.

5 **SECTION 17.** ORS 338.115 is amended to read:

6 338.115. (1) Statutes and rules that apply only to school district boards, school districts or other
7 public schools do not apply to public charter schools. However, the following laws do apply to public
8 charter schools:

9 (a) Federal law;

10 (b) ORS 30.260 to 30.300 (tort claims);

11 (c) ORS 192.410 to 192.505 (public records law);

12 (d) ORS 192.610 to 192.690 (public meetings law);

13 (e) ORS chapters 279A, 279B and 279C (Public Contracting Code);

14 (f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

15 (g) ORS 326.565, 326.575 and 326.580 (student records);

16 (h) ORS 181.534, **181.547**, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

17 (i) ORS 329.045 (academic content standards and instruction);

18 (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
19 tificate);

20 (k) The statewide assessment system developed by the Department of Education for mathematics,
21 science and English under ORS 329.485 (2);

22 (L) ORS 337.150 (textbooks);

23 (m) ORS 339.119 (consideration for educational services);

24 (n) ORS 339.141, 339.147 and 339.155 (tuition and fees);

25 (o) ORS 339.250 (9) (prohibition on infliction of corporal punishment);

26 (p) ORS 339.326 (notice concerning students subject to juvenile court petitions);

27 (q) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training
28 on prevention and identification of abuse and sexual conduct);

29 (r) ORS chapter 657 (Employment Department Law);

30 (s) ORS 659.850, 659.855 and 659.860 (discrimination);

31 (t) Any statute or rule that establishes requirements for instructional time provided by a school
32 during each day or during a year;

33 (u) Statutes and rules that expressly apply to public charter schools;

34 (v) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a
35 public body, as defined in ORS 174.109;

36 (w) Health and safety statutes and rules;

37 (x) Any statute or rule that is listed in the charter;

38 (y) ORS 336.840 (use of personal electronic devices); and

39 (z) This chapter.

40 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
41 that apply only to school district boards, school districts and other public schools may apply to a
42 public charter school.

43 (3) If a statute or rule applies to a public charter school, then the terms "school district" and
44 "public school" include public charter school as those terms are used in that statute or rule.

45 (4) A public charter school may not violate the Establishment Clause of the First Amendment

1 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
2 based.

3 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.

4 (b) For a public charter school that provides educational services under a cooperative agree-
5 ment described in ORS 338.080, the public charter school is in compliance with the requirements of
6 this subsection if the public charter school provides educational services under the cooperative
7 agreement to at least 25 students, without regard to the school districts in which the students are
8 residents.

9 (6) A public charter school may sue or be sued as a separate legal entity.

10 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
11 and employees of a sponsor acting in their official capacities are immune from civil liability with
12 respect to all activities related to a public charter school within the scope of their duties or em-
13 ployment.

14 (8) A public charter school may enter into contracts and may lease facilities and services from
15 a school district, education service district, public university listed in ORS 352.002, other govern-
16 mental unit or any person or legal entity.

17 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
18 ability.

19 (10) A public charter school may receive and accept gifts, grants and donations from any source
20 for expenditure to carry out the lawful functions of the school.

21 (11) The school district in which the public charter school is located shall offer a high school
22 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
23 school student who meets the district's and state's standards for a high school diploma, a modified
24 diploma, an extended diploma or an alternative certificate.

25 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
26 issued by a public charter school grants to the holder the same rights and privileges as a high
27 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
28 nonchartered public school.

29 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
30 sponsor as specified in the charter.

31 (14) A public charter school may receive services from an education service district in the same
32 manner as a nonchartered public school in the school district in which the public charter school is
33 located.

34 **SECTION 18.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section
35 12, chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, section 3, chapter 53,
36 Oregon Laws 2010, section 3, chapter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws
37 2011, section 5, chapter 682, Oregon Laws 2011, section 10, chapter 92, Oregon Laws 2012, section
38 7, chapter 98, Oregon Laws 2013, section 14, chapter 265, Oregon Laws 2013, and section 9, chapter
39 267, Oregon Laws 2013, is amended to read:

40 338.115. (1) Statutes and rules that apply only to school district boards, school districts or other
41 public schools do not apply to public charter schools. However, the following laws do apply to public
42 charter schools:

43 (a) Federal law;

