

(Including Amendments to Resolve Conflicts)

B-Engrossed Senate Bill 724

Ordered by the House June 6
Including Senate Amendments dated May 9 and House Amendments dated
June 6

Sponsored by Senator CARTER; Senators BURDICK, GORDLY, Representatives BARKER, SHIELDS

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.

Permits issuance of teaching, personnel service or administrative license or registration to person convicted of misdemeanor prostitution if Teacher Standards and Practices Commission determines that person is fit to be teacher and date of conviction is more than five years prior to date of application. Allows school district to employ, [or] contract with **or use as volunteer** person convicted of misdemeanor prostitution if district determines that person is fit to be employed by, [or] contract with **or volunteer with** district and date of conviction is more than five years prior to date of employment or date contract is entered into.

**Modifies provisions relating to criminal background checks that are applicable to schools.
Declares emergency, effective July 1, 2007.**

A BILL FOR AN ACT

1
2 Relating to education; creating new provisions; amending ORS 181.534, 181.539, 326.603, 326.607 and
3 342.143; repealing section 1, chapter 35, Oregon Laws 2007 (Enrolled House Bill 2047); and de-
4 claring an emergency.

5 Whereas this 2007 Act may be called the "Act of Forgiveness" or the "Second Chance Act";
6 now, therefore,

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

8 **SECTION 1.** ORS 342.143 is amended to read:

9 342.143. (1) [No] **The Teacher Standards and Practices Commission may not issue a** teach-
10 ing, personnel service or administrative license [*shall be issued*] to any person until the person has
11 attained the age of 18 years and has furnished satisfactory evidence of proper educational training.

12 (2) The [*Teacher Standards and Practices*] commission may also require an applicant for a
13 teaching, personnel service or administrative license to furnish evidence satisfactory to the com-
14 mission of good moral character, mental and physical health, and such other evidence as it may
15 deem necessary to establish the applicant's fitness to serve as a teacher.

16 (3) Without limiting the powers of the [*Teacher Standards and Practices*] commission under
17 subsection (2) of this section and notwithstanding ORS 670.280:

18 (a) [No] **A** teaching, personnel service or administrative license or registration as a public
19 charter school teacher [*shall*] **may not** be issued to any person who:

20 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,
21 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.435, 163.445,
22 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part), 163.680 (1993

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 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087, 167.007, 167.012,
2 167.017, 167.062, 167.065, 167.070, 167.075, 167.080, 167.087, 167.090, 475.848, 475.852, 475.858, 475.860,
3 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or
4 475.906;

5 (B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in
6 subparagraph (A) of this paragraph; or

7 (C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as
8 defined by **commission** rule, to any of the crimes listed in subparagraphs (A) and (B) of this para-
9 graph.

10 (b) The [*Teacher Standards and Practices*] commission may refuse to issue a license or registra-
11 tion to any person who has been convicted of a crime involving the illegal use, sale or possession
12 of controlled substances.

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

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

17 **(6) Notwithstanding subsection (3) of this section, a person who has been convicted of a**
18 **crime under ORS 167.007, convicted of an attempt to commit a crime under ORS 167.007 or**
19 **convicted in another jurisdiction of a crime that is substantially equivalent, as defined by**
20 **commission rule, to a crime under ORS 167.007 may be issued a license or registration if the**
21 **commission determines that:**

22 (a) **The person is fit to be a teacher; and**

23 (b) **The date of any conviction described in this subsection is more than five years prior**
24 **to the date of the application for the license or registration.**

25 **SECTION 2.** ORS 326.603 is amended to read:

26 326.603. (1)(a) A school district shall send to the Department of Education **or the Department**
27 **of State Police** for purposes of a criminal records check any information, including fingerprints, for
28 each person described in ORS 181.539 (1)(d), (e), (f), (h), [*or*] (i) **or (k)**.

29 (b) A private school may send to the Department of Education for purposes of a criminal records
30 check any information, including fingerprints, for each person described in ORS 181.539 (1)(d), (e),
31 (f), [*or*] (h) **or (k)**.

32 (2) The Department of Education **or a school district** shall request that the Department of
33 State Police conduct a **state and nationwide** criminal records check as provided in ORS 181.534.
34 **The Department of Education** [*and*] may charge the district or private school a fee as established
35 by rule under ORS 181.534. The [*school*] district or private school may recover its costs or a portion
36 thereof from the person described in ORS 181.539 (1)(d), (e), (f), (h), [*or*] (i) **or (k)**. If the person de-
37 scribed in ORS 181.539 (1)(e), (f) or (i) requests, the district shall and a private school may withhold
38 the amount from amounts otherwise due the person, including a periodic payroll deduction rather
39 than a lump sum payment.

