

SENATE AMENDMENTS TO A-ENGROSSED SENATE BILL 412

By COMMITTEE ON RULES

June 1

1 On page 1 of the printed A-engrossed bill, delete lines 7 through 26 and delete pages 2 through
2 25 and insert:

3 **“SECTION 1. As used in sections 1 to 4 of this 2011 Act:**

4 **“(1) ‘Authorized tribal police officer’ means a tribal police officer who is acting:**

5 **“(a) In accordance with sections 1 to 4 of this 2011 Act; and**

6 **“(b) While employed by a tribal government that is in compliance with sections 1 to 4 of**
7 **this 2011 Act.**

8 **“(2) ‘Indian country’ has the meaning given that term in 18 U.S.C. 1151.**

9 **“(3) ‘Tribal government’ means a federally recognized sovereign tribal government whose**
10 **borders lie within this state or an intertribal organization formed by two or more of those**
11 **governments.**

12 **“(4) ‘Tribal police officer’ means an employee of a tribal government whose duties include**
13 **the enforcement of criminal law.**

14 **“SECTION 2. The Legislative Assembly finds and declares that the purpose of sections 1**
15 **to 4 of this 2011 Act is to provide authorized tribal police officers with a limited ability to**
16 **exercise the powers of, and to receive the same authority and protections provided to, law**
17 **enforcement officers under the laws of this state, without incurring any additional costs or**
18 **loss of revenue to the State of Oregon or a political subdivision of the State of Oregon.**

19 **“SECTION 3. (1) A tribal police officer is eligible to act as an authorized tribal police of-**
20 **ficer if the officer:**

21 **“(a) Is acting within the scope of employment as a tribal police officer;**

22 **“(b) Is certified as a police officer under the provisions of ORS 181.610 to 181.712;**

23 **“(c) Is in compliance with any rules adopted by the Department of Public Safety Stan-**
24 **dards and Training under sections 1 to 4 of this 2011 Act; and**

25 **“(d) Is employed by a tribal government that:**

26 **“(A) Is in compliance with the requirements of ORS 181.610 to 181.712 applicable to a law**
27 **enforcement unit as defined in ORS 181.610;**

28 **“(B) Is in compliance with any rules adopted by the department under sections 1 to 4 of**
29 **this 2011 Act;**

30 **“(C) Has submitted to the department the resolution and documents described in section**
31 **4 of this 2011 Act;**

32 **“(D) Has adopted a provision of tribal law that waives sovereign immunity, in a manner**
33 **similar to the waiver expressed in ORS 30.260 to 30.300, as to tort claims asserted in the**
34 **tribal government’s court that arise from the conduct of an authorized tribal police officer.**

35 **The waiver described in this subparagraph:**

1 “(i) Must apply to the conduct of an authorized tribal police officer that occurs while the
2 provision of tribal law is in effect;

3 “(ii) Must allow for recovery against the tribal government in an amount equal to or
4 greater than the amounts described in ORS 30.260 to 30.300 that are applicable to a local
5 public body;

6 “(iii) May require that the claim be asserted in accordance with any applicable tort
7 claims procedures of the tribal government; and

8 “(iv) May exclude claims that could be brought in federal court under the Federal Tort
9 Claims Act; and

10 “(E) Has adopted or is exempt from adopting, in accordance with this subparagraph, a
11 written pretrial discovery policy that describes how a tribal government and its authorized
12 tribal police officers will assist the district attorney, in criminal prosecutions conducted in
13 state court in which an authorized tribal police officer arrested or cited the defendant, in
14 meeting the pretrial discovery obligations imposed on the state by ORS 135.805 to 135.873.
15 The process for adopting, and determining whether a tribal government is exempt from
16 adopting, a written pretrial discovery policy is as follows:

17 “(i) A tribal government may request in writing that the sheriff of a county with land
18 that is contiguous to the land of the tribal government provide the tribal government with
19 a copy of any written pretrial discovery policy adopted by the sheriff that describes how the
20 sheriff’s office assists the district attorney in meeting the pretrial discovery obligations im-
21 posed by ORS 135.805 to 135.873. Not later than 30 days after receiving the request, the
22 sheriff shall provide the tribal government with a copy of the policy or notify the tribal
23 government that the sheriff has not adopted the policy.

24 “(ii) If a tribal government fails to submit a written request to each sheriff of a county
25 that is contiguous to the land of the tribal government or if each sheriff has adopted a
26 written pretrial discovery policy described in sub-subparagraph (i) of this subparagraph, the
27 tribal government shall, not later than 90 days after the effective date of this 2011 Act, adopt
28 a written pretrial discovery policy.

29 “(iii) A tribal government may create and adopt a written pretrial discovery policy or
30 may adopt the written pretrial discovery policy adopted by the sheriff of a county with land
31 that is contiguous to the land of the tribal government.

32 “(iv) If the sheriff of any county with land that is contiguous to the land of the tribal
33 government has not, on the date the sheriff receives a request described in sub-subparagraph
34 (i) of this subparagraph, adopted a written pretrial discovery policy, the tribal government
35 is exempt from adopting a written pretrial discovery policy.

36 “(2) Notwithstanding subsection (1) of this section, a tribal police officer may not act as
37 an authorized tribal police officer outside of Indian country, unless the officer:

38 “(a) Is investigating an offense alleged to have been committed within Indian country;

39 “(b) Leaves Indian country in fresh pursuit as defined in ORS 133.420;

40 “(c) Is acting in response to an offense committed in the officer’s presence; or

41 “(d) Has received the express approval of a law enforcement agency having jurisdiction
42 over the geographic area in which the tribal police officer is acting.

43 “(3) When an authorized tribal police officer issues a citation for the commission of an
44 offense for which the State of Oregon has jurisdiction and the tribal government employing
45 the officer does not have jurisdiction, the citation must:

1 “(a) Summon the person cited to appear in the circuit court of the county in which the
2 offense was committed; and

3 “(b) Be submitted to the district attorney of the county in which the offense was com-
4 mitted.

5 “(4) For purposes of ORS 30.260 to 30.300, an authorized tribal police officer is not an
6 officer, employee or agent of the State of Oregon or of any other public body as defined in
7 ORS 174.109. A public body or an officer, employee or agent of a public body is not liable for
8 certifying a tribal police officer under ORS 181.610 to 181.712, for accepting for filing the re-
9 solution and documents described in section 4 of this 2011 Act or for the acts or omissions
10 of an authorized tribal police officer.

11 “(5) Nothing in sections 1 to 4 of this 2011 Act:

12 “(a) Affects the authority of a county sheriff to appoint duly commissioned police officers
13 as deputy sheriffs authorized to enforce the criminal and traffic laws of the State of Oregon;

14 “(b) Affects the existing status and sovereignty of tribal governments whose traditional
15 lands and territories lie within the borders of the State of Oregon as established under the
16 laws of the United States; or

17 “(c) Authorizes a tribal government to receive funds from, or in lieu of, the State of
18 Oregon or a political subdivision of the State of Oregon.

19 “(6) A tribal government or tribal police department is not a seizing agency for purposes
20 of ORS 131.550 to 131.600 or ORS chapter 131A.

21 “(7) The department may adopt rules to carry out the provisions of sections 1 to 4 of this
22 2011 Act. The rules must require tribal governments that employ authorized tribal police
23 officers to reimburse the department for any costs incurred in carrying out the provisions
24 of sections 1 to 4 of this 2011 Act.

25 “SECTION 4. (1) A tribal government that employs tribal police officers may submit to
26 the Department of Public Safety Standards and Training a resolution declaring that the
27 tribal government is self-insured or has purchased and maintains in force:

28 “(a) Public liability and property damage insurance for vehicles operated by authorized
29 tribal police officers; and

30 “(b) Police professional liability insurance from a company licensed to sell insurance in
31 this state.

32 “(2) The tribal government shall attach the following documents to the resolution sub-
33 mitted to the department:

34 “(a) A declaration that the tribal government has complied with the requirements of
35 sections 1 to 4 of this 2011 Act; and

36 “(b)(A) A full copy of the public liability and property damage insurance policy for vehi-
37 cles operated by the tribal government’s authorized tribal police officers and a full copy of
38 the police professional liability insurance policy from a company licensed to sell insurance
39 in this state; or

40 “(B) A description of the tribal government’s self-insurance program.

41 “(3) A self-insurance program or insurance policy described in this section must provide:

42 “(a) That the self-insurance program or insurance policy is available to satisfy settle-
43 ments and judgments arising from the tortious conduct of authorized tribal police officers
44 in an amount equal to or greater than the amounts described in ORS 30.260 to 30.300 that
45 are applicable to a local public body; and

1 “(E) Has adopted or is exempt from adopting, in accordance with this subparagraph, a written
2 pretrial discovery policy that describes how a tribal government and its authorized tribal police of-
3 ficers will assist the district attorney, in criminal prosecutions conducted in state court in which
4 an authorized tribal police officer arrested or cited the defendant, in meeting the pretrial discovery
5 obligations imposed on the state by ORS 135.805 to 135.873. The process for adopting, and deter-
6 mining whether a tribal government is exempt from adopting, a written pretrial discovery policy is
7 as follows:

8 “(i) A tribal government may request in writing that the sheriff of a county with land that is
9 contiguous to the land of the tribal government provide the tribal government with a copy of any
10 written pretrial discovery policy adopted by the sheriff that describes how the sheriff’s office assists
11 the district attorney in meeting the pretrial discovery obligations imposed by ORS 135.805 to
12 135.873. Not later than 30 days after receiving the request, the sheriff shall provide the tribal gov-
13 ernment with a copy of the policy or notify the tribal government that the sheriff has not adopted
14 the policy.

15 “(ii) If a tribal government fails to submit a written request to each sheriff of a county that is
16 contiguous to the land of the tribal government or if each sheriff has adopted a written pretrial
17 discovery policy described in sub-subparagraph (i) of this subparagraph, the tribal government shall,
18 not later than 90 days after the effective date of this 2011 Act, adopt a written pretrial discovery
19 policy.

20 “(iii) A tribal government may create and adopt a written pretrial discovery policy or may adopt
21 the written pretrial discovery policy adopted by the sheriff of a county with land that is contiguous
22 to the land of the tribal government.

23 “(iv) If the sheriff of any county with land that is contiguous to the land of the tribal govern-
24 ment has not, on the date the sheriff receives a request described in sub-subparagraph (i) of this
25 subparagraph, adopted a written pretrial discovery policy, the tribal government is exempt from
26 adopting a written pretrial discovery policy.

27 “[2] *Notwithstanding subsection (1) of this section, a tribal police officer may not act as an au-*
28 *thorized tribal police officer outside of Indian country, unless the officer:]*

29 “[*(a) Is investigating an offense alleged to have been committed within Indian country;*]

30 “[*(b) Leaves Indian country in fresh pursuit as defined in ORS 133.420;*]

31 “[*(c) Is acting in response to an offense committed in the officer’s presence; or]*

32 “[*(d) Has received the express approval of a law enforcement agency having jurisdiction over the*
33 *geographic area in which the tribal police officer is acting.]*

34 “[3] **(2)** When an authorized tribal police officer issues a citation for the commission of an of-
35 fense for which the State of Oregon has jurisdiction and the tribal government employing the officer
36 does not have jurisdiction, the citation must:

37 “(a) Summon the person cited to appear in the circuit court of the county in which the offense
38 was committed; and

39 “(b) Be submitted to the district attorney of the county in which the offense was committed.

40 “[4] **(3)** For purposes of ORS 30.260 to 30.300, an authorized tribal police officer is not an of-
41 ficer, employee or agent of the State of Oregon or of any other public body as defined in ORS
42 174.109. A public body or an officer, employee or agent of a public body is not liable for certifying
43 a tribal police officer under ORS 181.610 to 181.712, for accepting for filing the resolution and doc-
44 uments described in section 4 of this 2011 Act or for the acts or omissions of an authorized tribal
45 police officer.

1 “[5] (4) Nothing in sections 1 to 4 of this 2011 Act:

2 “(a) Affects the authority of a county sheriff to appoint duly commissioned police officers as
3 deputy sheriffs authorized to enforce the criminal and traffic laws of the State of Oregon;

4 “(b) Affects the existing status and sovereignty of tribal governments whose traditional lands
5 and territories lie within the borders of the State of Oregon as established under the laws of the
6 United States; or

7 “(c) Authorizes a tribal government to receive funds from, or in lieu of, the State of Oregon or
8 a political subdivision of the State of Oregon.