44 (b) ORS 30.260 to 30.300 (tort claims);

45 (c) ORS 192.410 to 192.505 (public records law);

- 1 (d) ORS 192.610 to 192.690 (public meetings law);
- 2 (e) ORS chapters 279A, 279B and 279C (Public Contracting Code);
- 3 (f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- 4 (g) ORS 326.565, 326.575 and 326.580 (student records);
- 5 (h) ORS 181.534, **181.547**, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
- 6 (i) ORS 329.045 (academic content standards and instruction);
- 7 (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
- 8 tificate);
- 9 (k) ORS 329.496 (physical education);
- 10 (L) The statewide assessment system developed by the Department of Education for mathemat-
- 11 ics, science and English under ORS 329.485 (2);
- 12 (m) ORS 337.150 (textbooks);
- 13 (n) ORS 339.119 (consideration for educational services);
- 14 (o) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- 15 (p) ORS 339.250 (9) (prohibition on infliction of corporal punishment);
- 16 (q) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- 17 (r) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training
- 18 on prevention and identification of abuse and sexual conduct);
- 19 (s) ORS chapter 657 (Employment Department Law);
- 20 (t) ORS 659.850, 659.855 and 659.860 (discrimination);
- 21 (u) Any statute or rule that establishes requirements for instructional time provided by a school
- 22 during each day or during a year;
- 23 (v) Statutes and rules that expressly apply to public charter schools;
- 24 (w) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or
- 25 a public body, as defined in ORS 174.109;
- 26 (x) Health and safety statutes and rules;
- 27 (y) Any statute or rule that is listed in the charter;
- 28 (z) ORS 336.840 (use of personal electronic devices); and
- 29 (aa) This chapter.
- 30 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
- 31 that apply only to school district boards, school districts and other public schools may apply to a
- 32 public charter school.
- 33 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
- 34 “public school” include public charter school as those terms are used in that statute or rule.
- 35 (4) A public charter school may not violate the Establishment Clause of the First Amendment
- 36 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
- 37 based.
- 38 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.
- 39 (b) For a public charter school that provides educational services under a cooperative agree-
- 40 ment described in ORS 338.080, the public charter school is in compliance with the requirements of
- 41 this subsection if the public charter school provides educational services under the cooperative
- 42 agreement to at least 25 students, without regard to the school districts in which the students are
- 43 residents.
- 44 (6) A public charter school may sue or be sued as a separate legal entity.
- 45 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities

1 and employees of a sponsor acting in their official capacities are immune from civil liability with
 2 respect to all activities related to a public charter school within the scope of their duties or em-
 3 ployment.

4 (8) A public charter school may enter into contracts and may lease facilities and services from
 5 a school district, education service district, public university listed in ORS 352.002, other govern-
 6 mental unit or any person or legal entity.

7 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
 8 ability.

9 (10) A public charter school may receive and accept gifts, grants and donations from any source
 10 for expenditure to carry out the lawful functions of the school.

11 (11) The school district in which the public charter school is located shall offer a high school
 12 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
 13 school student who meets the district's and state's standards for a high school diploma, a modified
 14 diploma, an extended diploma or an alternative certificate.

15 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
 16 issued by a public charter school grants to the holder the same rights and privileges as a high
 17 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
 18 nonchartered public school.

19 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
 20 sponsor as specified in the charter.

21 (14) A public charter school may receive services from an education service district in the same
 22 manner as a nonchartered public school in the school district in which the public charter school is
 23 located.

24
 25 **CONFORMING AMENDMENTS**

26
 27 **SECTION 19.** ORS 181.525 is amended to read:

28 181.525. Whenever any court or district attorney receives a disposition report and the court or
 29 district attorney has cause to believe that the arrested person who is the subject of the report is
 30 an employee of a school district or is licensed as a school teacher or administrator and that the
 31 charge involves a violation of any crime [*listed in ORS 342.143 (3),*] **specified by rule of the Oregon**
 32 **Department of Administrative Services under ORS 181.547 (2)(c)**, the court or district attorney
 33 shall cause the Teacher Standards and Practices Commission and the Department of Education to
 34 be sent a copy of the completed disposition report.

