

Requested by Representative BYNUM

**PROPOSED AMENDMENTS TO
HOUSE BILL 2942**

1 On page 1 of the printed bill, line 3, delete “and 342.175” insert “, 342.175
2 and 670.280”.

3 Delete lines 5 through 30 and delete pages 2 through 5 and insert:

4 **“SECTION 1.** ORS 342.143 is amended to read:

5 “342.143. (1) A teaching, personnel service or administrative license, or
6 public charter school registration, may not be issued to any person until the
7 person has attained the age of 18 years and has furnished satisfactory evi-
8 dence of proper educational training.

9 “(2) The Teacher Standards and Practices Commission may require an
10 applicant for a teaching, personnel service or administrative license or for
11 registration as a public charter school teacher or administrator to furnish
12 evidence satisfactory to the commission of good moral character, mental and
13 physical health, and such other evidence as the commission may deem nec-
14 essary to establish the applicant’s fitness to serve as a teacher or adminis-
15 trator.

16 “(3) Without limiting the powers of the Teacher Standards and Practices
17 Commission under subsection (2) of this section[:],

18 “[*a*] a teaching, personnel service or administrative license, or a public
19 charter school registration, may not be issued to any person who:

20 “[*A*] (**a**) Has been convicted of a crime listed in ORS 163.095, 163.107,
21 163.115, 163.185, 163.235, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405,

1 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433, 163.435, 163.445,
2 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement
3 Part), 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325,
4 164.415, 166.005, 166.087, [167.007,] 167.008, 167.012, 167.017, 167.057, 167.062,
5 167.075, 167.080, 167.090[, 475.808, 475.810, 475.812, 475.818, 475.820, 475.822,
6 475.828, 475.830, 475.832, 475.848, 475.852, 475.868, 475.872, 475.878, 475.880,
7 475.882, 475.888, 475.890, 475.892, 475.904] or 475.906.

8 “[B] (b) Has been convicted under ORS 161.405 of an attempt to commit
9 any of the crimes listed in [subparagraph (A) of this] paragraph (a) of this
10 subsection.

11 “[C] (c) Has been convicted in another jurisdiction of a crime that is
12 substantially equivalent, as defined by rule, to any of the crimes listed in
13 [subparagraphs (A) and (B) of this paragraph] paragraphs (a) and (b) of
14 this subsection.

15 “[D] (d) Has had a teaching, personnel service or administrative license,
16 or a public charter school registration, revoked in another jurisdiction for
17 a reason that is substantially equivalent, as defined by rule, to a reason de-
18 scribed in ORS 342.175 and the revocation is not subject to further appeal.
19 A person whose right to apply for a license or registration is denied under
20 this [subparagraph] paragraph may apply for reinstatement of the right as
21 provided in ORS 342.175 (4).

22 “[b] *The Teacher Standards and Practices Commission may refuse to issue*
23 *a license or registration to any person who has been convicted of:]*

24 “[A] *A crime involving the illegal use, sale or possession of controlled*
25 *substances; or]*

26 “[B] *A crime described in ORS 475B.010 to 475B.545.]*

27 “(4) **Without limiting the powers of the Teacher Standards and**
28 **Practices Commission under subsection (2) of this section, the com-**
29 **mission may refuse to issue a teaching, personnel service or adminis-**
30 **trative license, or a public charter school registration, to a person**

1 **who:**

2 **“(a) Has been convicted of a crime listed in ORS 167.007, 475.808,**
3 **475.810, 475.812, 475.818, 475.820, 475.822, 475.828, 475.830, 475.832, 475.848,**
4 **475.852, 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892**
5 **or 475.904.**

6 **“(b) Has been convicted under ORS 161.405 of an attempt to commit**
7 **any of the crimes listed in paragraph (a) of this subsection.**

8 **“(c) Has been convicted in another jurisdiction of a crime that is**
9 **substantially equivalent, as defined by rule, to any of the crimes listed**
10 **in paragraphs (a) and (b) of this subsection.**