9 “[6] (5) A tribal government or tribal police department is not a seizing agency for purposes
10 of ORS 131.550 to 131.600 or ORS chapter 131A.

11 “[7] (6) The department may adopt rules to carry out the provisions of sections 1 to 4 of this
12 2011 Act. The rules must require tribal governments that employ authorized tribal police officers to
13 reimburse the department for any costs incurred in carrying out the provisions of sections 1 to 4
14 of this 2011 Act.

15 “**SECTION 7.** Section 1 of this 2011 Act is amended to read:

16 “**Sec. 1.** As used in sections 1 to 4 of this 2011 Act:

17 “(1) ‘Authorized tribal police officer’ means a tribal police officer who is acting:

18 “(a) In accordance with sections 1 to 4 of this 2011 Act; and

19 “(b) While employed by a tribal government that is in compliance with sections 1 to 4 of this
20 2011 Act.

21 “[2] ‘Indian country’ has the meaning given that term in 18 U.S.C. 1151.]

22 “[3] (2) ‘Tribal government’ means a federally recognized sovereign tribal government whose
23 borders lie within this state or an intertribal organization formed by two or more of those govern-
24 ments.

25 “[4] (3) ‘Tribal police officer’ means an employee of a tribal government whose duties include
26 the enforcement of criminal law.

27 “**SECTION 8.** Section 2 of this 2011 Act is amended to read:

28 “**Sec. 2.** The Legislative Assembly finds and declares that the purpose of sections 1 to 4 of this
29 2011 Act is to provide authorized tribal police officers with [a limited] **the** ability to exercise the
30 powers of, and to receive the same authority and protections provided to, law enforcement officers
31 under the laws of this state, without incurring any additional costs or loss of revenue to the State
32 of Oregon or a political subdivision of the State of Oregon.

33 “**SECTION 9.** The amendments to sections 1, 2 and 3 of this 2011 Act by sections 6, 7 and
34 **8 of this 2011 Act become operative on July 1, 2013.**

35
36 **“PROVISIONS APPLICABLE FROM**
37 **EFFECTIVE DATE TO JUNE 30, 2019**
38

39 “**SECTION 10.** ORS 40.275 is amended to read:

40 “40.275. (1) As used in this section, ‘unit of government’ means:

41 “(a) The federal government or any state or political subdivision thereof; **or**

42 “(b) **A tribal government as defined in section 1 of this 2011 Act, if the information re-**
43 **lates to or assists in an investigation conducted by an authorized tribal police officer as de-**
44 **defined in section 1 of this 2011 Act.**

45 “(2) A unit of government has a privilege to refuse to disclose the identity of a person who has

1 furnished information relating to or assisting in an investigation of a possible violation of law to a
2 law enforcement officer or member of a legislative committee or its staff conducting an investi-
3 gation.

4 “(3) The privilege created by this section may be claimed by an appropriate representative of
5 the unit of government if the information was furnished to an officer thereof.

6 “(4) No privilege exists under this section:

7 “(a) If the identity of the informer or the informer’s interest in the subject matter of the com-
8 munication has been disclosed to those who would have cause to resent the communication by a
9 holder of the privilege or by the informer’s own action, or if the informer appears as a witness for
10 the unit of government.

11 “(b) If it appears from the evidence in the case or from other showing by a party that an in-
12 former may be able to give testimony necessary to a fair determination of the issue of guilt or in-
13 nocence in a criminal case or of a material issue on the merits in a civil case to which the unit of
14 government is a party, and the unit of government invokes the privilege, and the judge gives the
15 unit of government an opportunity to show in camera facts relevant to determining whether the in-
16 former can, in fact, supply that testimony. The showing will ordinarily be in the form of affidavits,
17 but the judge may direct that testimony be taken if the judge finds that the matter cannot be re-
18 solved satisfactorily upon affidavit. If the judge finds that there is a reasonable probability that the
19 informer can give the testimony, and the unit of government elects not to disclose identity of the
20 informer, the judge on motion of the defendant in a criminal case shall dismiss the charges to which
21 the testimony would relate, and the judge may do so on the judge’s own motion. In civil cases, the
22 judge may make any order that justice requires. Evidence submitted to the judge shall be sealed and
23 preserved to be made available to the appellate court in the event of an appeal, and the contents
24 shall not otherwise be revealed without consent of the unit of government. All counsel and parties
25 shall be permitted to be present at every stage of proceedings under this paragraph except a show-
26 ing in camera, at which no counsel or party shall be permitted to be present.

27 “(c) If information from an informer is relied upon to establish the legality of the means by
28 which evidence was obtained and the judge is not satisfied that the information was received from
29 an informer reasonably believed to be reliable or credible. The judge may require the identity of
30 the informer to be disclosed. The judge shall, on request of the unit of government, direct that the
31 disclosure be made in camera. All counsel and parties concerned with the issue of legality shall be
32 permitted to be present at every stage of proceedings under this paragraph except a disclosure in
33 camera, at which no counsel or party shall be permitted to be present. If disclosure of the identity
34 of the informer is made in camera, the record thereof shall be sealed and preserved to be made
35 available to the appellate court in the event of an appeal, and the contents shall not otherwise be
36 revealed without consent of the unit of government.

37 “**SECTION 11.** ORS 90.440 is amended to read:

38 “90.440. (1) As used in this section:

39 “(a) ‘Group recovery home’ means a place that provides occupants with shared living facilities
40 and that meets the description of a group home under 42 U.S.C. 300x-25.

41 “(b) ‘Illegal drugs’ includes controlled substances or prescription drugs:

42 “(A) For which the tenant does not have a valid prescription; or

43 “(B) That are used by the tenant in a manner contrary to the prescribed regimen.

44 “(c) ‘Peace officer’ means a sheriff, constable, marshal or deputy, [or] a member of a state or
45 city police force **or an authorized tribal police officer as defined in section 1 of this 2011 Act.**

1 “(2) Notwithstanding ORS 90.375 and 90.435, a group recovery home may terminate a tenancy
2 and peaceably remove a tenant without complying with ORS 105.105 to 105.168 if the tenant has
3 used or possessed alcohol or illegal drugs within the preceding seven days. For purposes of this
4 subsection, the following are sufficient proof that a tenant has used or possessed alcohol or illegal
5 drugs:

6 “(a) The tenant fails a test for alcohol or illegal drug use;

7 “(b) The tenant refuses a request made in good faith by the group recovery home that the tenant
8 take a test for alcohol or illegal drug use; or

9 “(c) Any person has personally observed the tenant using or possessing alcohol or illegal drugs.

10 “(3) A group recovery home that undertakes the removal of a tenant under this section shall
11 personally deliver to the tenant a written notice that:

12 “(a) Describes why the tenant is being removed;

13 “(b) Describes the proof that the tenant has used or possessed alcohol or illegal drugs within
14 the seven days preceding delivery of the notice;

15 “(c) Specifies the date and time by which the tenant must move out of the group recovery home;

16 “(d) Explains that if the removal was wrongful or in bad faith the tenant may seek injunctive
17 relief to recover possession under ORS 105.121 and may bring an action to recover monetary dam-
18 ages; and

19 “(e) Gives contact information for the local legal services office and for the Oregon State Bar’s
20 Lawyer Referral Service, identifying those services as possible sources for free or reduced-cost legal
21 services.

22 “(4) A written notice in substantially the following form meets the requirements of subsection
23 (3) of this section:

24 “ _____
25

26 This notice is to inform you that you must move out of _____ (insert address of group
27 recovery home) by _____ (insert date and time that is not less than 24 hours after delivery
28 of notice).

29 The reason for this notice is _____ (specify use or possession of alcohol or illegal drugs,
30 as applicable, and dates of occurrence).

31 The proof of your use or possession is _____ (specify facts).

32 If you did not use or possess alcohol or illegal drugs within the seven days before delivery of
33 this notice, if this notice was given in bad faith or if your group recovery home has not substantially
34 complied with ORS 90.440, you may be able to get a court to order the group recovery home to let
35 you move back in. You may also be able to recover monetary damages.

36 You may be eligible for free legal services at your local legal services office _____ (in-
37 sert telephone number) or reduced fee legal services through the Oregon State Bar at 1-800-452-7636.

38 “ _____
39

40 “(5) Within the notice period, a group recovery home shall allow a tenant removed under this
41 section to follow any emergency departure plan that was prepared by the tenant and approved by
42 the group recovery home at the time the tenancy began. If the removed tenant does not have an
43 emergency departure plan, a representative of the group recovery home shall offer to take the re-
44 moved tenant to a public shelter, detoxification center or similar location if existing in the commu-
45 nity.

1 “(6) The date and time for moving out specified in a notice under subsection (3) of this section
2 must be at least 24 hours after the date and time the notice is delivered to the tenant. If the tenant
3 remains on the group recovery home premises after the date and time for moving out specified in
4 the notice, the tenant is a person remaining unlawfully in a dwelling as described in ORS 164.255
5 and not a person described in ORS 105.115. Only a peace officer may forcibly remove a tenant who
6 remains on the group recovery home premises after the date and time specified for moving out.

7 “(7) A group recovery home that removes a tenant under this section shall send a copy of the
8 notice described in subsection (3) of this section to the Oregon Health Authority no later than 72
9 hours after delivering the notice to the tenant.

10 “(8) A tenant who is removed under subsection (2) of this section may obtain injunctive relief
11 to recover possession and may recover an amount equal to the greater of actual damages or three
12 times the tenant’s monthly rent if:

13 “(a) The group recovery home removed the tenant in bad faith or without substantially com-
14 plying with this section; or

15 “(b) If removal is under subsection (2)(c) of this section, the removal was wrongful because the
16 tenant did not use or possess alcohol or illegal drugs.

17 “(9) Notwithstanding ORS 12.125, a tenant who seeks to obtain injunctive relief to recover pos-
18 session under ORS 105.121 must commence the action to seek relief not more than 90 days after the
19 date specified in the notice for the tenant to move out.

20 “(10) In any court action regarding the removal of a tenant under this section, a group recovery
21 home may present evidence that the tenant used or possessed alcohol or illegal drugs within seven
22 days preceding the removal, whether or not the evidence was described in the notice required by
23 subsection (3) of this section.

24 “(11) This section does not prevent a group recovery home from terminating a tenancy as pro-
25 vided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to
26 105.168.

27 “**SECTION 12.** ORS 131.605 is amended to read:

28 “131.605. As used in ORS 131.605 to 131.625, unless the context requires otherwise:

29 “(1) ‘Crime’ has the meaning provided for that term in ORS 161.515.

30 “(2) ‘Dangerous weapon,’ ‘deadly weapon’ and ‘person’ have the *[meaning provided for]* **meanings**
31 **given** those terms in ORS 161.015.

32 “(3) ‘Frisk’ is an external patting of a person’s outer clothing.

33 “(4) ‘Is about to commit’ means unusual conduct that leads a peace officer reasonably to con-
34 clude in light of the officer’s training and experience that criminal activity may be afoot.

35 “(5) **‘Peace officer’ has the meaning given that term in ORS 133.005.**

36 “[5] (6) ‘Reasonably suspects’ means that a peace officer holds a belief that is reasonable under
37 the totality of the circumstances existing at the time and place the peace officer acts as authorized
38 in ORS 131.605 to 131.625.

39 “[6] (7) A ‘stop’ is a temporary restraint of a person’s liberty by a peace officer lawfully pres-
40 ent in any place.

41 “**SECTION 13.** ORS 133.005 is amended to read:

42 “133.005. As used in ORS 133.005 to 133.381 and 133.410 to 133.450, unless the context requires
43 otherwise:

44 “(1) ‘Arrest’ means to place a person under actual or constructive restraint or to take a person
45 into custody for the purpose of charging that person with an offense. A ‘stop’ as authorized under

1 ORS 131.605 to 131.625 is not an arrest.

2 “(2) ‘Federal officer’ means a special agent or law enforcement officer employed by a federal
3 agency who is empowered to effect an arrest with or without a warrant for violations of the United
4 States Code and who is authorized to carry firearms in the performance of duty.