35 **SECTION 20.** ORS 181.612 is amended to read:

36 181.612. (1) For the purpose of requesting a state or nationwide criminal records check under
 37 ORS 181.534, the Department of Public Safety Standards and Training may require the fingerprints
 38 of a person who:

- 39 (a) Is employed or applying for employment by the department;
- 40 (b) Provides services or seeks to provide services to the department as a contractor, vendor or
 41 volunteer; or
- 42 (c) Is applying for a license or certificate, or for reissuance of a license or certificate, that is
 43 issued by the department or is under investigation by the department.

44 (2) ORS 181.534 [(11) and (12)] **(10)** does not apply to the department when the department makes
 45 denial or revocation decisions regarding persons described in subsection (1)(c) of this section or ORS

1 181.880 or 703.090.

2 (3) The department and an employee of the department acting within the course and scope of
 3 employment are immune from any civil liability that might otherwise be incurred or imposed for
 4 making denial or revocation decisions regarding persons described in subsection (1)(c) of this section
 5 or ORS 181.880 or 703.090. The department, an employee of the department acting within the course
 6 and scope of employment and an employer or employer’s agent who in good faith comply with the
 7 requirements of ORS 181.662, 181.875 or 703.090, any rules adopted by the department and the de-
 8 cision of the department or employee of the department acting within the course and scope of em-
 9 ployment are not liable for employment-related decisions based on decisions made under ORS
 10 181.662, 181.875 or 703.090. The department or an employee of the department acting within the
 11 course and scope of employment is not liable for defamation or invasion of privacy in connection
 12 with the lawful dissemination of information lawfully obtained under ORS 181.534.

13 **SECTION 21.** ORS 242.550 is amended to read:

14 242.550. **Subject to rules adopted by the Oregon Department of Administrative Services**
 15 **under ORS 181.547**, the civil service board may require an applicant for a custodial position to
 16 furnish evidence satisfactory to the board of good character, mental and physical health, and such
 17 other evidence as *[it may deem]* **the civil service board deems** necessary to establish the
 18 applicant’s fitness, *including any information concerning a criminal conviction for a crime involving*
 19 *the possession, use, sale or distribution of a controlled substance, sexual misconduct listed in ORS*
 20 *342.143 (3), theft or a crime of violence].* The board *[shall]* **may** not approve the employment of any
 21 applicant unless the board is satisfied that the applicant poses no danger to school children.

22 **SECTION 22.** ORS 326.603 is amended to read:

23 326.603. (1) For the purposes of requesting a state or nationwide criminal records check under
 24 ORS 181.534, the Department of Education may require the fingerprints of:

25 (a) A school district or private school contractor, whether part-time or full-time, or an employee
 26 of a contractor, whether part-time or full-time, who has direct, unsupervised contact with students
 27 as determined by the district or private school.

28 (b) A person newly hired, whether part-time or full-time, by a school district or private school
 29 in a capacity not described in ORS 342.223 (1).

30 (c) A person who is a community college faculty member providing instruction:

31 (A) At the site of an early childhood education program or at a school site as part of an early
 32 childhood education program; or

33 (B) At a kindergarten through grade 12 school site during the regular school day.

34 (d) A person who is an employee of a public charter school.

35 (2)(a) A school district shall send to the Department of Education for purposes of a criminal
 36 records check any information, including fingerprints, for each person described in subsection (1)
 37 of this section.

38 (b) A private school may send to the Department of Education for purposes of a criminal records
 39 check any information, including fingerprints, for each person described in subsection (1)(a), (b) or
 40 (c) of this section.

41 (3) The Department of Education shall request that the Department of State Police conduct a
 42 criminal records check as provided in ORS 181.534 and may charge the school district or private
 43 school a fee as established by rule under ORS 181.534. The school district or private school may
 44 recover its costs or a portion thereof from the person described in subsection (1) of this section. If
 45 the person described in subsection (1)(b) or (d) of this section requests, the school district shall and

1 a private school may withhold the amount from amounts otherwise due the person, including a pe-
 2 riodic payroll deduction rather than a lump sum payment.

3 (4) Notwithstanding subsection (1) of this section, the Department of Education may not require
 4 fingerprints of a person described in subsection (1) of this section if the person or the person's em-
 5 ployer was checked in one school district or private school and is currently seeking to work in an-
 6 other district or private school unless the person lived outside this state during the interval between
 7 the two periods of time of working in the district or private school.