40 (3)(a) **Except as provided in subsection (6) of this section**, if the Superintendent of Public
41 Instruction **or the Department of State Police** informs the school district that the person has been
42 convicted of a crime listed in ORS 342.143 or has made a false statement as to the conviction of a
43 crime, [*the superintendent shall notify the school district of the fact and*] the district [*shall*] **may** not
44 employ or contract with the person **or use the person as a volunteer**. Notification by the super-
45 intendent **or the Department of State Police** that the school district [*shall*] **may** not employ or

1 contract with the person **or use the person as a volunteer** shall remove the person from any
2 school district policies, collective bargaining provisions regarding dismissal procedures and appeals
3 and the provisions of ORS 342.805 to 342.937.

4 (b) The Superintendent of Public Instruction shall notify the private school if the person has
5 been convicted of a crime listed in ORS 342.143 or has made a false statement as to the conviction
6 of a crime. Based on the notice, the private school may choose not to employ or contract with the
7 person **or use the person as a volunteer**.

8 (4) If a person described in subsection (1) of this section refuses to consent to the criminal re-
9 cords check or refuses to be fingerprinted or if the person falsely swears to the nonconviction of a
10 crime, the district shall terminate the employment, [*or*] contract **or volunteer** status of the person.
11 Termination under this subsection removes the person from any school district policies, collective
12 bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805
13 to 342.937.

14 (5) **Except as provided in subsection (6) of this section**, a school district may not hire a
15 **person, use a person as a volunteer** or continue to employ or contract with or allow [*the*] a con-
16 tractor to continue to assign a person to [*the*] a school project if the person described in subsection
17 (1) of this section has been convicted of a crime according to the provisions of ORS 342.143.

18 (6) **A school district may employ a person, contract with a person or use a person as a**
19 **volunteer who has been convicted of a crime under ORS 167.007, convicted of an attempt to**
20 **commit a crime under ORS 167.007 or convicted in another jurisdiction of a crime that is**
21 **substantially equivalent, as defined by Teacher Standards and Practices Commission rule, to**
22 **a crime under ORS 167.007 if the school district determines that:**

23 (a) **The person is fit to be employed by or to contract or volunteer with a school district;**
24 **and**

25 (b) **The date of any conviction described in this subsection is more than five years prior**
26 **to the date of employment or the date the contract is entered into.**

27 [(6)] (7) As used in this section and ORS 326.607:

28 (a) "Private school" means a school that provides educational services as defined in ORS 345.505
29 and is registered as a private school under ORS 345.505 to 345.575.

30 (b) "School district" means:

31 (A) A school district as defined in ORS 330.003.

32 (B) The Oregon State School for the Blind.

33 (C) The Oregon State School for the Deaf.

34 (D) An educational program under the Youth Corrections Education Program.

35 (E) A public charter school as defined in ORS 338.005.

36 (F) An education service district.

37 **SECTION 3.** ORS 326.607 is amended to read:

38 326.607. (1) Upon request from a [*school district, a private school or a public charter school or a*
39 *school district, private school or public charter school*] **school district contractor or private school**
40 **contractor** and with consent from the individual, the Department of Education [*may conduct an*
41 *Oregon criminal records check using the Law Enforcement Data System*] **shall request that the De-**
42 **partment of State Police conduct a state and nationwide criminal records check under ORS**
43 **181.539** for screening an individual who is a volunteer for the [*school district, private school or public*
44 *charter school*] **contractor** and who has **or may have** direct, unsupervised contact with school
45 children, or for screening applicants for employment.

1 (2) The Department of Education may charge the requesting [school district, private school,
2 public charter school or school district, private school or public charter school] contractor a fee [not
3 to exceed \$5] as established by rule under ORS 181.534 for each request under subsection (1) of
4 this section.

5 **SECTION 4.** ORS 181.539 is amended to read:

6 181.539. (1) For the purpose of requesting a state or nationwide criminal records check under
7 ORS 181.534, the Teacher Standards and Practices Commission, [and] the Department of Education
8 **and a school district** may require the fingerprints of:

9 (a) A person who is applying for initial issuance of a license under ORS 342.120 to 342.430 as
10 a teacher, administrator or personnel specialist if the person has not submitted to a criminal records
11 check by the commission within the previous year.

12 (b) A person who is applying for reinstatement of a license as a teacher, administrator or per-
13 sonnel specialist whose license has lapsed for at least three years.

14 (c) A person who is applying for initial issuance of a certificate under ORS 342.475 as a school
15 nurse.