5 “(3) ‘Peace officer’ means:

6 “(a) A member of the Oregon State Police; *or*

7 “(b) A sheriff, constable, marshal[,] **or** municipal police officer[.];

8 “(c) **An** investigator of a district attorney’s office if the investigator is or has been certified as
9 a peace officer in this or any other state[, *or*];

10 “(d) An investigator of the Criminal Justice Division of the Department of Justice of the State
11 of Oregon; **or**

12 “(e) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**

13 “**SECTION 14.** ORS 133.033 is amended to read:

14 “133.033. (1) Except as otherwise expressly prohibited by law, any peace officer of this state[,
15 *as defined in ORS 133.005,*] is authorized to perform community caretaking functions.

16 “(2) As used in this section, ‘community caretaking functions’ means any lawful acts that are
17 inherent in the duty of the peace officer to serve and protect the public. ‘Community caretaking
18 functions’ includes, but is not limited to:

19 “(a) The right to enter or remain upon the premises of another if it reasonably appears to be
20 necessary to:

21 “(A) Prevent serious harm to any person or property;

22 “(B) Render aid to injured or ill persons; *or*

23 “(C) Locate missing persons.

24 “(b) The right to stop or redirect traffic or aid motorists or other persons when such action
25 reasonably appears to be necessary to:

26 “(A) Prevent serious harm to any person or property;

27 “(B) Render aid to injured or ill persons; *or*

28 “(C) Locate missing persons.

29 “(3) Nothing contained in this section shall be construed to limit the authority of a peace officer
30 that is inherent in the office or that is granted by any other provision of law.

31 “**SECTION 15.** ORS 133.318 is amended to read:

32 “133.318. (1) Any person who provides to a peace officer a copy of a writing purporting to be
33 a foreign restraining order as defined by ORS 24.190 knowing that no valid foreign restraining order
34 is in effect shall be guilty of a Class A misdemeanor.

35 “(2) Any person who represents to a [*police*] **peace** officer that a foreign restraining order is the
36 most recent order in effect between the parties or that the person restrained by the order has been
37 personally served with a copy of the order or has actual notice of the order knowing that the rep-
38 resentation is false commits a Class A misdemeanor.

39 “**SECTION 16.** ORS 133.525 is amended to read:

40 “133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

41 “(1) ‘Judge’ means any judge of the circuit court, the Court of Appeals, the Supreme Court, any
42 justice of the peace or municipal judge authorized to exercise the powers and perform the duties
43 of a justice of the peace.

44 “(2) ‘Police officer’ means:

45 “(a) **A member of the Oregon State Police;**

1 “(b) A sheriff[,], or municipal police officer[, *member of the Oregon State Police,*] or an author-
2 ized tribal police officer as defined in section 1 of this 2011 Act;

3 “(c) An investigator of a district attorney’s office if the investigator is or has been certified as
4 a peace officer in this or any other state[,]; or

5 “(d) An investigator of the Criminal Justice Division of the Department of Justice.

6 “**SECTION 17.** ORS 133.721 is amended to read:

7 “133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

8 “(1) ‘Aggrieved person’ means a person who was a party to any wire, electronic or oral com-
9 munication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was
10 directed and who alleges that the interception was unlawful.

11 “(2) ‘Contents,’ when used with respect to any wire, electronic or oral communication, includes
12 any information concerning the identity of the parties to such communication or the existence,
13 substance, purport or meaning of that communication.

14 “(3) ‘Electronic communication’ means any transfer of signs, signals, writing, images, sounds,
15 data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic,
16 photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:

17 “(a) Any oral communication or any communication that is completely by wire; or

18 “(b) Any communication made through a tone-only paging device.

19 “(4) ‘Electronic, mechanical or other device’ means any device or apparatus that can be used
20 to intercept a wire, electronic or oral communication other than:

21 “(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that
22 is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its
23 business and that is being used by the subscriber or user in the ordinary course of its business or
24 being used by a telecommunications carrier in the ordinary course of its business, or by an investi-
25 gative or law enforcement officer in the ordinary course of official duties; or

26 “(b) A hearing aid or similar device being used to correct subnormal hearing to not better than
27 normal.

28 “(5) ‘Intercept’ means the acquisition, by listening or recording, of the contents of any wire,
29 electronic or oral communication through the use of any electronic, mechanical or other device.

30 “[(6) ‘Investigative or law enforcement officer’ means an officer or other person employed by a
31 county sheriff or municipal police department, the Oregon State Police, Attorney General, a district
32 attorney or the Department of Corrections, and officers or other persons employed by law enforcement
33 agencies of other states or the federal government, to investigate or enforce the law.]

34 “(6) ‘Investigative or law enforcement officer’ means:

35 “(a) An officer or other person employed to investigate or enforce criminal laws by:

36 “(A) A county sheriff or municipal police department;

37 “(B) The Oregon State Police, the Department of Corrections, the Attorney General or
38 a district attorney; or

39 “(C) Law enforcement agencies of other states or the federal government; or

40 “(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.

41 “(7) ‘Oral communication’ means:

42 “(a) Any oral communication, other than a wire or electronic communication, uttered by a per-
43 son exhibiting an expectation that such communication is not subject to interception under circum-
44 stances justifying such expectation; or

45 “(b) An utterance by a person who is participating in a wire or electronic communication, if the

1 utterance is audible to another person who, at the time the wire or electronic communication oc-
2 curs, is in the immediate presence of the person participating in the communication.

3 “(8) ‘Telecommunications carrier’ means:

4 “(a) A telecommunications utility as defined in ORS 759.005; or

5 “(b) A cooperative corporation organized under ORS chapter 62 that provides telecommuni-
6 cations services.

7 “(9) ‘Telecommunications service’ has the meaning given that term in ORS 759.005.

8 “(10) ‘Wire communication’ means any communication made in whole or in part through the use
9 of facilities for the transmission of communications by the aid of wire, cable or other like connection
10 between the point of origin and the point of reception, whether furnished or operated by a public
11 utility or privately owned or leased.

12 “**SECTION 18.** ORS 133.726 is amended to read:

13 “133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a
14 law enforcement officer is authorized to intercept an oral communication to which the officer or a
15 person under the direct supervision of the officer is a party, without obtaining an order for the in-
16 terception of a wire, electronic or oral communication under ORS 133.724.

17 “(2) For purposes of this section and ORS 133.736, a person is a party to an oral communication
18 if the oral communication is made in the person’s immediate presence and is audible to the person
19 regardless of whether the communication is specifically directed to the person.

20 “(3) An ex parte order for intercepting an oral communication in any county of this state under
21 this section may be issued by any judge as defined in ORS 133.525 upon written application made
22 upon oath or affirmation of the district attorney or a deputy district attorney authorized by the
23 district attorney for the county in which the order is sought or upon the oath or affirmation of any
24 peace officer as defined in ORS 133.005. The application shall include:

25 “(a) The name of the applicant and the applicant’s authority to make the application;

26 “(b) A statement demonstrating that:

27 “(A) There is probable cause to believe that a person whose oral communication is to be inter-
28 cepted is engaged in committing, has committed or is about to commit a particular felony, or a
29 misdemeanor under ORS 167.007, and that intercepting the oral communication will yield evidence
30 thereof; or

31 “(B)(i) There is reasonable suspicion to believe that a person whose oral communication is to
32 be intercepted is engaged in committing, has committed or is about to commit a crime;

33 “(ii) There is reasonable suspicion to believe that the circumstances in which the oral commu-
34 nication is to be intercepted present a substantial risk of death, serious physical injury or sexual
35 assault to a law enforcement officer or a person under the direct supervision of the officer;

36 “(iii) Interception of the oral communication is necessary to protect the safety of the person
37 who may be endangered; and

38 “(iv) Other investigative procedures have been tried and have failed or reasonably appear to be
39 unlikely to succeed if tried or are likely to be too dangerous; and

40 “(c) The identity of the person, if known, suspected of committing the crime and whose oral
41 communication is to be intercepted.

42 “(4) The judge may require the applicant to furnish further testimony or documentary evidence
43 in support of the application.

44 “(5) Upon examination of the application and evidence, the judge may enter an ex parte order,
45 as requested or as modified, authorizing or approving the interception of an oral communication

1 within the state if the judge determines on the basis of the facts submitted by the applicant that:

2 “(a)(A) There is probable cause to believe that a person is engaged in committing, has committed
3 or is about to commit a particular felony, or a misdemeanor under ORS 167.007; and

4 “(B) There is probable cause to believe that the oral communication to be obtained will contain
5 evidence concerning that crime; or

6 “(b)(A) There is reasonable suspicion to believe that a person whose oral communication is to
7 be intercepted is engaged in committing, has committed or is about to commit a crime;

8 “(B) There is reasonable suspicion to believe that the circumstances in which the oral commu-
9 nication is to be intercepted present a substantial risk of death, serious physical injury or sexual
10 assault to a law enforcement officer or a person under the direct supervision of the officer;

11 “(C) Interception of the oral communication is necessary to protect the safety of the person who
12 may be endangered; and

13 “(D) Other investigative procedures have been tried and have failed or reasonably appear to be
14 unlikely to succeed if tried or are likely to be too dangerous.

15 “(6) An order authorizing or approving the interception of an oral communication under this
16 section must specify:

17 “(a) The identity of the person, if known, whose oral communication is to be intercepted;

18 “(b) A statement identifying the particular crime to which the oral communication is expected
19 to relate;

20 “(c) The agency authorized under the order to intercept the oral communication;

21 “(d) The name and office of the applicant and the signature and title of the issuing judge;

22 “(e) A period of time after which the order shall expire; and

23 “(f) A statement that the order authorizes only the interception of an oral communication to
24 which a law enforcement officer or a person under the direct supervision of a law enforcement of-
25 ficer is a party.

26 “(7) An order under ORS 133.724 or this section is not required when a law enforcement officer
27 intercepts an oral communication to which the officer or a person under the direct supervision of
28 the officer is a party if the oral communication is made by a person whom the officer has probable
29 cause to believe has committed, is engaged in committing or is about to commit:

30 “(a) A crime punishable as a felony under ORS 475.840, 475.846 to 475.894 or 475.904 to 475.910
31 or as a misdemeanor under ORS 167.007; or

32 “(b) Any other crime punishable as a felony if the circumstances at the time the oral communi-
33 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order
34 under ORS 133.724 or this section.

35 “(8) A law enforcement officer who intercepts an oral communication pursuant to this section
36 may not intentionally fail to record and preserve the oral communication in its entirety. A law
37 enforcement officer, or a person under the direct supervision of the officer, who is authorized under
38 this section to intercept an oral communication is not required to exclude from the interception an
39 oral communication made by a person for whom probable cause does not exist if the officer or the
40 person under the officer’s direct supervision is a party to the oral communication.

41 “(9) A law enforcement officer may not divulge the contents of an oral communication inter-
42 cepted under this section before a preliminary hearing or trial in which an oral communication is
43 going to be introduced as evidence against a person except:

44 “(a) To a superior officer or other official with whom the law enforcement officer is cooperating
45 in the enforcement of the criminal laws of this state or the United States;

1 “(b) To a magistrate;

2 “(c) In a presentation to a federal or state grand jury; or

3 “(d) In compliance with a court order.

4 “(10) A law enforcement officer may intercept an oral communication under this section only
5 when acting within the scope of the officer’s employment and as a part of assigned duties.

6 “[(11) As used in this section, ‘law enforcement officer’ means an officer employed by the United
7 States, this state or a municipal government within this state, or a political subdivision, agency, de-
8 partment or bureau of those governments, to enforce criminal laws.]

9 “**(11) As used in this section, ‘law enforcement officer’ means:**

10 “**(a) An officer employed to enforce criminal laws by:**

11 “**(A) The United States, this state or a municipal government within this state; or**

12 “**(B) A political subdivision, agency, department or bureau of the governments described**
13 **in subparagraph (A) of this paragraph; or**

14 “**(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

15 “(12) Violation of subsection (9) of this section is a Class A misdemeanor.

16 “**SECTION 19.** ORS 133.726, as amended by section 3, chapter 442, Oregon Laws 2007, is
17 amended to read:

18 “133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a
19 law enforcement officer is authorized to intercept an oral communication to which the officer or a
20 person under the direct supervision of the officer is a party, without obtaining an order for the in-
21 terception of a wire, electronic or oral communication under ORS 133.724.

22 “(2) For purposes of this section and ORS 133.736, a person is a party to an oral communication
23 if the oral communication is made in the person’s immediate presence and is audible to the person
24 regardless of whether the communication is specifically directed to the person.