8 (5) Nothing in this section requires a person described in subsection (1)(a), (b) or (d) of this
 9 section to submit to fingerprinting until the person has been offered employment or a contract by
 10 a school district or private school. Contractor employees may not be required to submit to finger-
 11 printing until the contractor has been offered a contract.

12 *[(6) If a person described in subsection (1) of this section states on a criminal history form provided*
 13 *by the Department of Education that the person has not been convicted of a crime but the criminal re-*
 14 *records check indicates that the person has a conviction, the department shall determine whether the*
 15 *person knowingly made a false statement as to the conviction. The department shall develop a process*
 16 *and criteria to use for appeals of a determination under this subsection.]*

17 *[(7)(a) The Superintendent of Public Instruction shall inform a school district or private school if*
 18 *a person described in subsection (1) of this section has been convicted of a crime listed in ORS 342.143*
 19 *(3) or has knowingly made a false statement on a criminal history form provided by the Department*
 20 *of Education as to the conviction of any crime.]*

21 *[(b) If a person described in subsection (1) of this section has been convicted of a crime listed in*
 22 *ORS 342.143 (3), a school district may not employ or contract with the person and a private school*
 23 *may choose not to employ or contract with the person. Notification by the superintendent that the*
 24 *school district may not employ or contract with the person shall remove the person from any school*
 25 *district policies, collective bargaining provisions regarding dismissal procedures and appeals and the*
 26 *provisions of ORS 342.805 to 342.937.]*

27 *[(c) If a person described in subsection (1) of this section has knowingly made a false statement*
 28 *on a criminal history form provided by the Department of Education as to the conviction of a crime*
 29 *not listed in ORS 342.143 (3), a school district or private school may choose to employ or contract with*
 30 *the person.]*

31 [(8)] (6) If a person described in subsection (1) of this section refuses to consent to the criminal
 32 records check or refuses to be fingerprinted, the school district shall terminate the employment or
 33 contract status of the person. Termination under this subsection removes the person from any school
 34 district policies, collective bargaining provisions regarding dismissal procedures and appeals and the
 35 provisions of ORS 342.805 to 342.937.

36 [(9) A school district may not hire or continue to employ or contract with or allow the contractor
 37 to continue to assign a person to the school project if the person described in subsection (1) of this
 38 section has been convicted of a crime according to the provisions of ORS 342.143.]

39 [(10)] (7) As used in this section and ORS 326.607:

40 (a) "Private school" means a school that:

41 (A) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combina-
 42 tion of those grade levels; and

43 (B) Provides instructional programs that are not limited solely to dancing, drama, music, reli-
 44 gious or athletic instruction.

45 (b) "School district" means:

- 1 (A) A school district as defined in ORS 330.003.
- 2 (B) The Oregon School for the Deaf.
- 3 (C) An educational program under the Youth Corrections Education Program.
- 4 (D) A public charter school as defined in ORS 338.005.
- 5 (E) An education service district.

6 **SECTION 23.** ORS 326.604 is amended to read:

7 326.604. (1) As used in this section, "care" means the provision of care, treatment, education,
8 training, instruction, supervision, placement services, recreation or support to children, youth or
9 persons with disabilities.

10 (2) For the purpose of requesting a state or nationwide criminal records check under ORS
11 181.534, the Department of Education may require the fingerprints of a person who:

12 (a)(A) Is employed or applying for employment by the department; or

13 (B) Provides services or seeks to provide services to the department as a contractor, subcon-
14 tractor, vendor or volunteer; and

15 (b) Is, or will be, working or providing services in a position:

16 (A) In which the person may have unsupervised access to children;

17 (B) In which the person may have contact with recipients of care;

18 (C) In which the person has access to confidential or personal information about children, as
19 may be further defined by the State Board of Education by rule;

20 (D) In which the person is providing information technology services and has control over, or
21 access to, information technology systems that would allow the person to harm the information
22 technology systems or the information contained in the systems;

23 (E) In which the person has access to information, the disclosure of which is prohibited by state
24 or federal laws, rules or regulations or information that is defined as confidential under state or
25 federal laws, rules or regulations;

26 (F) That has payroll functions or in which the person has responsibility for receiving, receipting
27 or depositing money or negotiable instruments, for billing, collections or other financial transactions
28 or for purchasing or selling property or has access to property held in trust or to private property
29 in the temporary custody of the department;

30 (G) That has mailroom duties as the primary duty or job function of the position;

31 (H) In which the person has responsibility for auditing the department;

32 (I) That has personnel or human resources functions as one of the position's primary responsi-
33 bilities; or

34 (J) In which the person has access to personal information about employees or members of the
35 public, including Social Security numbers, dates of birth, driver license numbers, medical informa-
36 tion, personal financial information or criminal background information.