11 **“(d) Has been convicted of a crime involving the illegal use, sale**
12 **or possession of controlled substances.**

13 **“(e) Has been convicted of a crime described in ORS 475B.010 to**
14 **475B.545.**

15 **“[(4)] (5) In denying the issuance of a license or registration under this**
16 **section, the commission shall follow the procedure set forth in ORS 342.176**
17 **and 342.177.**

18 **“SECTION 2. ORS 181A.180 is amended to read:**

19 **“181A.180. Whenever any court or district attorney receives a disposition**
20 **report and the court or district attorney has cause to believe that the ar-**
21 **rested person who is the subject of the report is an employee of a school**
22 **district or is licensed as a school teacher or administrator and that the**
23 **charge involves a violation of any crime listed in ORS 342.143 (3) or (4), the**
24 **court or district attorney shall cause the Teacher Standards and Practices**
25 **Commission and the Department of Education to be sent a copy of the com-**
26 **pleted disposition report.**

27 **“SECTION 3. ORS 326.603 is amended to read:**

28 **“326.603. (1) For the purposes of requesting a state or nationwide criminal**
29 **records check under ORS 181A.195, the Department of Education may require**
30 **the fingerprints of:**

1 “(a) A school district or private school contractor, whether part-time or
2 full-time, or an employee of a contractor, whether part-time or full-time, who
3 has direct, unsupervised contact with students as determined by the district
4 or private school.

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

7 “(c) A person who is a community college faculty member providing in-
8 struction:

9 “(A) At the site of an early childhood education program or at a school
10 site as part of an early childhood education program; or

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

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

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

17 “(b) A private school may send to the Department of Education for pur-
18 poses of a criminal records check any information, including fingerprints, for
19 each person described in subsection (1)(a), (b) or (c) of this section.

20 “(3) The Department of Education shall request that the Department of
21 State Police conduct a criminal records check as provided in ORS 181A.195
22 and may charge the school district or private school a fee as established by
23 rule under ORS 181A.195. The school district or private school may recover
24 its costs or a portion thereof from the person described in subsection (1) of
25 this section. If the person described in subsection (1)(b) or (d) of this section
26 requests, the school district shall and a private school may withhold the
27 amount from amounts otherwise due the person, including a periodic payroll
28 deduction rather than a lump sum payment.

29 “(4) Notwithstanding subsection (1) of this section, the Department of
30 Education may not require fingerprints of a person described in subsection

1 (1) of this section if the person or the person’s employer was checked in one
2 school district or private school and is currently seeking to work in another
3 district or private school unless the person lived outside this state during
4 the interval between the two periods of time of working in the district or
5 private school.

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

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

18 “(7)(a) The [*Superintendent of Public Instruction*] **Department of Edu-**
19 **cation** shall inform a school district or private school if a person described
20 in subsection (1) of this section has:

21 “(A) Been convicted of a crime listed in ORS 342.143 (3) **or (4)**; or

22 “(B) [*has*] Knowingly made a false statement on a criminal history form
23 provided by the department [*of Education*] as to the conviction of any crime.

24 “(b) **Except as prohibited by state or federal law, when the depart-**
25 **ment informs a school district that a person has been convicted of a**
26 **crime listed in ORS 342.143 (4), the department shall disclose the crime**
27 **for which the person was convicted.**

28 “[*b*] (c) If a person described in subsection (1) of this section has been
29 convicted of a crime listed in ORS 342.143 (3), a school district may not em-
30 ploy or contract with the person and a private school may choose not to

1 employ or contract with the person. Notification by the [*superintendent*] **de-**
2 **partment** that the school district may not employ or contract with the per-
3 son shall remove the person from any school district policies, collective
4 bargaining provisions regarding dismissal procedures and appeals and the
5 provisions of ORS 342.805 to 342.937.

6 “(d) If a person described in subsection (1) of this section has been
7 convicted of a crime listed in ORS 342.143 (4), a school district may
8 choose to employ or contract with the person after taking into con-
9 sideration the relationship of the facts that support the conviction and
10 all intervening circumstances to the specific professional or occupa-
11 tional standards in determining the fitness of the person to be em-
12 ployed or contracted.