16 (d) A school district or private school contractor, whether part-time or full-time, or an employee
17 thereof, whether part-time or full-time, who has **or may have** direct, unsupervised contact with
18 students as determined by the district or private school.

19 (e) A person newly hired, whether part-time or full-time, by a school district or private school
20 in a capacity not described in paragraphs (a) to (c) of this subsection who has **or may have** direct,
21 unsupervised contact with children as determined by the district or private school.

22 (f) A person employed, whether part-time or full-time, by a school district or private school in
23 a capacity not described in paragraphs (a) to (c) of this subsection who has **or may have** direct,
24 unsupervised contact with children as determined by the district or private school.

25 (g) A person who is registering with the commission for student teaching, practicum or
26 internship as a teacher, administrator or personnel specialist, if the person has not submitted to a
27 criminal records check by the commission within the previous year for student teaching, practicum
28 or internship as a teacher, administrator or personnel specialist.

29 (h) A person who is a community college faculty member providing instruction at a kindergarten
30 through grade 12 school site during the regular school day.

31 (i) A person who is an employee of a public charter school.

32 (j) A person who is applying for initial issuance of a registration as a public charter school
33 teacher under ORS 342.125.

34 **(k) A person who is a volunteer for a school district or private school and who has or**
35 **may have direct, unsupervised contact with children as determined by the district or private**
36 **school.**

37 (2) Notwithstanding subsection (1) of this section, the commission, [and] the department **or a**
38 **school district** may not require fingerprints of a person described in subsection (1)(d), (e), (f), (h)
39 or (i) of this section if the person or the person's employer was checked in one school district or
40 private school and is currently seeking to work in another district or private school unless the
41 person lived outside this state during the interval between the two periods of time of working in the
42 district or private school.

43 (3) Nothing in this section requires a person described in subsection (1)(d), (e) or (i) of this
44 section to submit to fingerprinting until the person has been offered employment or a contract by
45 a school district or private school. Contractor employees shall not be required to submit to finger-

1 printing until the contractor has been offered a contract.

2 (4) As used in this section:

3 (a) "Private school" means a school that provides educational services as defined in ORS 345.505
4 and is registered as a private school under ORS 345.505 to 345.575.

5 (b) "School district" means:

6 (A) A school district as defined in ORS 330.003.

7 (B) The Oregon State School for the Blind.

8 (C) The Oregon State School for the Deaf.

9 (D) An educational program under the Youth Corrections Education Program.

10 (E) A public charter school as defined in ORS 338.005.

11 (F) An education service district.

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

13 181.534. (1) As used in this section:

14 (a) "Authorized agency" means state government as defined in ORS 174.111, [and] the Oregon
15 State Bar **and a school district as defined in ORS 326.603.** "Authorized agency" does not include:

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

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

19 (b) "Subject individual" means a person from whom an authorized agency may require finger-
20 prints pursuant to statute for the purpose of enabling the authorized agency to request a state or
21 nationwide criminal records check.

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

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

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

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

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

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

44 (8) An authorized agency and the Department of State Police shall permit a subject individual
45 for whom a fingerprint-based criminal records check was conducted to inspect the individual's own

1 state and national criminal offender records and, if requested by the subject individual, provide the
2 individual with a copy of the individual's own state and national criminal offender records.

3 (9) Each authorized agency, in consultation with the Department of State Police, shall adopt
4 rules to implement this section and other statutes relating to criminal offender information obtained
5 through fingerprint-based criminal records checks. The rules shall include but need not be limited
6 to:

7 (a) Specifying categories of subject individuals who are subject to criminal records checks.

8 (b) Specifying the information that may be required from a subject individual to permit a crim-
9 inal records check.

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

11 (d) Specifying the types of crimes that may be considered in reviewing criminal offender infor-
12 mation of a subject individual.

13 (e) Specifying when a nationwide fingerprint-based criminal records check must be conducted.
14 An authorized agency shall consider the additional cost of obtaining a nationwide fingerprint-based
15 criminal records check when adopting rules under this subsection.

16 (f) If the authorized agency uses criminal records checks for agency employment purposes:

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

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

21 (g) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing
22 criminal offender information.

23 (10) The Department of State Police shall verify that an authorized agency has adopted the rules
24 required by subsection (9) of this section.

25 (11) Except as otherwise provided in ORS 181.612, an authorized agency, using the rules adopted
26 under subsection (9) of this section, shall determine whether a subject individual is fit to hold a
27 position, provide services, be employed or be granted a license, certification, registration or permit,
28 based on the criminal records check obtained pursuant to this section, on any false statements made
29 by the individual regarding the criminal history of the individual and on any refusal to submit or
30 consent to a criminal records check including fingerprint identification. If a subject individual is
31 determined to be unfit, then the individual may not hold the position, provide services, be employed
32 or be granted a license, certification, registration or permit.