37 (3) In addition to the authority granted by subsection (2) of this section and for the purpose of
38 requesting a state or nationwide criminal records check under ORS 181.534, the Department of Ed-
39 ucation may require the fingerprints of a person for the purposes of licensing, certifying, registering
40 or otherwise regulating or administering programs under the authority of the department.

41 (4) The Department of Education, **subject to rules adopted by the Oregon Department of**
42 **Administrative Services under ORS 181.547**, may make fitness determinations based on criminal
43 offender records and information furnished by the Federal Bureau of Investigation through the De-
44 partment of State Police as provided by ORS 181.534.

45 **SECTION 24.** ORS 339.388 is amended to read:

1 339.388. (1)(a) A school employee having reasonable cause to believe that a child with whom the
 2 employee comes in contact has suffered abuse by another school employee or by a student, or that
 3 another school employee or a student with whom the employee comes in contact has abused a child,
 4 shall immediately report the information to:

5 (A) The person designated in the policy adopted under ORS 339.372; and

6 (B) A law enforcement agency, the Department of Human Services or a designee of the depart-
 7 ment as required by ORS 419B.010 and 419B.015.

8 (b) A school employee having reasonable cause to believe that a student with whom the em-
 9 ployee comes in contact has been subjected to sexual conduct by another school employee, or that
 10 another school employee with whom the employee comes in contact has engaged in sexual conduct,
 11 shall immediately report the information to the person designated in the policy adopted under ORS
 12 339.372.

13 (2) A person who receives a report under subsection (1) of this section shall follow the proce-
 14 dures required by the policy adopted by the school board under ORS 339.372.

15 (3)(a) Except as provided in subsection (4) of this section, when an education provider receives
 16 a report of suspected abuse or sexual conduct by one of its employees, and the education provider's
 17 designee determines that there is reasonable cause to support the report, the education provider:

18 (A) In the case of suspected abuse, shall place the school employee on paid administrative leave;
 19 or

20 (B) In the case of suspected sexual conduct, may place the school employee on paid adminis-
 21 trative leave or in a position that does not involve direct, unsupervised contact with children.

22 (b) A school employee who is placed on paid administrative leave under paragraph (a)(A) of this
 23 subsection shall remain on administrative leave until:

24 (A) The Department of Human Services or a law enforcement agency determines that the report
 25 cannot be substantiated or that the report will not be pursued; or

26 (B) The Department of Human Services or a law enforcement agency determines that the report
 27 is substantiated and the education provider takes the appropriate disciplinary action against the
 28 school employee.

29 (4) An education provider may reinstate a school employee placed on paid administrative leave
 30 for suspected abuse as provided under subsection (3) of this section or may take the appropriate
 31 disciplinary action against the employee if the Department of Human Services or a law enforcement
 32 agency is unable to determine, based on a report of suspected abuse, whether abuse occurred.

33 (5) If, following an investigation, an education provider determines that a report of suspected
 34 abuse or sexual conduct by a school employee is a substantiated report, the education provider shall:

35 (a) Inform the school employee that the education provider has determined that the report has
 36 been substantiated.

37 (b) Provide the school employee with information about the appropriate appeal process for the
 38 determination made by the education provider. The appeal process may be the process provided by
 39 a collective bargaining agreement or a process administered by a neutral third party and paid for
 40 by the school district.

41 (c) Following notice of a school employee's decision not to appeal the determination or following
 42 the determination of an appeal that sustained the substantiated report, create a record of the sub-
 43 substantiated report and place the record in the personnel file of the school employee. Records created
 44 pursuant to this paragraph are confidential and are not public records as defined in ORS 192.410.
 45 An education provider may use the record as a basis for providing the information required to be

1 disclosed under ORS 339.378.

2 (d) Inform the school employee that information about substantiated reports may be disclosed
3 to a potential employer as provided by subsection (8) of this section and ORS 339.378.