25 “(3) An ex parte order for intercepting an oral communication in any county of this state under
26 this section may be issued by any judge as defined in ORS 133.525 upon written application made
27 upon oath or affirmation of the district attorney or a deputy district attorney authorized by the
28 district attorney for the county in which the order is sought or upon the oath or affirmation of any
29 peace officer as defined in ORS 133.005. The application shall include:

30 “(a) The name of the applicant and the applicant’s authority to make the application;

31 “(b) A statement demonstrating that there is probable cause to believe that a person whose oral
32 communication is to be intercepted is engaged in committing, has committed or is about to commit
33 a particular felony, or a misdemeanor under ORS 167.007, and that intercepting the oral communi-
34 cation will yield evidence thereof; and

35 “(c) The identity of the person, if known, suspected of committing the crime and whose oral
36 communication is to be intercepted.

37 “(4) The judge may require the applicant to furnish further testimony or documentary evidence
38 in support of the application.

39 “(5) Upon examination of the application and evidence, the judge may enter an ex parte order,
40 as requested or as modified, authorizing or approving the interception of an oral communication
41 within the state if the judge determines on the basis of the facts submitted by the applicant that:

42 “(a) There is probable cause to believe that a person is engaged in committing, has committed
43 or is about to commit a particular felony, or a misdemeanor under ORS 167.007; and

44 “(b) There is probable cause to believe that the oral communication to be obtained will contain
45 evidence concerning that crime.

1 “(6) An order authorizing or approving the interception of an oral communication under this
2 section must specify:

3 “(a) The identity of the person, if known, whose oral communication is to be intercepted;

4 “(b) A statement identifying the particular crime to which the oral communication is expected
5 to relate;

6 “(c) The agency authorized under the order to intercept the oral communication;

7 “(d) The name and office of the applicant and the signature and title of the issuing judge;

8 “(e) A period of time after which the order shall expire; and

9 “(f) A statement that the order authorizes only the interception of an oral communication to
10 which a law enforcement officer or a person under the direct supervision of a law enforcement of-
11 ficer is a party.

12 “(7) An order under ORS 133.724 or this section is not required when a law enforcement officer
13 intercepts an oral communication to which the officer or a person under the direct supervision of
14 the officer is a party if the oral communication is made by a person whom the officer has probable
15 cause to believe has committed, is engaged in committing or is about to commit:

16 “(a) A crime punishable as a felony under ORS 475.840, 475.846 to 475.894 or 475.906 or as a
17 misdemeanor under ORS 167.007; or

18 “(b) Any other crime punishable as a felony if the circumstances at the time the oral communi-
19 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order
20 under ORS 133.724 or this section.

21 “(8) A law enforcement officer who intercepts an oral communication pursuant to this section
22 may not intentionally fail to record and preserve the oral communication in its entirety. A law
23 enforcement officer, or a person under the direct supervision of the officer, who is authorized under
24 this section to intercept an oral communication is not required to exclude from the interception an
25 oral communication made by a person for whom probable cause does not exist if the officer or the
26 person under the officer’s direct supervision is a party to the oral communication.

27 “(9) A law enforcement officer may not divulge the contents of an oral communication inter-
28 cepted under this section before a preliminary hearing or trial in which an oral communication is
29 going to be introduced as evidence against a person except:

30 “(a) To a superior officer or other official with whom the law enforcement officer is cooperating
31 in the enforcement of the criminal laws of this state or the United States;

32 “(b) To a magistrate;

33 “(c) In a presentation to a federal or state grand jury; or

34 “(d) In compliance with a court order.

35 “(10) A law enforcement officer may intercept an oral communication under this section only
36 when acting within the scope of the officer’s employment and as a part of assigned duties.

37 “[*(11) As used in this section, ‘law enforcement officer’ means an officer employed by the United*
38 *States, this state or a municipal government within this state, or a political subdivision, agency, de-*
39 *partment or bureau of those governments, to enforce criminal laws.]*

40 “**(11) As used in this section, ‘law enforcement officer’ means:**

41 “**(a) An officer employed to enforce criminal laws by:**

42 “**(A) The United States, this state or a municipal government within this state; or**

43 “**(B) A political subdivision, agency, department or bureau of the governments described**
44 **in subparagraph (A) of this paragraph; or**

45 “**(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

1 “(12) Violation of subsection (9) of this section is a Class A misdemeanor.

2 “**SECTION 20.** ORS 136.595 is amended to read:

3 “136.595. (1) Except as provided in ORS 136.447 and 136.583 and subsection (2) of this section,
4 a subpoena is served by delivering a copy to the witness personally. If the witness is under 14 years
5 of age, the subpoena may be served by delivering a copy to the witness or to the witness’s parent,
6 guardian or guardian ad litem. Proof of the service is made in the same manner as in the service
7 of a summons.

8 “(2)(a) Every law enforcement agency shall designate an individual or individuals upon whom
9 service of subpoena may be made. At least one of the designated individuals shall be available dur-
10 ing normal business hours. In the absence of the designated individuals, service of subpoena pursu-
11 ant to paragraph (b) of this subsection may be made upon the officer in charge of the law
12 enforcement agency.

13 “(b) If a peace officer’s attendance at trial is required as a result of employment as a peace of-
14 ficer, a subpoena may be served on such officer by delivering a copy personally to the officer or to
15 one of the individuals designated by the agency that employs the officer. A subpoena may be served
16 by delivery to one of the individuals designated by the agency that employs the officer only if the
17 subpoena is delivered at least 10 days before the date the officer’s attendance is required, the officer
18 is currently employed as a peace officer by the agency, and the officer is present within the state
19 at the time of service.

20 “(c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law
21 enforcement agency shall make a good faith effort to actually notify the officer whose attendance
22 is sought of the date, time and location of the court appearance. If the officer cannot be notified,
23 the law enforcement agency shall contact the court and a continuance may be granted to allow the
24 officer to be personally served.

25 “(d) As used in this subsection, ‘law enforcement agency’ means the Oregon State Police, a
26 county sheriff’s department, [*or*] a municipal police department **or, if the witness whose attend-
27 ance at trial is required is an authorized tribal police officer as defined in section 1 of this
28 2011 Act, a tribal government as defined in section 1 of this 2011 Act.**

29 “(3) When a subpoena has been served as provided in ORS 136.583 or subsection (1) or (2) of this
30 section and, subsequent to service, the date on, or the time at, which the person subpoenaed is to
31 appear has changed, a new subpoena is not required to be served if:

32 “(a) The subpoena is continued orally in open court in the presence of the person subpoenaed;
33 or

34 “(b) The party who issued the original subpoena notifies the person subpoenaed of the change
35 by first class mail and by:

36 “(A) Certified or registered mail, return receipt requested; or

37 “(B) Express mail.

38 “**SECTION 21.** ORS 147.425 is amended to read:

39 “147.425. (1) As used in this section:

40 “(a) ‘Health care provider’ has the meaning given that term in ORS 192.519.

41 “(b) ‘Law enforcement agency’ means:

42 “(A) A city or municipal police department.

43 “(B) A county sheriff’s office.

44 “(C) The Oregon State Police.

45 “(D) A district attorney.

1 “(E) A special campus security officer commissioned under ORS 352.385 or 353.050.

2 “(F) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**

3 “(c) ‘Person crime’ means a person felony or person Class A misdemeanor, as those terms are
4 defined in the rules of the Oregon Criminal Justice Commission.

5 “(d) ‘Personal representative’ means a person selected under subsection (2) of this section to
6 accompany the victim of a crime to certain phases of an investigation and prosecution.

7 “(e) ‘Protective service worker’ means an employee or contractor of a local or state agency
8 whose role it is to protect children or vulnerable adults from abuse or neglect.

9 “(2) A victim of a person crime, who is at least 15 years of age at the time the crime is com-
10 mitted, may select a person who is at least 18 years of age as the victim’s personal representative
11 for purposes of this section. The victim may not select a person who is a suspect in, or a party or
12 witness to, the crime as a personal representative.

13 “(3) Except for grand jury proceedings and child abuse assessments occurring at a child advo-
14 cacy center recognized by the Department of Justice, a personal representative may accompany the
15 victim to those phases of the investigation, including medical examinations, and prosecution of the
16 crime at which the victim is entitled or required to be present.

17 “(4) A health care provider, law enforcement agency, protective service worker or court may
18 not prohibit a personal representative from accompanying a victim as authorized by subsection (3)
19 of this section unless the health care provider, law enforcement agency, protective service worker
20 or court believes that the personal representative would compromise the process.

21 “(5) A health care provider, law enforcement agency, protective service worker or court is im-
22 mune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect
23 to a decision under subsection (4) of this section to prohibit a personal representative from accom-
24 panying a victim.

25 “(6) The fact that a personal representative was allowed or was not allowed to accompany a
26 victim may not be used as a basis for excluding otherwise admissible evidence.

27 “(7) The fact that a victim has or has not selected a personal representative under this section
28 may not be used as evidence in the criminal case.

29 “**SECTION 22.** ORS 153.005 is amended to read:

30 “153.005. As used in this chapter:

31 “(1) ‘Enforcement officer’ means:

32 “(a) A member of the Oregon State Police.

33 “(b) A sheriff or deputy sheriff.

34 “(c) A city marshal or a member of the police of a city, municipal or quasi-municipal corpo-
35 ration.

36 “(d) An investigator of a district attorney’s office if the investigator is or has been certified as
37 a peace officer in this or any other state.

38 “(e) An investigator of the Criminal Justice Division of the Department of Justice of the State
39 of Oregon.

40 “(f) A Port of Portland peace officer.

41 “(g) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**

42 “[g] (h) Any other person specifically authorized by law to issue citations for the commission
43 of violations.

44 “(2) ‘Traffic offense’ has the meaning given that term in ORS 801.555.

45 “(3) ‘Violation’ means an offense described in ORS 153.008.

1 “(4) ‘Violation proceeding’ means a judicial proceeding initiated by issuance of a citation that
2 charges a person with commission of a violation.

3 “**SECTION 23.** ORS 161.015 is amended to read:

4 “161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context re-
5 quires otherwise:

6 “(1) ‘Dangerous weapon’ means any weapon, device, instrument, material or substance which
7 under the circumstances in which it is used, attempted to be used or threatened to be used, is
8 readily capable of causing death or serious physical injury.

9 “(2) ‘Deadly weapon’ means any instrument, article or substance specifically designed for and
10 presently capable of causing death or serious physical injury.

11 “(3) ‘Deadly physical force’ means physical force that under the circumstances in which it is
12 used is readily capable of causing death or serious physical injury.

13 “(4) ‘Peace officer’ means:

14 “(a) **A member of the Oregon State Police;**

15 “(b) A sheriff, constable, marshal[,] or municipal police officer[, *member of the Oregon State*
16 *Police*,];

17 “(c) **An** investigator of the Criminal Justice Division of the Department of Justice or investi-
18 gator of a district attorney’s office;

19 “(d) **An authorized tribal police officer as defined in section 1 of this 2011 Act;** and

20 “(e) [*such other persons as may be*] **Any other person** designated by law **as a peace officer.**

21 “(5) ‘Person’ means a human being and, where appropriate, a public or private corporation, an
22 unincorporated association, a partnership, a government or a governmental instrumentality.

23 “(6) ‘Physical force’ includes, but is not limited to, the use of an electrical stun gun, tear gas
24 or mace.

25 “(7) ‘Physical injury’ means impairment of physical condition or substantial pain.

26 “(8) ‘Serious physical injury’ means physical injury which creates a substantial risk of death or
27 which causes serious and protracted disfigurement, protracted impairment of health or protracted
28 loss or impairment of the function of any bodily organ.

29 “(9) ‘Possess’ means to have physical possession or otherwise to exercise dominion or control
30 over property.

31 “(10) ‘Public place’ means a place to which the general public has access and includes, but is
32 not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting
33 rooms or apartments designed for actual residence, and highways, streets, schools, places of
34 amusement, parks, playgrounds and premises used in connection with public passenger transporta-
35 tion.

36 “**SECTION 24.** ORS 163.730 is amended to read:

37 “163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

38 “(1) ‘Alarm’ means to cause apprehension or fear resulting from the perception of danger.

39 “(2) ‘Coerce’ means to restrain, compel or dominate by force or threat.