13 “[*(c)*] (e) If a person described in subsection (1) of this section has
14 knowingly made a false statement on a criminal history form provided by the
15 department [*of Education*] as to the conviction of a crime not listed in ORS
16 342.143 (3) or (4), a school district or private school may choose to employ
17 or contract with the person.

18 “(8) If a person described in subsection (1) of this section refuses to con-
19 sent to the criminal records check or refuses to be fingerprinted, the school
20 district shall terminate the employment or contract status of the person.
21 Termination under this subsection removes the person from any school dis-
22 trict policies, collective bargaining provisions regarding dismissal procedures
23 and appeals and the provisions of ORS 342.805 to 342.937.

24 “(9) A school district may not hire or continue to employ or contract with
25 or allow the contractor to continue to assign a person to the school project
26 if the person described in subsection (1) of this section has been convicted
27 of a crime according to the provisions of ORS 342.143.

28 “(10) As used in this section and ORS 326.607:

29 “(a) ‘Private school’ means a school that:

30 “(A) Offers education in prekindergarten, kindergarten or grades 1

1 through 12, or any combination of those grade levels; and

2 “(B) Provides instructional programs that are not limited solely to danc-
3 ing, drama, music, religious or athletic instruction.

4 “(b) ‘School district’ means:

5 “(A) A school district as defined in ORS 330.003.

6 “(B) The Oregon School for the Deaf.

7 “(C) An educational program under the Youth Corrections Education
8 Program.

9 “(D) A public charter school as defined in ORS 338.005.

10 “(E) An education service district.

11 **“SECTION 4.** ORS 342.175 is amended to read:

12 “342.175. (1) The Teacher Standards and Practices Commission may sus-
13 pend or revoke the license or registration of a teacher or administrator,
14 discipline a teacher or administrator, or suspend or revoke the right of any
15 person to apply for a license or registration, if the licensee, registrant or
16 applicant has held a license or registration at any time within five years
17 prior to issuance of the notice of charges under ORS 339.390 or 342.176 based
18 on the following:

19 “(a) Conviction of a crime not listed in ORS 342.143 (3) **or (4)**;

20 “(b) Gross neglect of duty;

21 “(c) Any gross unfitness;

22 “(d) Conviction of a crime for violating any law of this state or any state
23 or of the United States involving the illegal use, sale or possession of con-
24 trolled substances;

25 “(e) Conviction of a crime described in ORS 475B.010 to 475B.545;

26 “(f) Any false statement knowingly made in an application for issuance,
27 renewal or reinstatement of a license or registration; or

28 “(g) Failure to comply with any condition of reinstatement under sub-
29 section (4) of this section or any condition of probation under ORS 342.177
30 (3)(b).

1 “(2) If a person is enrolled in an approved educator preparation program
2 under ORS 342.147, the commission may issue a public reprimand or may
3 suspend or revoke the right to apply for a license or registration based on
4 the following:

5 “(a) Conviction of a crime listed in ORS 342.143 (3) **or** (4) or a crime de-
6 scribed by the commission by rule;

7 “(b) Conviction of a crime for violating any law of this state or any state
8 or of the United States involving the illegal use, sale or possession of con-
9 trolled substances; or

10 “(c) Any conduct that may cause the commission to issue a public
11 reprimand for a teacher or to suspend or revoke the license or registration
12 of a teacher.

13 “(3)(a) The commission shall revoke any license or registration and shall
14 revoke the right of any person to apply for a license or registration if the
15 person has been convicted of any crime listed in ORS 342.143 (3).

16 **“(b) The commission may revoke any license or registration or may**
17 **revoke the right of any person to apply for a license or registration if**
18 **the person has been convicted of any crime listed in ORS 342.143 (4).**

19 “(4)(a) Except for convictions for crimes listed in ORS 342.143 (3) **or** (4)
20 and subject to subsection (5) of this section, any person whose license or
21 registration has been revoked, or whose right to apply for a license or reg-
22 istration has been revoked, may apply to the commission for reinstatement
23 of the license or registration after one year from the date of the revocation.