4 (6)(a) Notwithstanding the requirements of subsections (3), (4) and (5) of this section, an educa-
5 tion provider that is a private school:

6 (A) May discipline or terminate a school employee according to:

7 (i) The provisions of subsections (3) and (4) of this section; or

8 (ii) The standards and policies of the private school if the standards and policies provide the
9 same or greater safeguards for the protection of children compared to the safeguards described in
10 subsections (3) and (4) of this section.

11 (B) May follow the procedures described in subsection (5) of this section or may follow any ap-
12 peals process established by the private school related to suspected child abuse or sexual conduct.

13 (b) A private school that chooses to discipline or terminate a school employee according to the
14 standards and policies of the school must provide the information required to be disclosed under
15 ORS 339.378.

16 (7) Upon request from a law enforcement agency, the Department of Human Services or the
17 Teacher Standards and Practices Commission, a school district shall provide the records of investi-
18 gations of suspected abuse by a school employee or former school employee.

19 (8)(a) The disciplinary records of a school employee or former school employee convicted of a
20 crime [*listed in ORS 342.143*] **specified by rule of the Oregon Department of Administrative**
21 **Services under ORS 181.547 (2)(c)** are not exempt from disclosure under ORS 192.501 or 192.502.

22 (b) If a school employee is convicted of a crime [*listed in ORS 342.143,*] **described in paragraph**
23 **(a) of this subsection**, the education provider that is the employer of the employee shall disclose
24 the disciplinary records of the employee to any person upon request.

25 (c) If a former school employee is convicted of a crime [*listed in ORS 342.143,*] **described in**
26 **paragraph (a) of this subsection**, the education provider that was the employer of the former
27 employee when the crime was committed shall disclose the disciplinary records of the former em-
28 ployee to any person upon request.

29 (9) Prior to disclosure of a disciplinary record under subsection (8) of this section, an education
30 provider shall remove any personally identifiable information from the record that would disclose
31 the identity of a child, a crime victim or a school employee or former school employee who is not
32 the subject of the disciplinary record.

33 **SECTION 25.** ORS 342.175 is amended to read:

34 342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license
35 or registration of a teacher or administrator, discipline a teacher or administrator or suspend or
36 revoke the right of any person to apply for a license or registration if the licensee, registrant or
37 applicant has held a license or registration at any time within five years prior to issuance of the
38 notice of charges under ORS 342.176 based on the following:

39 (a) Conviction of a crime not [*listed in ORS 342.143 (3)*] **specified by rule of the Oregon De-**
40 **partment of Administrative Services under ORS 181.547 (2)(c);**

41 (b) Gross neglect of duty;

42 (c) Any gross unfitness;

43 (d) Conviction of a crime for violating any law of this or any state or of the United States in-
44 volving the illegal use, sale or possession of controlled substances;

45 (e) Any false statement knowingly made in an application for issuance, renewal or reinstatement

1 of a license or registration; or

2 (f) Failure to comply with any condition of reinstatement under subsection (4) of this section or
 3 any condition of probation under ORS 342.177 (3)(b).

4 (2) If a person is enrolled in an approved teacher education institution or program under ORS
 5 342.147, the commission may issue a public reprimand or suspend or revoke the right to apply for
 6 a license or registration based on the following:

7 (a) Conviction of a crime [*listed in ORS 342.143 (3) or a crime described by the commission by*
 8 *rule*] **specified by rule of the Oregon Department of Administrative Services under ORS**
 9 **181.547 (2)(c);**

10 (b) Conviction of a crime for violating any law of this or any state or of the United States in-
 11 volving the illegal use, sale or possession of controlled substances; or

12 (c) Any conduct that may cause the commission to suspend or revoke the license or registration
 13 of a teacher.

14 (3) The commission shall revoke any license or registration and shall revoke the right of any
 15 person to apply for a license or registration if the person has held a license or registration at any
 16 time and the holder or applicant has been convicted of [*any crime described in ORS 342.143 (3).*] **a**
 17 **crime described in subsection (2)(a) of this section.**

18 (4) [*Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection (5) of this*
 19 *section,*] Any person whose license or registration has been suspended or revoked or whose privilege
 20 to apply for a license or registration has been revoked may apply to the commission for rein-
 21 statement of the license or registration after one year from the date of the suspension or revocation.
 22 The commission may require an applicant for reinstatement to furnish evidence satisfactory to the
 23 commission of good moral character, mental and physical health and such other evidence as the
 24 commission may consider necessary to establish the applicant's fitness. The commission may impose
 25 a probationary period and such conditions as it considers necessary upon approving an application
 26 for reinstatement.