33 (12) Except as otherwise provided in ORS 181.612, in making the fitness determination under
34 subsection (11) of this section, the authorized agency shall consider:

35 (a) The nature of the crime;

36 (b) The facts that support the conviction or pending indictment or that indicate the making of
37 the false statement;

38 (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the
39 subject individual's present or proposed position, services, employment, license, certification or reg-
40 istration; and

41 (d) Intervening circumstances relevant to the responsibilities and circumstances of the position,
42 services, employment, license, certification, registration or permit. Intervening circumstances in-
43 clude but are not limited to:

44 (A) The passage of time since the commission of the crime;

45 (B) The age of the subject individual at the time of the crime;

- 1 (C) The likelihood of a repetition of offenses or of the commission of another crime;
- 2 (D) The subsequent commission of another relevant crime;
- 3 (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
- 4 (F) A recommendation of an employer.

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

15 (14)(a) Each authorized agency shall establish by rule a contested case process by which a sub-
16 ject individual may appeal the determination that the individual is fit or not fit to hold a position,
17 provide services, be employed or be granted a license, certification, registration or permit on the
18 basis of information obtained as the result of a criminal records check conducted pursuant to this
19 section. Challenges to the accuracy or completeness of information provided by the Department of
20 State Police, the Federal Bureau of Investigation and agencies reporting information to the De-
21 partment of State Police or Federal Bureau of Investigation must be made through the Department
22 of State Police, Federal Bureau of Investigation or reporting agency and not through the contested
23 case process required by this paragraph.

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

31 (15) Criminal offender information is confidential. Authorized agencies and the Department of
32 State Police shall adopt rules to restrict dissemination of information received under this section to
33 persons with a demonstrated and legitimate need to know the information.

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

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

41 **SECTION 6. The amendments to ORS 181.534, 181.539, 326.603 and 326.607 by sections 2**
42 **to 5 of this 2007 Act first apply to the 2007-2008 school year.**

43 **SECTION 7. If House Bill 2047 becomes law, section 1, chapter 35, Oregon Laws 2007**
44 **(Enrolled House Bill 2047) (amending ORS 326.603), is repealed and ORS 326.603, as amended**
45 **by section 2 of this 2007 Act, is amended to read:**

1 326.603. (1) For the purposes of requesting a state or nationwide criminal records check
2 under ORS 181.534, the Department of Education and a school district may require the fin-
3 gerprints of:

4 (a) A school district or private school contractor, whether part-time or full-time, or an
5 employee thereof, whether part-time or full-time, who has or may have direct, unsupervised
6 contact with students as determined by the district or private school.

7 (b) A person newly hired, whether part-time or full-time, by a school district or private
8 school in a capacity not described in ORS 342.223 (1) who has or may have direct, unsuper-
9 vised contact with children as determined by the district or private school.

10 (c) A person employed, whether part-time or full-time, by a school district or private
11 school in a capacity not described in ORS 342.223 (1) who has or may have direct, unsuper-
12 vised contact with children as determined by the district or private school.

13 (d) A person who is a community college faculty member providing instruction at a
14 kindergarten through grade 12 school site during the regular school day.

15 (e) A person who is an employee of a public charter school.

16 (f) A person who is a volunteer for a school district or private school and who has or
17 may have direct, unsupervised contact with children as determined by the district or private
18 school.

19 [(1)(a)] (2)(a) A school district shall send to the Department of Education or the Department of
20 State Police for purposes of a criminal records check any information, including fingerprints, for
21 each person described in [ORS 181.539 (1)(d), (e), (f), (h), (i) or (k)] **subsection (1) of this section.**

22 (b) A private school may send to the Department of Education for purposes of a criminal records
23 check any information, including fingerprints, for each person described in [ORS 181.539 (1)(d), (e),
24 (f), (h) or (k)] **subsection (1)(a), (b), (c), (d) or (f) of this section.**

25 [(2)] (3) The Department of Education or a school district shall request that the Department of
26 State Police conduct a state and nationwide criminal records check as provided in ORS 181.534.
27 The Department of Education may charge the district or private school a fee as established by rule
28 under ORS 181.534. The district or private school may recover its costs or a portion thereof from
29 the person described in [ORS 181.539 (1)(d), (e), (f), (h), (i) or (k)] **subsection (1) of this section.** If
30 the person described in [ORS 181.539 (1)(e), (f) or (i)] **subsection (1)(b), (c) or (e) of this section**
31 requests, the district shall and a private school may withhold the amount from amounts otherwise
32 due the person, including a periodic payroll deduction rather than a lump sum payment.

