

# Senate Bill 754

Sponsored by Senator CARTER

## 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**.

Allows Teacher Standards and Practices Commission to issue license or registration to person convicted of certain misdemeanor crime if commission makes certain determinations.

Allows school district to employ or contract with person convicted of certain misdemeanor crimes if district makes certain determinations.

## A BILL FOR AN ACT

1  
2 Relating to persons who committed certain misdemeanor crime; amending ORS 326.603, 342.143 and  
3 342.175.

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

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

6 342.143. (1) [No] **The Teacher Standards and Practices Commission may not issue a** teach-  
7 ing, personnel service or administrative license [*shall be issued*] to any person until the person has  
8 attained the age of 18 years and has furnished satisfactory evidence of proper educational training.

9 (2) The [*Teacher Standards and Practices*] commission may require an applicant for a teaching,  
10 personnel service or administrative license or for registration as a public charter school teacher or  
11 administrator to furnish evidence satisfactory to the commission of good moral character, mental  
12 and physical health, and such other evidence as it may deem necessary to establish the applicant's  
13 fitness to serve as a teacher or administrator.

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

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

18 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,  
19 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433,  
20 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part),  
21 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087,  
22 167.007, 167.012, 167.017, 167.054, 167.057, 167.062, 167.075, 167.080, 167.090, 475.848, 475.852, 475.858,  
23 475.860, 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892,  
24 475.904 or 475.906;

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

27 (C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as  
28 defined by **the commission by** rule, to any of the crimes listed in subparagraphs (A) and (B) of this  
29 paragraph.

30 (b) The [*Teacher Standards and Practices*] commission may refuse to issue a license or registra-

**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.

tion to any person who has been convicted of a crime involving the illegal use, sale or possession of controlled substances.

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

**(a) The person is fit to be licensed or registered;**

**(b) The person had not attained 24 years of age when the crime was committed; and**

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

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

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

**SECTION 2.** ORS 342.175 is amended to read:

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

(a) Conviction of a crime not listed in ORS 342.143 (3);

(b) Gross neglect of duty;

(c) Any gross unfitness;

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

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

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

**(2)(a)** Notwithstanding ORS 670.280 **and except as provided in paragraph (b) of this subsection**, the commission shall revoke any license or registration and shall revoke the right of any person to apply for a license or registration if the person has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 when the holder or person has been convicted of any crime described in ORS 342.143 (3).

**(b) The commission is not required to revoke a license or registration or revoke the right of a person to apply for a license or registration as provided in paragraph (a) of this subsection if the person was convicted of a crime under ORS 167.007, convicted of an attempt to commit a crime under ORS 167.007 or convicted in another jurisdiction of a crime that is substantially equivalent, as defined by the commission by rule, to a crime under ORS 167.007 and the commission determines that:**

**(A) The person is fit to be licensed or registered;**

**(B) The person had not attained 24 years of age when the crime was committed; and**

**(C) The date of any conviction described in this paragraph is more than five years prior to the date of the issuance of the notice of charges under ORS 342.176.**

1 (3) Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection (4) of  
2 this section, any person whose license or registration has been suspended or revoked or whose  
3 privilege to apply for a license or registration has been revoked may apply to the commission for  
4 reinstatement of the license or registration after one year from the date of the suspension or revo-  
5 cation. The commission may require an applicant for reinstatement to furnish evidence satisfactory  
6 to the commission of good moral character, mental and physical health and such other evidence as  
7 the commission may consider necessary to establish the applicant's fitness. The commission may  
8 impose a probationary period and such conditions as it considers necessary upon approving an ap-  
9 plication for reinstatement.

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

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

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

18 **SECTION 3.** ORS 326.603 is amended to read:

19 326.603. (1) For the purposes of requesting a state or nationwide criminal records check under  
20 ORS 181.534, the Department of Education may require the fingerprints of:

21 (a) A school district or private school contractor, whether part-time or full-time, or an employee  
22 thereof, whether part-time or full-time, who has direct, unsupervised contact with students as de-  
23 termined by the district or private school.

24 (b) A person newly hired, whether part-time or full-time, by a school district or private school  
25 in a capacity not described in ORS 342.223 (1) who has direct, unsupervised contact with children  
26 as determined by the district or private school.

27 (c) A person employed, whether part-time or full-time, by a school district or private school in  
28 a capacity not described in ORS 342.223 (1) who has direct, unsupervised contact with children as  
29 determined by the district or private school.

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

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

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

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

39 (3) The Department of Education shall request that the Department of State Police conduct a  
40 criminal records check as provided in ORS 181.534 and may charge the district or private school a  
41 fee as established by rule under ORS 181.534. The school district or private school may recover its  
42 costs or a portion thereof from the person described in subsection (1) of this section. If the person  
43 described in subsection (1)(b), (c) or (e) of this section requests, the district shall and a private  
44 school may withhold the amount from amounts otherwise due the person, including a periodic pay-  
45 roll deduction rather than a lump sum payment.

1 (4) Notwithstanding subsection (1) of this section, the department may not require fingerprints  
 2 of a person described in subsection (1) of this section if the person or the person’s employer was  
 3 checked in one school district or private school and is currently seeking to work in another district  
 4 or private school unless the person lived outside this state during the interval between the two pe-  
 5 riods of time of working in the district or private school.

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

10 (6)(a) **Except as provided in subsection (9) of this section**, if the Superintendent of Public  
 11 Instruction informs the school district that the person has been convicted of a crime listed in ORS  
 12 342.143 or has made a false statement as to the conviction of a crime, the superintendent shall notify  
 13 the school district of the fact and the district *[shall]* **may** not employ or contract with the person.  
 14 Notification by the superintendent that the school district *[shall]* **may** not employ or contract with  
 15 the person shall remove the person from any school district policies, collective bargaining provisions  
 16 regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

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

21 (7) If a person described in subsection (1) of this section refuses to consent to the criminal re-  
 22 cords check or refuses to be fingerprinted or if the person falsely swears to the nonconviction of a  
 23 crime, the district shall terminate the employment or contract status of the person. Termination  
 24 under this subsection removes the person from any school district policies, collective bargaining  
 25 provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

26 (8) **Except as provided in subsection (9) of this section**, a school district may not hire or  
 27 continue to employ or contract with or allow the contractor to continue to assign a person to the  
 28 school project if the person described in subsection (1) of this section has been convicted of a crime  
 29 according to the provisions of ORS 342.143.

30 (9) **A school district may employ or contract with a person who has been convicted of a**  
 31 **crime under ORS 167.007, convicted of an attempt to commit a crime under ORS 167.007 or**  
 32 **convicted in another jurisdiction of a crime that is substantially equivalent, as defined by the**  
 33 **Teacher Standards and Practices Commission by rule, of a crime under ORS 167.007 if the**  
 34 **school district determines that:**

- 35 (a) **The person is fit to be employed by or to contract with the school district;**
- 36 (b) **The person had not attained 24 years of age when the crime was committed; and**
- 37 (c) **The date of any conviction described in this subsection is more than five years prior**  
 38 **to the date of employment or the date the contract is entered into.**

39 [(9)] (10) As used in this section and ORS 326.607:

40 (a) “Private school” means a school that provides educational services as defined in ORS 345.505  
 41 and is registered as a private school under ORS 345.505 to 345.575.

42 (b) “School district” means:

- 43 (A) A school district as defined in ORS 330.003.
- 44 (B) The Oregon School for the Blind.
- 45 (C) The Oregon School for the Deaf.

- 1 (D) An educational program under the Youth Corrections Education Program.
- 2 (E) A public charter school as defined in ORS 338.005.
- 3 (F) An education service district.
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