27 (5) The commission shall reconsider immediately a license or registration suspension or revoca-
 28 tion or the situation of a person whose privilege to apply for a license or registration has been re-
 29 voked, upon application therefor, when the license or registration suspension or revocation or the
 30 privilege revocation is based on a criminal conviction that is reversed on appeal.

31 (6) Violation of rules adopted by the commission relating to competent and ethical performance
 32 of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

33 (7) A copy of the record of conviction, certified to by the clerk of the court entering the con-
 34 viction, shall be conclusive evidence of a conviction described in this section.

35 **SECTION 26.** ORS 342.865 is amended to read:

36 342.865. (1) No contract teacher shall be dismissed or the teacher's contract nonextended except
 37 for:

38 (a) Inefficiency;

39 (b) Immorality;

40 (c) Insubordination;

41 (d) Neglect of duty, including duties specified by written rule;

42 (e) Physical or mental incapacity;

43 (f) Conviction of a felony or of a crime [*according to the provisions of ORS 342.143*] **specified**
 44 **by rule of the Oregon Department of Administrative Services under ORS 181.547 (2)(c);**

45 (g) Inadequate performance;

1 (h) Failure to comply with such reasonable requirements as the board may prescribe to show
 2 normal improvement and evidence of professional training and growth; or

3 (i) Any cause which constitutes grounds for the revocation of such contract teacher's teaching
 4 license.

5 (2) In determining whether the professional performance of a contract teacher is adequate,
 6 consideration shall be given to regular and special evaluation reports prepared in accordance with
 7 the policy of the employing school district and to any written standards of performance which shall
 8 have been adopted by the board.

9 (3) Suspension or dismissal on the grounds contained in subsection (1)(e) of this section shall
 10 not disqualify the teacher involved for any of the disability benefits provided in ORS chapter 238,
 11 or any of the benefits provided in ORS 332.507.

12 (4) Dismissal under subsection (1)(f) of this section shall remove the individual from any school
 13 district policies, collective bargaining provisions regarding dismissal procedures and appeals and the
 14 provisions of ORS 342.805 to 342.937.

15 **SECTION 27.** ORS 345.030 is amended to read:

16 345.030. (1) A person may not open, conduct or do business as a career school in this state
 17 without obtaining a license under ORS 345.010 to 345.450.

18 (2) Except as provided in subsection (8) of this section, the Higher Education Coordinating
 19 Commission may issue a license to conduct a career school only after the applicant has presented
 20 proof satisfactory to the commission that the applicant complies with applicable standards adopted
 21 under ORS 345.325 and 670.280. For the purpose of this subsection, ORS 670.280 applies to individ-
 22 uals who hold positions of authority or control in the operation of the school and to its faculty
 23 members and agents.

24 (3) A career school licensed in any other state must be licensed in this state before establishing
 25 a physical presence in this state such as offices or agents, or both, for the purpose of solicitation
 26 of students.

27 (4) In determining whether to issue a license to a career school, the commission may consider
 28 the prior history of the applicant in operating other career schools. The prior history of operating
 29 other career schools includes, but is not limited to:

30 (a) Conduct by the applicant that is cause for probation of a licensee or for suspension or re-
 31 vocation of a license as provided in ORS 345.120 (2);

32 (b) Failure to comply with ORS 345.010 to 345.450 or rules adopted under ORS 345.010 to
 33 345.450; and

34 (c) The history of the applicant in operating career schools in other states.

35 (5) The commission may not issue a license to or renew the license of a career school until the
 36 applicant provides all of the following to the commission:

37 (a) A financial statement, certified true and accurate and signed by the owner of the school;

38 (b) Proof of compliance with the tuition protection policy established by the commission pursu-
 39 ant to ORS 345.110; and

40 (c) Fingerprints of individuals as described in subsection (6) of this section.