40 “(3) ‘Contact’ includes but is not limited to:

41 “(a) Coming into the visual or physical presence of the other person;

42 “(b) Following the other person;

43 “(c) Waiting outside the home, property, place of work or school of the other person or of a
44 member of that person’s family or household;

45 “(d) Sending or making written or electronic communications in any form to the other person;

1 “(e) Speaking with the other person by any means;
2 “(f) Communicating with the other person through a third person;
3 “(g) Committing a crime against the other person;
4 “(h) Communicating with a third person who has some relationship to the other person with the
5 intent of affecting the third person’s relationship with the other person;
6 “(i) Communicating with business entities with the intent of affecting some right or interest of
7 the other person;
8 “(j) Damaging the other person’s home, property, place of work or school;
9 “(k) Delivering directly or through a third person any object to the home, property, place of
10 work or school of the other person; or
11 “(L) Service of process or other legal documents unless the other person is served as provided
12 in ORCP 7 or 9.
13 “(4) ‘Household member’ means any person residing in the same residence as the victim.
14 “(5) ‘Immediate family’ means father, mother, child, sibling, spouse, grandparent, stepparent and
15 stepchild.
16 “[6] ‘Law enforcement officer’ means any person employed in this state as a police officer by a
17 county sheriff, constable, marshal or municipal or state police agency.]
18 “(6) **‘Law enforcement officer’ means:**
19 “(a) **A person employed in this state as a police officer by a county sheriff, constable or**
20 **marshal or a municipal or state police agency; or**
21 “(b) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**
22 “(7) ‘Repeated’ means two or more times.
23 “(8) ‘School’ means a public or private institution of learning or a child care facility.
24 “**SECTION 25.** ORS 165.535 is amended to read:
25 “165.535. As used in ORS 41.910, 133.723, 133.724, 165.540 and 165.545:
26 “(1) ‘Conversation’ means the transmission between two or more persons of an oral communi-
27 cation which is not a telecommunication or a radio communication.
28 “[2] ‘Person’ means any person as defined in ORS 174.100 and includes public officials and law
29 enforcement officers of the state, county, municipal corporation or any other political subdivision of the
30 state.]
31 “(2) **‘Person’ has the meaning given that term in ORS 174.100 and includes:**
32 “(a) **Public officials and law enforcement officers of the state and of a county, municipal**
33 **corporation or any other political subdivision of the state; and**
34 “(b) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**
35 “(3) ‘Radio communication’ means the transmission by radio or other wireless methods of writ-
36 ing, signs, signals, pictures and sounds of all kinds, including all instrumentalities, facilities, equip-
37 ment and services (including, among other things, the receipt, forwarding and delivering of
38 communications) incidental to such transmission.
39 “(4) ‘Telecommunication’ means the transmission of writing, signs, signals, pictures and sounds
40 of all kinds by aid of wire, cable or other similar connection between the points of origin and re-
41 ception of such transmission, including all instrumentalities, facilities, equipment and services (in-
42 cluding, among other things, the receipt, forwarding and delivering of communications) incidental
43 to such transmission.
44 “**SECTION 26.** ORS 181.010 is amended to read:
45 “181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires

1 otherwise:

2 “(1) ‘Bureau’ means the Department of State Police bureau of criminal identification.

3 “(2) ‘Criminal justice agency’ means:

4 “(a) The Governor;

5 “(b) Courts of criminal jurisdiction;

6 “(c) The Attorney General;

7 “(d) District attorneys, city attorneys with criminal prosecutive functions, attorney employees
8 of the office of public defense services and nonprofit public defender organizations established under
9 contract with the Public Defense Services Commission;

10 “(e) Law enforcement agencies;

11 “(f) The Department of Corrections;

12 “(g) The State Board of Parole and Post-Prison Supervision;

13 “(h) The Department of Public Safety Standards and Training; and

14 “(i) Any other state or local agency with law enforcement authority designated by order of the
15 Governor.

16 “(3) ‘Criminal offender information’ includes records and related data as to physical description
17 and vital statistics, fingerprints received and compiled by the bureau for purposes of identifying
18 criminal offenders and alleged offenders, records of arrests and the nature and disposition of crimi-
19 nal charges, including sentencing, confinement, parole and release.

20 “(4) ‘Department’ means the Department of State Police established under ORS 181.020.

21 “(5) ‘Deputy superintendent’ means the Deputy Superintendent of State Police.

22 “(6) ‘Designated agency’ means any state, county or municipal government agency where Oregon
23 criminal offender information is required to implement a federal or state statute, executive order
24 or administrative rule that expressly refers to criminal conduct and contains requirements or ex-
25 clusions expressly based on such conduct or for agency employment purposes, licensing purposes or
26 other demonstrated and legitimate needs when designated by order of the Governor.

27 “(7) ‘Disposition report’ means a form or process prescribed or furnished by the bureau, con-
28 taining a description of the ultimate action taken subsequent to an arrest.

29 “(8) ‘Law enforcement agency’ means:

30 “(a) County sheriffs, municipal police departments[,] and State Police[.];

31 “(b) Other police officers of this state and other states;

32 “(c) **A tribal government as defined in section 1 of this 2011 Act that employs authorized**
33 **tribal police officers as defined in section 1 of this 2011 Act;** and

34 “(d) Law enforcement agencies of the federal government.

35 “(9) ‘State Police’ means the members of the state police force appointed under ORS 181.250.

36 “(10) ‘Superintendent’ means the Superintendent of State Police.

37 “**SECTION 27.** ORS 181.610 is amended to read:

38 “181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

39 “(1) ‘Abuse’ has the meaning given the term in ORS 107.705.

40 “(2) ‘Board’ means the Board on Public Safety Standards and Training appointed pursuant to
41 ORS 181.620.

42 “(3) ‘Certified reserve officer’ means a reserve officer who has been designated by a local law
43 enforcement unit, has received training necessary for certification and has met the minimum stan-
44 dards and training requirements established under ORS 181.640.

45 “(4) ‘Commissioned’ means an authorization granting the power to perform various acts or duties

1 of a police officer or certified reserve officer and acting under the supervision and responsibility of
2 a county sheriff or as otherwise provided by law.

3 “(5) ‘Corrections officer’ means an officer or member of a law enforcement unit who is employed
4 full-time thereby and is charged with and primarily performs the duty of custody, control or super-
5 vision of individuals convicted of or arrested for a criminal offense and confined in a place of
6 incarceration or detention other than a place used exclusively for incarceration or detention of ju-
7 veniles.

8 “(6) ‘Department’ means the Department of Public Safety Standards and Training.

9 “(7) ‘Director’ means the Director of the Department of Public Safety Standards and Training.

10 “(8) ‘Domestic violence’ means abuse between family or household members.

11 “(9) ‘Emergency medical dispatcher’ means a person who has responsibility to process requests
12 for medical assistance from the public or to dispatch medical care providers.

13 “(10) ‘Family or household members’ has the meaning given that term in ORS 107.705.

14 “(11) ‘Fire service professional’ means a paid or volunteer firefighter, an officer or a member
15 of a public or private fire protection agency that is engaged primarily in fire investigation, fire
16 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light
17 and heavy rescue services, search and rescue services or hazardous materials incident response.
18 ‘Fire service professional’ does not include forest fire protection agency personnel.

19 “(12)(a) ‘Law enforcement unit’ means a police force or organization of the state, a city, port,
20 school district, mass transit district, county, county service district authorized to provide law
21 enforcement services under ORS 451.010, [*Indian reservation,*] **tribal government as defined in**
22 **section 1 of this 2011 Act that employs authorized tribal police officers as defined in section**
23 **1 of this 2011 Act, the** Criminal Justice Division of the Department of Justice, the Department of
24 Corrections, the Oregon State Lottery Commission or common carrier railroad whose primary duty,
25 as prescribed by law, ordinance or directive, is any one or more of the following:

26 “(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating
27 to airport security;

28 “(B) The custody, control or supervision of individuals convicted of or arrested for a criminal
29 offense and confined to a place of incarceration or detention other than a place used exclusively for
30 incarceration or detention of juveniles; or

31 “(C) The control, supervision and reformation of adult offenders placed on parole or sentenced
32 to probation and investigation of adult offenders on parole or probation or being considered for
33 parole or probation.

34 “(b) ‘Law enforcement unit’ also means:

35 “(A) A police force or organization of a private entity with a population of more than 1,000
36 residents in an unincorporated area whose employees are commissioned by a county sheriff;

37 “(B) A district attorney’s office; and

38 “(C) A private, nonprofit animal care agency that has maintained an animal welfare investi-
39 gation department for at least five years and has had officers commissioned as special agents by the
40 Governor.

41 “(13) ‘Parole and probation officer’ means:

42 “(a) Any officer who is employed full-time by the Department of Corrections, a county or a court
43 and who is charged with and performs the duty of:

44 “(A) Community protection by controlling, investigating, supervising and providing or making
45 referrals to reformative services for adult parolees or probationers or offenders on post-prison

1 supervision; or

2 “(B) Investigating adult offenders on parole or probation or being considered for parole or pro-
3 bation; or

4 “(b) Any officer who:

5 “(A) Is certified and has been employed as a full-time parole and probation officer for more than
6 one year;

7 “(B) Is employed part-time by the Department of Corrections, a county or a court; and

8 “(C) Is charged with and performs the duty of:

9 “(i) Community protection by controlling, investigating, supervising and providing or making
10 referrals to reformatory services for adult parolees or probationers or offenders on post-prison
11 supervision; or

12 “(ii) Investigating adult offenders on parole or probation or being considered for parole or pro-
13 bation.

14 “(14) ‘Police officer’ means an officer, member or employee of a law enforcement unit who is
15 employed full-time as a peace officer commissioned by a city, port, school district, mass transit dis-
16 trict, county, county service district authorized to provide law enforcement services under ORS
17 451.010, [*Indian reservation*,] **tribal government as defined in section 1 of this 2011 Act**, the
18 Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the
19 Governor or who is a member of the Department of State Police and who is responsible for enforcing
20 the criminal laws of this state or laws or ordinances relating to airport security or is an investigator
21 of a district attorney’s office if the investigator is or has been certified as a peace officer in this
22 or any other state **or is an authorized tribal police officer as defined in section 1 of this 2011**
23 **Act**.

24 “(15) ‘Public or private safety agency’ means any unit of state or local government, a special
25 purpose district or a private firm which provides, or has authority to provide, fire fighting, police,
26 ambulance or emergency medical services.

27 “(16) ‘Public safety personnel’ and ‘public safety officer’ include corrections officers, youth cor-
28 rection officers, emergency medical dispatchers, parole and probation officers, police officers, certi-
29 fied reserve officers, telecommunicators and fire service professionals.

30 “(17) ‘Reserve officer’ means an officer or member of a law enforcement unit:

31 “(a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned
32 by a city, port, school district, mass transit district, county, county service district authorized to
33 provide law enforcement services under ORS 451.010, [*Indian reservation*,] **tribal government as**
34 **defined in section 1 of this 2011 Act**, the Criminal Justice Division of the Department of Justice,
35 the Oregon State Lottery Commission or the Governor or who is a member of the Department of
36 State Police;

37 “(b) Who is armed with a firearm; and

38 “(c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or
39 ordinances relating to airport security.

40 “(18) ‘Telecommunicator’ means any person employed as an emergency telephone worker as de-
41 fined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing
42 and transmitting public safety information received through a 9-1-1 emergency reporting system as
43 defined in ORS 403.105.

44 “(19) ‘Youth correction officer’ means an employee of the Oregon Youth Authority who is
45 charged with and primarily performs the duty of custody, control or supervision of youth offenders

1 confined in a youth correction facility.

2 **“SECTION 28.** ORS 348.270 is amended to read:

3 “348.270. (1) In addition to any other scholarships provided by law, the Oregon Student Assist-
4 ance Commission shall award scholarships in any state institution under the State Board of Higher
5 Education, in the Oregon Health and Science University, in any community college operated under
6 ORS chapter 341, or in any Oregon-based regionally accredited independent institution, to any stu-
7 dent applying for enrollment or who is enrolled therein, who is:

8 “(a) The natural child, adopted child or stepchild of any public safety officer who, in the line
9 of duty, was killed or so disabled, as determined by the Oregon Student Assistance Commission, that
10 the income of the public safety officer is less than that earned by public safety officers performing
11 duties comparable to those performed at the highest rank or grade attained by the public safety of-
12 ficer; or

13 “(b) A former foster child who enrolls in an institution of higher education as an undergraduate
14 student not later than three years from the date the student was removed from the care of the De-
15 partment of Human Services, the date the student graduated from high school or the date the stu-
16 dent received the equivalent of a high school diploma, whichever date is earliest.