33 (4) **Notwithstanding subsection (1) of this section, the Department of Education and a**
34 **school district may not require fingerprints of a person described in subsection (1) of this**
35 **section if the person or the person's employer was checked in one school district or private**
36 **school and is currently seeking to work in another district or private school unless the per-**
37 **son lived outside this state during the interval between the two periods of time of working**
38 **in the district or private school.**

39 (5) **Nothing in this section requires a person described in subsection (1)(a), (b) or (e) of**
40 **this section to submit to fingerprinting until the person has been offered employment or a**
41 **contract by a school district or private school. Contractor employees may not be required**
42 **to submit to fingerprinting until the contractor has been offered a contract.**

43 [(3)(a)] (6)(a) Except as provided in subsection [(6)] (9) of this section, if the Superintendent of
44 Public Instruction or the Department of State Police informs the school district that the person has
45 been convicted of a crime listed in ORS 342.143 or has made a false statement as to the conviction

1 of a crime, the district may not employ or contract with the person or use the person as a volunteer.
2 Notification by the superintendent or the Department of State Police that the school district may
3 not employ or contract with the person or use the person as a volunteer shall remove the person
4 from any school district policies, collective bargaining provisions regarding dismissal procedures and
5 appeals and the provisions of ORS 342.805 to 342.937.

6 (b) The Superintendent of Public Instruction shall notify the private school if the person has
7 been convicted of a crime listed in ORS 342.143 or has made a false statement as to the conviction
8 of a crime. Based on the notice, the private school may choose not to employ or contract with the
9 person or use the person as a volunteer.

10 [(4)] (7) If a person described in subsection (1) of this section refuses to consent to the criminal
11 records check or refuses to be fingerprinted or if the person falsely swears to the nonconviction of
12 a crime, the district shall terminate the employment, contract or volunteer status of the person.
13 Termination under this subsection removes the person from any school district policies, collective
14 bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805
15 to 342.937.

16 [(5)] (8) Except as provided in subsection [(6)] (9) of this section, a school district may not hire
17 a person, use a person as a volunteer or continue to employ or contract with or allow a contractor
18 to continue to assign a person to a school project if the person described in subsection (1) of this
19 section has been convicted of a crime according to the provisions of ORS 342.143.

20 [(6)] (9) A school district may employ a person, contract with a person or use a person as a
21 volunteer who has been convicted of a crime under ORS 167.007, convicted of an attempt to commit
22 a crime under ORS 167.007 or convicted in another jurisdiction of a crime that is substantially
23 equivalent, as defined by Teacher Standards and Practices Commission rule, to a crime under ORS
24 167.007 if the school district determines that:

25 (a) The person is fit to be employed by or to contract or volunteer with a school district; and

26 (b) The date of any conviction described in this subsection is more than five years prior to the
27 date of employment or the date the contract is entered into.

28 [(7)] (10) As used in this section and ORS 326.607:

29 (a) "Private school" means a school that provides educational services as defined in ORS 345.505
30 and is registered as a private school under ORS 345.505 to 345.575.

31 (b) "School district" means:

32 (A) A school district as defined in ORS 330.003.

33 (B) The Oregon State School for the Blind.

34 (C) The Oregon State School for the Deaf.

35 (D) An educational program under the Youth Corrections Education Program.

36 (E) A public charter school as defined in ORS 338.005.

37 (F) An education service district.

38 **SECTION 8.** If House Bill 2047 becomes law, ORS 326.607, as amended by section 3 of this 2007
39 Act, is amended to read:

40 326.607. (1) Upon request from a school district contractor or private school contractor and with
41 consent from the individual, the Department of Education shall request that the Department of State
42 Police conduct a state and nationwide criminal records check under ORS [181.539] **326.603** for
43 screening an individual who is a volunteer for the contractor and who has or may have direct, un-
44 supervised contact with school children, or for screening applicants for employment.

45 (2) The Department of Education may charge the requesting contractor a fee as established by

1 rule under ORS 181.534 for each request under subsection (1) of this section.

2 **SECTION 9. If House Bill 2047 becomes law, the amendments to ORS 326.603 and 326.607**
3 **by sections 7 and 8 of this 2007 Act become operative on January 1, 2008.**

4 **SECTION 10. This 2007 Act being necessary for the immediate preservation of the public**
5 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
6 **July 1, 2007.**

7