24 “(b) Any person whose license or registration has been suspended, or
25 whose right to apply for a license or registration has been suspended, may
26 apply to the commission for reinstatement of the license or registration.

27 “(c) The commission may require an applicant for reinstatement to fur-
28 nish evidence satisfactory to the commission of good moral character, mental
29 and physical health and such other evidence as the commission may consider
30 necessary to establish the applicant’s fitness. The commission may impose a

1 probationary period and such conditions as the commission considers neces-
2 sary upon approving an application for reinstatement.

3 “(5) The commission shall reconsider immediately a license or registration
4 suspension or revocation or the situation of a person whose right to apply
5 for a license or registration has been revoked, upon application therefor,
6 when the license or registration suspension or revocation or the right revo-
7 cation is based on a criminal conviction that is reversed on appeal.

8 “(6) Violation of rules adopted by the commission relating to competent
9 and ethical performance of professional duties shall be admissible as evi-
10 dence of gross neglect of duty or gross unfitness.

11 “(7) A copy of the record of conviction, certified to by the clerk of the
12 court entering the conviction, shall be conclusive evidence of a conviction
13 described in this section.

14 “**SECTION 5.** ORS 670.280, as amended by section 21, chapter 2, Oregon
15 Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

16 “670.280. (1) As used in this section:

17 “(a) ‘License’ includes a registration, certification or permit.

18 “(b) ‘Licensee’ includes a registrant or a holder of a certification or per-
19 mit.

20 “(2) Except as provided in ORS 342.143 (3) **or (4)** or 342.175 (3), a licensing
21 board, commission or agency may not deny, suspend or revoke an occupa-
22 tional or professional license solely for the reason that the applicant or
23 licensee has been convicted of a crime, but it may consider the relationship
24 of the facts [*which*] **that** support the conviction and all intervening circum-
25 stances to the specific occupational or professional standards in determining
26 the fitness of the person to receive or hold the license. There is a rebuttable
27 presumption as to each individual applicant or licensee that an existing or
28 prior conviction for conduct that has been classified or reclassified as a
29 Class E violation pursuant to [*section 11 to section 19*] **the amendments to**
30 **ORS 153.012, 153.018, 475.752, 475.824, 475.834, 475.854, 475.874, 475.884 and**

1 **475.894 by sections 11 to 19, chapter 2, Oregon Laws 2021 (Ballot Meas-**
2 **ure 110 (2020))**, does not make an applicant for an occupational or profes-
3 sional license or a licensee with an occupational or professional license unfit
4 to receive or hold the license.

5 “(3) Except as provided in ORS 342.143 (3) **or (4)** and 342.175 (3), a li-
6 censing board, commission or agency may deny an occupational or profes-
7 sional license or impose discipline on a licensee based on conduct that is not
8 undertaken directly in the course of the licensed activity, but that is sub-
9 stantially related to the fitness and ability of the applicant or licensee to
10 engage in the activity for which the license is required. In determining
11 whether the conduct is substantially related to the fitness and ability of the
12 applicant or licensee to engage in the activity for which the license is re-
13 quired, the licensing board, commission or agency shall consider the re-
14 lationship of the facts with respect to the conduct and all intervening
15 circumstances to the specific occupational or professional standards. There
16 is a rebuttable presumption as to each individual applicant or licensee that
17 an existing or prior conviction for conduct that has been classified or re-
18 classified as a Class E violation pursuant to [*section 11 to section 19*] **the**
19 **amendments to ORS 153.012, 153.018, 475.752, 475.824, 475.834, 475.854,**
20 **475.874, 475.884 and 475.894 by sections 11 to 19, chapter 2, Oregon Laws**
21 **2021 (Ballot Measure 110 (2020))**, is not related to the fitness and ability
22 of the applicant or licensee to engage in the activity for which the license
23 is required.”.

24