17 “(2) Scholarships awarded under this section to students who are dependents of public safety
18 officers or who are former foster children shall equal the amount of tuition and all fees levied by
19 the institution against the recipient of the scholarship. However, scholarships awarded to students
20 who attend independent institutions shall not exceed the amount of tuition and all fees levied by the
21 University of Oregon.

22 “(3) If the student who is the dependent of a deceased public safety officer continues to remain
23 enrolled in a state institution of higher education or a community college or an independent insti-
24 tution within the State of Oregon, the student shall be entitled to renewal of the scholarship until
25 the student has received the equivalent of four years of undergraduate education and four years of
26 post-graduate education.

27 “(4) If the student who is a former foster child or who is the dependent of a public safety officer
28 with a disability continues to remain enrolled in a state institution of higher education or a com-
29 munity college or an independent institution within the State of Oregon, the student shall be entitled
30 to renewal of the scholarship until the student has received the equivalent of four years of under-
31 graduate education.

32 “(5) The Oregon Student Assistance Commission may require proof of the student’s relationship
33 to a public safety officer described in subsection (1) of this section or proof that the student is a
34 former foster child.

35 “(6) As used in this section:

36 “(a) ‘Former foster child’ means an individual who, for a total of 12 or more months while be-
37 tween the ages of 16 and 21, was a ward of the court pursuant to ORS 419B.100 (1)(b) to (e) and in
38 the legal custody of the Department of Human Services for out-of-home placement.

39 “(b) ‘Public safety officer’ means:

40 “(A) A firefighter or police officer as those terms are defined in ORS 237.610.

41 “(B) A member of the Oregon State Police.

42 **“(C) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

43 **“SECTION 29.** ORS 414.805 is amended to read:

44 “414.805. (1) An individual who receives medical services while in the custody of a law
45 enforcement officer is liable:

1 “(a) To the provider of the medical services for the charges and expenses therefor; and
2 “(b) To the Oregon Health Authority for any charges or expenses paid by the authority out of
3 the Law Enforcement Medical Liability Account for the medical services.
4 “(2) A person providing medical services to an individual described in subsection (1)(a) of this
5 section shall first make reasonable efforts to collect the charges and expenses thereof from the in-
6 dividual before seeking to collect them from the authority out of the Law Enforcement Medical Li-
7 ability Account.
8 “(3)(a) If the provider has not been paid within 45 days of the date of the billing, the provider
9 may bill the authority who shall pay the account out of the Law Enforcement Medical Liability
10 Account.
11 “(b) A bill submitted to the authority under this subsection must be accompanied by evidence
12 documenting that:
13 “(A) The provider has billed the individual or the individual’s insurer or health care service
14 contractor for the charges or expenses owed to the provider; and
15 “(B) The provider has made a reasonable effort to collect from the individual or the individual’s
16 insurer or health care service contractor the charges and expenses owed to the provider.
17 “(c) If the provider receives payment from the individual or the insurer or health care service
18 contractor after receiving payment from the authority, the provider shall repay the authority the
19 amount received from the public agency less any difference between payment received from the in-
20 dividual, insurer or contractor and the amount of the billing.
21 “(4) As used in this section:
22 “(a) ‘Law enforcement officer’ means:
23 “(A) An officer who is commissioned and employed by a public agency as a peace officer to
24 enforce the criminal laws of this state or laws or ordinances of a public agency; **or**
25 “(B) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**
26 “(b) ‘Public agency’ means the state, a city, port, school district, mass transit district or county.
27 “**SECTION 30.** ORS 419B.902 is amended to read:
28 “419B.902. (1) A subpoena may be served by the party or any other person 18 years of age or
29 older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by
30 delivering a copy to the witness personally. The service must be made so as to allow the witness a
31 reasonable time for preparation and travel to the place of attendance. If the subpoena is not ac-
32 companied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the
33 subpoena is served personally or by mail, copies of a subpoena commanding production and in-
34 spection of books, papers, documents or other tangible things before trial must be served on each
35 party at least seven days before the subpoena is served on the person required to produce and per-
36 mit inspection, unless the court orders a shorter period.
37 “(2)(a) A law enforcement agency shall designate an individual upon whom service of a subpoena
38 may be made. A designated individual must be available during normal business hours. In the ab-
39 sence of a designated individual, service of a subpoena under paragraph (b) of this subsection may
40 be made upon the officer in charge of the law enforcement agency.
41 “(b) If a peace officer’s attendance at trial is required as a result of employment as a peace of-
42 ficer, a subpoena may be served on the officer by delivering a copy personally to the officer or to
43 an individual designated by the agency that employs the officer no later than 10 days prior to the
44 date attendance is sought. A subpoena may be served in this manner only if the officer is currently
45 employed as a peace officer and is present within the state at the time of service.

1 “(c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law
2 enforcement agency shall make a good faith effort to give actual notice to the officer whose at-
3 tendance is sought of the date, time and location of the court appearance. If the officer cannot be
4 notified, the law enforcement agency shall promptly notify the court and a postponement or contin-
5 uance may be granted to allow the officer to be personally served.

6 “(d) As used in this subsection, ‘law enforcement agency’ means the Oregon State Police, a
7 county sheriff’s department [or], a municipal police department **or, if the witness whose attend-
8 ance at trial is required is an authorized tribal police officer as defined in section 1 of this
9 2011 Act, a tribal government as defined in section 1 of this 2011 Act.**

10 “(3) Under the following circumstances, service of a subpoena to a witness by mail has the same
11 legal force and effect as personal service:

12 “(a) The attorney mailing the subpoena certifies in connection with or upon the return of service
13 that the attorney, or the attorney’s agent, has had personal or telephone contact with the witness
14 and the witness indicated a willingness to appear at trial if subpoenaed; or

15 “(b) The subpoena was mailed to the witness more than five days before trial by certified mail
16 or some other designation of mail that provides a receipt for the mail signed by the recipient and
17 the attorney received a return receipt signed by the witness prior to trial.

18 “(4) Service of subpoena by mail may be used for a subpoena commanding production of books,
19 papers, documents or other tangible things that is not accompanied by a command to appear at trial
20 or hearing or at a deposition under ORS 419B.884.

21 “(5) Proof of service of a subpoena is made in the same manner as proof of service of a summons
22 except that the server is not required to certify that the server is not a party in the action or an
23 attorney for a party in the action.

24 “**SECTION 31.** ORS 420.905 is amended to read:

25 “420.905. As used in ORS 420.905 to 420.915, ‘peace officer’ means:

26 “(1) A [any] sheriff, constable[,] **or** marshal, or the deputy of any such officer[.];

27 “(2) A [any] member of the state police [or];

28 “(3) A [any] member of the police force of any city; **or**

29 “(4) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**

30 “**SECTION 32.** ORS 801.395 is amended to read:

31 “801.395. ‘Police officer’ includes a member of the Oregon State Police, a sheriff, a deputy
32 sheriff, a city police officer, **an authorized tribal police officer as defined in section 1 of this
33 2011 Act**, a Port of Portland peace officer or a law enforcement officer employed by a service dis-
34 trict established under ORS 451.410 to 451.610 for the purpose of law enforcement services.

35 “**SECTION 33.** ORS 810.410 is amended to read:

36 “810.410. (1) A police officer may arrest or issue a citation to a person for a traffic crime at any
37 place within or outside the jurisdictional authority of the governmental unit by which the police
38 officer is authorized to act as provided by ORS 133.235 and 133.310.

39 “(2) A police officer may issue a citation to a person for a traffic violation at any place within
40 or outside the jurisdictional authority of the governmental unit by which the police officer is au-
41 thorized to act:

42 “(a) When the traffic violation is committed in the police officer’s presence; or

43 “(b) When the police officer has probable cause to believe an offense has occurred based on a
44 description of the vehicle or other information received from a police officer who observed the
45 traffic violation.

1 “(3) A police officer:
2 “(a) Shall not arrest a person for a traffic violation.
3 “(b) May stop and detain a person for a traffic violation for the purposes of investigation rea-
4 sonably related to the traffic violation, identification and issuance of citation.
5 “(c) May make an inquiry into circumstances arising during the course of a detention and in-
6 vestigation under paragraph (b) of this subsection that give rise to a reasonable suspicion of crimi-
7 nal activity.
8 “(d) May make an inquiry to ensure the safety of the officer, the person stopped or other persons
9 present, including an inquiry regarding the presence of weapons.
10 “(e) May request consent to search in relation to the circumstances referred to in paragraph (c)
11 of this subsection or to search for items of evidence otherwise subject to search or seizure under
12 ORS 133.535.
13 “(f) May use the degree of force reasonably necessary to make the stop and ensure the safety
14 of the [peace] **police** officer, the person stopped or other persons present.
15 “(g) May make an arrest of a person as authorized by ORS 133.310 (2) if the person is stopped
16 and detained pursuant to the authority of this section.
17 “(4) When a police officer at the scene of a traffic accident has reasonable grounds, based upon
18 the police officer’s personal investigation, to believe that a person involved in the accident has
19 committed a traffic offense in connection with the accident, the police officer may issue to the per-
20 son a citation for that offense. The authority under this subsection is in addition to any other au-
21 thority to issue a citation for a traffic offense.
22 “**SECTION 34.** ORS 811.720 is amended to read:
23 “811.720. (1) Except as provided in subsection (4) of this section, any accident occurring on a
24 highway or upon premises open to the public resulting in injury or death to any person is subject
25 to the reporting requirements under the following sections:
26 “(a) The reporting requirements for drivers under ORS 811.725.
27 “(b) The reporting requirements for occupants of vehicles in accidents under ORS 811.735.
28 “(c) The reporting requirements for owners of vehicles under ORS 811.730.
29 “(2) Except as provided in subsection (4) of this section, an accident occurring on a highway or
30 upon premises open to the public resulting in damage to the property of any person in excess of
31 \$1,500 is subject to the following reporting requirements:
32 “(a) The driver of a vehicle that has more than \$1,500 damage must report the accident in the
33 manner specified under ORS 811.725.
34 “(b) The owner of a vehicle that has more than \$1,500 damage must report the accident in the
35 manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.
36 “(c) If the property damage is to property other than a vehicle involved in the accident, each
37 driver involved in the accident must report the accident in the manner specified under ORS 811.725
38 and each owner of a vehicle involved in the accident must report the accident in the manner spec-
39 ified in ORS 811.730 and under the circumstances specified in ORS 811.730.
40 “(d) If a vehicle involved in the accident is damaged to the extent that the vehicle must be
41 towed from the scene of the accident, each driver involved in the accident must report the accident
42 in the manner specified under ORS 811.725 and each owner of a vehicle involved in the accident
43 must report the accident in the manner specified in ORS 811.730 and under the circumstances
44 specified in ORS 811.730.
45 “(3) The dollar amount specified in subsection (2) of this section may be increased every five

1 years by the Department of Transportation based upon any increase in the Portland-Salem Consumer
2 Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics
3 of the United States Department of Labor or its successor during the preceding 12-month period.
4 The amount determined under this subsection shall be rounded to the nearest \$100.

5 “(4) The following are exempt from the reporting requirements of this section:

6 “(a) Operators of snowmobiles, Class I all-terrain vehicles or Class III all-terrain vehicles.

7 “(b) A law enforcement official acting in the course of official duty if the accident involved a
8 law enforcement official performing a lawful intervention technique or a law enforcement official
9 and a person acting during the commission of a criminal offense. As used in this paragraph:

10 “(A) ‘Law enforcement official’ means a person who is responsible for enforcing the criminal
11 laws of this state or a political subdivision of this state and who is employed or volunteers:

12 “(i) As a peace officer commissioned by a city, port, school district, mass transit district, county
13 or county service district authorized to provide law enforcement services under ORS 451.010;

14 “(ii) With the Department of State Police or the Criminal Justice Division of the Department
15 of Justice; [or]

16 “(iii) As an investigator of a district attorney’s office, if the investigator is certified as a peace
17 officer in this state; **or**

18 **“(iv) As an authorized tribal police officer as defined in section 1 of this 2011 Act.**

19 “(B) ‘Lawful intervention technique’ means a method by which one motor vehicle causes, or at-
20 tempts to cause, another motor vehicle to stop.

21 **“SECTION 35.** ORS 830.005 is amended to read:

22 “830.005. As used in this chapter, unless the context requires otherwise:

23 “(1) ‘Board’ means the State Marine Board.