41 (6)(a) Except as provided in paragraph (c) of this subsection, an applicant for an initial issuance
 42 of a license or a renewal of a license must provide to the commission the fingerprints of faculty
 43 members and agents of the school and individuals who hold positions of authority or control in the
 44 operation of the school if the career school will be enrolling or does enroll persons under 18 years
 45 of age.

1 (b) In addition to requirements provided under paragraph (a) of this subsection, the commission
 2 may require a career school to provide the fingerprints of any agents of the school who will have
 3 contact with persons under 18 years of age on behalf of the career school.

4 (c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this sub-
 5 section if the commission has conducted a state or nationwide criminal records check on the person
 6 within the three years preceding the date of the application.

7 (d) Fingerprints acquired under this subsection may be used only for the purpose of requesting
 8 a state or nationwide criminal records check under ORS 181.534.

9 (7) Notwithstanding ORS 345.325 (10), the commission may place a school on probation or deny,
 10 suspend or revoke a license if the commission finds that an individual who holds a position of au-
 11 thority or control in the operation of the school was convicted of a crime [*listed in ORS 342.143.*]
 12 **specified by rule of the Oregon Department of Administrative Services under ORS 181.547**
 13 **(2)(c).**

14 (8) The commission may issue a conditional license to a career school that meets the require-
 15 ments of subsection (5) of this section but that does not comply with the applicable standards
 16 adopted by rule under ORS 345.325. A conditional license issued under this subsection is effective
 17 for a period prescribed by the commission, which may not exceed 90 days.

18 (9)(a) Except as provided in paragraph (b) of this subsection, a career school license is
 19 nontransferable. The licensee must give 30 days of notice to the commission when transferring
 20 ownership of a career school.

21 (b) The commission may transfer a career school license or allow the ownership of a career
 22 school to transfer with less than 30 days of notice if:

- 23 (A) The owner of the school dies, is incapacitated or is incarcerated; or
- 24 (B) Other circumstances render the owner unable to operate the career school.

25 (10) Each career school shall display its license in a prominent place.

26
 27 **REPEALS**

28
 29 **SECTION 28. ORS 326.606 is repealed.**

30
 31 **TRANSITIONAL PROVISIONS**

32
 33 **SECTION 29. The rules of the Department of State Police adopted pursuant to ORS**
 34 **181.516 before the operative date specified in section 31 of this 2015 Act continue in effect**
 35 **until superseded or repealed by rules of the Oregon Department of Administrative Services.**
 36 **Until superseded or repealed, references in rules of the Department of State Police adopted**
 37 **pursuant to ORS 181.516 before the operative date specified in section 31 of this 2015 Act to**
 38 **the Department of State Police or an officer or employee of the Department of State Police**
 39 **are considered to be references to the Oregon Department of Administrative Services or an**
 40 **officer or employee of the Oregon Department of Administrative Services.**

41
 42 **APPLICABILITY**

43
 44 **SECTION 30. The amendments to ORS 181.533, 181.534, 181.537, 267.237, 342.143, 443.004**
 45 **and 443.735 by sections 3 to 9 of this 2015 Act apply to information submitted for purposes**

1 of conducting criminal records checks under ORS 181.534 that is received on or after the
2 operative date specified in section 31 of this 2015 Act.

3
4 **OPERATIVE DATE**

5
6 **SECTION 31.** (1) The amendments to statutes by sections 1 to 27 of this 2015 Act and the
7 repeal of ORS 326.606 by section 28 of this 2015 Act become operative on January 1, 2016.

8 (2) The Oregon Department of Administrative Services may take any action before the
9 operative date specified in subsection (1) of this section that is necessary to enable the de-
10 partment to exercise, on and after the operative date specified in subsection (1) of this sec-
11 tion, all the duties, powers and functions conferred on the department by the amendments
12 to statutes by sections 1 to 27 of this 2015 Act and the repeal of ORS 326.606 by section 28
13 of this 2015 Act.

14
15 **CAPTIONS**

16
17 **SECTION 32.** The unit captions used in this 2015 Act are provided only for the conven-
18 ience of the reader and do not become part of the statutory law of this state or express any
19 legislative intent in the enactment of this 2015 Act.

20
21 **EMERGENCY CLAUSE**

22
23 **SECTION 33.** This 2015 Act being necessary for the immediate preservation of the public
24 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
25 on its passage.

26 _____