24 “(2) ‘Boat’ means every description of watercraft, including a seaplane on the water and not in
25 flight, used or capable of being used as a means of transportation on the water, but does not include
26 boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.

27 “(3) ‘Boating offense’ means violation of any provision of law that is made a crime or violation
28 under the provisions of this chapter.

29 “(4) ‘In flight’ means from the moment a seaplane starts its takeoff run until the end of a normal
30 power-off landing run.

31 “(5) ‘Length’ means the length of a boat measured from end to end over the deck excluding
32 sheer.

33 “(6) ‘Motorboat’ means any boat propelled in whole or in part by machinery, including boats
34 temporarily equipped with detachable motors.

35 “(7) ‘Navigable waters of the United States’ means those waters of the United States, including
36 the territorial seas adjacent thereto, the general character of which is navigable, and that, either
37 by themselves or by uniting with other waters, form a continuous waterway on which boats or ves-
38 sels may navigate or travel between two or more states, or to and from foreign nations.

39 “(8) ‘Operate’ means to navigate or otherwise use a boat.

40 “(9) ‘Operator of a boat livery’ means any person who is engaged wholly or in part in the busi-
41 ness of chartering or renting boats to other persons.

42 “(10) ‘Passenger’ means every person on board a boat who is not the master, operator, crew
43 member or other person engaged in any capacity in the business of the boat.

44 “(11) ‘Peace officer’ includes a member of the Oregon State Police, a sheriff or deputy sheriff
45 [and], a city police officer **and an authorized tribal police officer as defined in section 1 of this**

1 **2011 Act.**

2 “(12) ‘State waters’ means those waters entirely within the confines of this state that have not
3 been declared navigable waters of the United States.

4 “(13) ‘Waters of this state’ means all waters within the territorial limits of this state, the mar-
5 ginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to
6 or from the shore of this state.

7 **“SECTION 36. The amendments to ORS 40.275, 90.440, 131.605, 133.005, 133.033, 133.318,
8 133.525, 133.721, 133.726, 136.595, 147.425, 153.005, 161.015, 163.730, 165.535, 181.010, 181.610,
9 348.270, 414.805, 419B.902, 420.905, 801.395, 810.410, 811.720 and 830.005 by sections 10 to 35 of
10 this 2011 Act become operative on the effective date of this 2011 Act.**

11
12 **“PROVISIONS APPLICABLE**
13 **ON AND AFTER JULY 1, 2019**

14
15 **“SECTION 37.** ORS 40.275, as amended by section 10 of this 2011 Act, is amended to read:

16 **“40.275.** (1) As used in this section, ‘unit of government’ means[.]

17 **“[(a)]** the federal government or any state or political subdivision thereof.[: or]

18 **“[(b)]** *A tribal government as defined in section 1 of this 2011 Act, if the information relates to or*
19 *assists in an investigation conducted by an authorized tribal police officer as defined in section 1 of this*
20 *2011 Act.*]

21 **“(2)** A unit of government has a privilege to refuse to disclose the identity of a person who has
22 furnished information relating to or assisting in an investigation of a possible violation of law to a
23 law enforcement officer or member of a legislative committee or its staff conducting an investi-
24 gation.

25 **“(3)** The privilege created by this section may be claimed by an appropriate representative of
26 the unit of government if the information was furnished to an officer thereof.

27 **“(4)** No privilege exists under this section:

28 **“(a)** If the identity of the informer or the informer’s interest in the subject matter of the com-
29 munication has been disclosed to those who would have cause to resent the communication by a
30 holder of the privilege or by the informer’s own action, or if the informer appears as a witness for
31 the unit of government.

32 **“(b)** If it appears from the evidence in the case or from other showing by a party that an in-
33 former may be able to give testimony necessary to a fair determination of the issue of guilt or in-
34 nocence in a criminal case or of a material issue on the merits in a civil case to which the unit of
35 government is a party, and the unit of government invokes the privilege, and the judge gives the
36 unit of government an opportunity to show in camera facts relevant to determining whether the in-
37 former can, in fact, supply that testimony. The showing will ordinarily be in the form of affidavits,
38 but the judge may direct that testimony be taken if the judge finds that the matter cannot be re-
39 solved satisfactorily upon affidavit. If the judge finds that there is a reasonable probability that the
40 informer can give the testimony, and the unit of government elects not to disclose identity of the
41 informer, the judge on motion of the defendant in a criminal case shall dismiss the charges to which
42 the testimony would relate, and the judge may do so on the judge’s own motion. In civil cases, the
43 judge may make any order that justice requires. Evidence submitted to the judge shall be sealed and
44 preserved to be made available to the appellate court in the event of an appeal, and the contents
45 shall not otherwise be revealed without consent of the unit of government. All counsel and parties

1 shall be permitted to be present at every stage of proceedings under this paragraph except a show-
2 ing in camera, at which no counsel or party shall be permitted to be present.

3 “(c) If information from an informer is relied upon to establish the legality of the means by
4 which evidence was obtained and the judge is not satisfied that the information was received from
5 an informer reasonably believed to be reliable or credible. The judge may require the identity of
6 the informer to be disclosed. The judge shall, on request of the unit of government, direct that the
7 disclosure be made in camera. All counsel and parties concerned with the issue of legality shall be
8 permitted to be present at every stage of proceedings under this paragraph except a disclosure in
9 camera, at which no counsel or party shall be permitted to be present. If disclosure of the identity
10 of the informer is made in camera, the record thereof shall be sealed and preserved to be made
11 available to the appellate court in the event of an appeal, and the contents shall not otherwise be
12 revealed without consent of the unit of government.

13 “**SECTION 38.** ORS 90.440, as amended by section 11 of this 2011 Act, is amended to read:

14 “90.440. (1) As used in this section:

15 “(a) ‘Group recovery home’ means a place that provides occupants with shared living facilities
16 and that meets the description of a group home under 42 U.S.C. 300x-25.

17 “(b) ‘Illegal drugs’ includes controlled substances or prescription drugs:

18 “(A) For which the tenant does not have a valid prescription; or

19 “(B) That are used by the tenant in a manner contrary to the prescribed regimen.

20 “(c) ‘Peace officer’ means a sheriff, constable, marshal or deputy[,] **or** a member of a state or
21 city police force [*or an authorized tribal police officer as defined in section 1 of this 2011 Act*].

22 “(2) Notwithstanding ORS 90.375 and 90.435, a group recovery home may terminate a tenancy
23 and peaceably remove a tenant without complying with ORS 105.105 to 105.168 if the tenant has
24 used or possessed alcohol or illegal drugs within the preceding seven days. For purposes of this
25 subsection, the following are sufficient proof that a tenant has used or possessed alcohol or illegal
26 drugs:

27 “(a) The tenant fails a test for alcohol or illegal drug use;

28 “(b) The tenant refuses a request made in good faith by the group recovery home that the tenant
29 take a test for alcohol or illegal drug use; or

30 “(c) Any person has personally observed the tenant using or possessing alcohol or illegal drugs.

31 “(3) A group recovery home that undertakes the removal of a tenant under this section shall
32 personally deliver to the tenant a written notice that:

33 “(a) Describes why the tenant is being removed;

34 “(b) Describes the proof that the tenant has used or possessed alcohol or illegal drugs within
35 the seven days preceding delivery of the notice;

36 “(c) Specifies the date and time by which the tenant must move out of the group recovery home;

37 “(d) Explains that if the removal was wrongful or in bad faith the tenant may seek injunctive
38 relief to recover possession under ORS 105.121 and may bring an action to recover monetary dam-
39 ages; and

40 “(e) Gives contact information for the local legal services office and for the Oregon State Bar’s
41 Lawyer Referral Service, identifying those services as possible sources for free or reduced-cost legal
42 services.

43 “(4) A written notice in substantially the following form meets the requirements of subsection
44 (3) of this section:

45 “ _____

1
2 This notice is to inform you that you must move out of _____ (insert address of group
3 recovery home) by _____ (insert date and time that is not less than 24 hours after delivery
4 of notice).

5 The reason for this notice is _____ (specify use or possession of alcohol or illegal drugs,
6 as applicable, and dates of occurrence).

7 The proof of your use or possession is _____ (specify facts).

8 If you did not use or possess alcohol or illegal drugs within the seven days before delivery of
9 this notice, if this notice was given in bad faith or if your group recovery home has not substantially
10 complied with ORS 90.440, you may be able to get a court to order the group recovery home to let
11 you move back in. You may also be able to recover monetary damages.

12 You may be eligible for free legal services at your local legal services office _____ (in-
13 sert telephone number) or reduced fee legal services through the Oregon State Bar at 1-800-452-7636.

14 “ _____
15

16 “(5) Within the notice period, a group recovery home shall allow a tenant removed under this
17 section to follow any emergency departure plan that was prepared by the tenant and approved by
18 the group recovery home at the time the tenancy began. If the removed tenant does not have an
19 emergency departure plan, a representative of the group recovery home shall offer to take the re-
20 moved tenant to a public shelter, detoxification center or similar location if existing in the commu-
21 nity.

22 “(6) The date and time for moving out specified in a notice under subsection (3) of this section
23 must be at least 24 hours after the date and time the notice is delivered to the tenant. If the tenant
24 remains on the group recovery home premises after the date and time for moving out specified in
25 the notice, the tenant is a person remaining unlawfully in a dwelling as described in ORS 164.255
26 and not a person described in ORS 105.115. Only a peace officer may forcibly remove a tenant who
27 remains on the group recovery home premises after the date and time specified for moving out.

28 “(7) A group recovery home that removes a tenant under this section shall send a copy of the
29 notice described in subsection (3) of this section to the Oregon Health Authority no later than 72
30 hours after delivering the notice to the tenant.

31 “(8) A tenant who is removed under subsection (2) of this section may obtain injunctive relief
32 to recover possession and may recover an amount equal to the greater of actual damages or three
33 times the tenant’s monthly rent if:

34 “(a) The group recovery home removed the tenant in bad faith or without substantially com-
35 plying with this section; or

36 “(b) If removal is under subsection (2)(c) of this section, the removal was wrongful because the
37 tenant did not use or possess alcohol or illegal drugs.

38 “(9) Notwithstanding ORS 12.125, a tenant who seeks to obtain injunctive relief to recover pos-
39 session under ORS 105.121 must commence the action to seek relief not more than 90 days after the
40 date specified in the notice for the tenant to move out.

41 “(10) In any court action regarding the removal of a tenant under this section, a group recovery
42 home may present evidence that the tenant used or possessed alcohol or illegal drugs within seven
43 days preceding the removal, whether or not the evidence was described in the notice required by
44 subsection (3) of this section.

45 “(11) This section does not prevent a group recovery home from terminating a tenancy as pro-

1 vided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to
2 105.168.

3 **“SECTION 39.** ORS 133.005, as amended by section 13 of this 2011 Act, is amended to read:

4 “133.005. As used in ORS 133.005 to 133.381 and 133.410 to 133.450, unless the context requires
5 otherwise:

6 “(1) ‘Arrest’ means to place a person under actual or constructive restraint or to take a person
7 into custody for the purpose of charging that person with an offense. A ‘stop’ as authorized under
8 ORS 131.605 to 131.625 is not an arrest.

9 “(2) ‘Federal officer’ means a special agent or law enforcement officer employed by a federal
10 agency who is empowered to effect an arrest with or without a warrant for violations of the United
11 States Code and who is authorized to carry firearms in the performance of duty.

12 “(3) ‘Peace officer’ means:

13 “(a) A member of the Oregon State Police;

14 “(b) A sheriff, constable, marshal or municipal police officer;

15 “(c) An investigator of a district attorney’s office if the investigator is or has been certified as
16 a peace officer in this or any other state; **or**

17 “(d) An investigator of the Criminal Justice Division of the Department of Justice of the State
18 of Oregon.[: or]

19 “[*e*] An authorized tribal police officer as defined in section 1 of this 2011 Act.]

20 **“SECTION 40.** ORS 133.525, as amended by section 16 of this 2011 Act, is amended to read:

21 “133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

22 “(1) ‘Judge’ means any judge of the circuit court, the Court of Appeals, the Supreme Court, any
23 justice of the peace or municipal judge authorized to exercise the powers and perform the duties
24 of a justice of the peace.

25 “(2) ‘Police officer’ means:

26 “(a) A member of the Oregon State Police;

27 “(b) A sheriff or municipal police officer [*or an authorized tribal police officer as defined in sec-*
28 *tion 1 of this 2011 Act*];

29 “(c) An investigator of a district attorney’s office if the investigator is or has been certified as
30 a peace officer in this or any other state; **or**

31 “(d) An investigator of the Criminal Justice Division of the Department of Justice.

32 **“SECTION 41.** ORS 133.721, as amended by section 17 of this 2011 Act, is amended to read:

33 “133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

34 “(1) ‘Aggrieved person’ means a person who was a party to any wire, electronic or oral com-
35 munication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was
36 directed and who alleges that the interception was unlawful.

37 “(2) ‘Contents,’ when used with respect to any wire, electronic or oral communication, includes
38 any information concerning the identity of the parties to such communication or the existence,
39 substance, purport or meaning of that communication.

40 “(3) ‘Electronic communication’ means any transfer of signs, signals, writing, images, sounds,
41 data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic,
42 photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:

43 “(a) Any oral communication or any communication that is completely by wire; **or**

44 “(b) Any communication made through a tone-only paging device.

45 “(4) ‘Electronic, mechanical or other device’ means any device or apparatus that can be used

1 to intercept a wire, electronic or oral communication other than:

2 “(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that
3 is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its
4 business and that is being used by the subscriber or user in the ordinary course of its business or
5 being used by a telecommunications carrier in the ordinary course of its business, or by an investi-
6 gative or law enforcement officer in the ordinary course of official duties; or

7 “(b) A hearing aid or similar device being used to correct subnormal hearing to not better than
8 normal.

9 “(5) ‘Intercept’ means the acquisition, by listening or recording, of the contents of any wire,
10 electronic or oral communication through the use of any electronic, mechanical or other device.

11 “(6) ‘Investigative or law enforcement officer’ means[:]

12 “[*(a)*] an officer or other person employed to investigate or enforce criminal laws by:

13 “[*(A)*] (a) A county sheriff or municipal police department;

14 “[*(B)*] (b) The Oregon State Police, the Department of Corrections, the Attorney General or a
15 district attorney; or

16 “[*(C)*] (c) Law enforcement agencies of other states or the federal government.[: or]

17 “[*(b)*] *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

18 “(7) ‘Oral communication’ means:

19 “(a) Any oral communication, other than a wire or electronic communication, uttered by a per-
20 son exhibiting an expectation that such communication is not subject to interception under circum-
21 stances justifying such expectation; or

22 “(b) An utterance by a person who is participating in a wire or electronic communication, if the
23 utterance is audible to another person who, at the time the wire or electronic communication oc-
24 curs, is in the immediate presence of the person participating in the communication.

25 “(8) ‘Telecommunications carrier’ means:

26 “(a) A telecommunications utility as defined in ORS 759.005; or

27 “(b) A cooperative corporation organized under ORS chapter 62 that provides telecommuni-
28 cations services.

29 “(9) ‘Telecommunications service’ has the meaning given that term in ORS 759.005.

30 “(10) ‘Wire communication’ means any communication made in whole or in part through the use
31 of facilities for the transmission of communications by the aid of wire, cable or other like connection
32 between the point of origin and the point of reception, whether furnished or operated by a public
33 utility or privately owned or leased.

34 “**SECTION 42.** ORS 133.726, as amended by section 3, chapter 442, Oregon Laws 2007, and
35 section 19 of this 2011 Act, is amended to read:

36 “133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a
37 law enforcement officer is authorized to intercept an oral communication to which the officer or a
38 person under the direct supervision of the officer is a party, without obtaining an order for the in-
39 terception of a wire, electronic or oral communication under ORS 133.724.

40 “(2) For purposes of this section and ORS 133.736, a person is a party to an oral communication
41 if the oral communication is made in the person’s immediate presence and is audible to the person
42 regardless of whether the communication is specifically directed to the person.

43 “(3) An ex parte order for intercepting an oral communication in any county of this state under
44 this section may be issued by any judge as defined in ORS 133.525 upon written application made
45 upon oath or affirmation of the district attorney or a deputy district attorney authorized by the

1 district attorney for the county in which the order is sought or upon the oath or affirmation of any
2 peace officer as defined in ORS 133.005. The application shall include:

3 “(a) The name of the applicant and the applicant’s authority to make the application;

4 “(b) A statement demonstrating that there is probable cause to believe that a person whose oral
5 communication is to be intercepted is engaged in committing, has committed or is about to commit
6 a particular felony, or a misdemeanor under ORS 167.007, and that intercepting the oral communi-
7 cation will yield evidence thereof; and

8 “(c) The identity of the person, if known, suspected of committing the crime and whose oral
9 communication is to be intercepted.

10 “(4) The judge may require the applicant to furnish further testimony or documentary evidence
11 in support of the application.

12 “(5) Upon examination of the application and evidence, the judge may enter an ex parte order,
13 as requested or as modified, authorizing or approving the interception of an oral communication
14 within the state if the judge determines on the basis of the facts submitted by the applicant that:

15 “(a) There is probable cause to believe that a person is engaged in committing, has committed
16 or is about to commit a particular felony, or a misdemeanor under ORS 167.007; and

17 “(b) There is probable cause to believe that the oral communication to be obtained will contain
18 evidence concerning that crime.

19 “(6) An order authorizing or approving the interception of an oral communication under this
20 section must specify:

21 “(a) The identity of the person, if known, whose oral communication is to be intercepted;

22 “(b) A statement identifying the particular crime to which the oral communication is expected
23 to relate;

24 “(c) The agency authorized under the order to intercept the oral communication;

25 “(d) The name and office of the applicant and the signature and title of the issuing judge;

26 “(e) A period of time after which the order shall expire; and

27 “(f) A statement that the order authorizes only the interception of an oral communication to
28 which a law enforcement officer or a person under the direct supervision of a law enforcement of-
29 ficer is a party.

30 “(7) An order under ORS 133.724 or this section is not required when a law enforcement officer
31 intercepts an oral communication to which the officer or a person under the direct supervision of
32 the officer is a party if the oral communication is made by a person whom the officer has probable
33 cause to believe has committed, is engaged in committing or is about to commit:

34 “(a) A crime punishable as a felony under ORS 475.840, 475.846 to 475.894 or 475.906 or as a
35 misdemeanor under ORS 167.007; or

36 “(b) Any other crime punishable as a felony if the circumstances at the time the oral communi-
37 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order
38 under ORS 133.724 or this section.

39 “(8) A law enforcement officer who intercepts an oral communication pursuant to this section
40 may not intentionally fail to record and preserve the oral communication in its entirety. A law
41 enforcement officer, or a person under the direct supervision of the officer, who is authorized under
42 this section to intercept an oral communication is not required to exclude from the interception an
43 oral communication made by a person for whom probable cause does not exist if the officer or the
44 person under the officer’s direct supervision is a party to the oral communication.

45 “(9) A law enforcement officer may not divulge the contents of an oral communication inter-

1 cepted under this section before a preliminary hearing or trial in which an oral communication is
2 going to be introduced as evidence against a person except:

3 “(a) To a superior officer or other official with whom the law enforcement officer is cooperating
4 in the enforcement of the criminal laws of this state or the United States;

5 “(b) To a magistrate;

6 “(c) In a presentation to a federal or state grand jury; or

7 “(d) In compliance with a court order.

8 “(10) A law enforcement officer may intercept an oral communication under this section only
9 when acting within the scope of the officer’s employment and as a part of assigned duties.

10 “(11) As used in this section, ‘law enforcement officer’ means[:]

11 “[*(a)*] an officer employed to enforce criminal laws by:

12 “[*(A)*] (a) The United States, this state or a municipal government within this state; or

13 “[*(B)*] (b) A political subdivision, agency, department or bureau of the governments described in
14 **paragraph (a) of this subsection.** [*subparagraph (A) of this paragraph; or*]

15 “[*(b)*] *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

16 “(12) Violation of subsection (9) of this section is a Class A misdemeanor.

17 “**SECTION 43.** ORS 136.595, as amended by section 20 of this 2011 Act, is amended to read:

18 “136.595. (1) Except as provided in ORS 136.447 and 136.583 and subsection (2) of this section,
19 a subpoena is served by delivering a copy to the witness personally. If the witness is under 14 years
20 of age, the subpoena may be served by delivering a copy to the witness or to the witness’s parent,
21 guardian or guardian ad litem. Proof of the service is made in the same manner as in the service
22 of a summons.

23 “(2)(a) Every law enforcement agency shall designate an individual or individuals upon whom
24 service of subpoena may be made. At least one of the designated individuals shall be available dur-
25 ing normal business hours. In the absence of the designated individuals, service of subpoena pursu-
26 ant to paragraph (b) of this subsection may be made upon the officer in charge of the law
27 enforcement agency.

28 “(b) If a peace officer’s attendance at trial is required as a result of employment as a peace of-
29 ficer, a subpoena may be served on such officer by delivering a copy personally to the officer or to
30 one of the individuals designated by the agency that employs the officer. A subpoena may be served
31 by delivery to one of the individuals designated by the agency that employs the officer only if the
32 subpoena is delivered at least 10 days before the date the officer’s attendance is required, the officer
33 is currently employed as a peace officer by the agency, and the officer is present within the state
34 at the time of service.

35 “(c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law
36 enforcement agency shall make a good faith effort to actually notify the officer whose attendance
37 is sought of the date, time and location of the court appearance. If the officer cannot be notified,
38 the law enforcement agency shall contact the court and a continuance may be granted to allow the
39 officer to be personally served.

40 “(d) As used in this subsection, ‘law enforcement agency’ means the Oregon State Police, a
41 county sheriff’s department[,] **or** a municipal police department [*or, if the witness whose attendance*
42 *at trial is required is an authorized tribal police officer as defined in section 1 of this 2011 Act, a tribal*
43 *government as defined in section 1 of this 2011 Act*].

44 “(3) When a subpoena has been served as provided in ORS 136.583 or subsection (1) or (2) of this
45 section and, subsequent to service, the date on, or the time at, which the person subpoenaed is to

1 appear has changed, a new subpoena is not required to be served if:

2 “(a) The subpoena is continued orally in open court in the presence of the person subpoenaed;
3 or

4 “(b) The party who issued the original subpoena notifies the person subpoenaed of the change
5 by first class mail and by:

6 “(A) Certified or registered mail, return receipt requested; or

7 “(B) Express mail.

8 “**SECTION 44.** ORS 147.425, as amended by section 21 of this 2011 Act, is amended to read:

9 “147.425. (1) As used in this section:

10 “(a) ‘Health care provider’ has the meaning given that term in ORS 192.519.

11 “(b) ‘Law enforcement agency’ means:

12 “(A) A city or municipal police department.

13 “(B) A county sheriff’s office.

14 “(C) The Oregon State Police.

15 “(D) A district attorney.

16 “(E) A special campus security officer commissioned under ORS 352.385 or 353.050.

17 “[*F*] An authorized tribal police officer as defined in section 1 of this 2011 Act.]

18 “(c) ‘Person crime’ means a person felony or person Class A misdemeanor, as those terms are
19 defined in the rules of the Oregon Criminal Justice Commission.

20 “(d) ‘Personal representative’ means a person selected under subsection (2) of this section to
21 accompany the victim of a crime to certain phases of an investigation and prosecution.

22 “(e) ‘Protective service worker’ means an employee or contractor of a local or state agency
23 whose role it is to protect children or vulnerable adults from abuse or neglect.

24 “(2) A victim of a person crime, who is at least 15 years of age at the time the crime is com-
25 mitted, may select a person who is at least 18 years of age as the victim’s personal representative
26 for purposes of this section. The victim may not select a person who is a suspect in, or a party or
27 witness to, the crime as a personal representative.

28 “(3) Except for grand jury proceedings and child abuse assessments occurring at a child adv-
29 cacy center recognized by the Department of Justice, a personal representative may accompany the
30 victim to those phases of the investigation, including medical examinations, and prosecution of the
31 crime at which the victim is entitled or required to be present.

32 “(4) A health care provider, law enforcement agency, protective service worker or court may
33 not prohibit a personal representative from accompanying a victim as authorized by subsection (3)
34 of this section unless the health care provider, law enforcement agency, protective service worker
35 or court believes that the personal representative would compromise the process.

36 “(5) A health care provider, law enforcement agency, protective service worker or court is im-
37 mune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect
38 to a decision under subsection (4) of this section to prohibit a personal representative from accom-
39 panying a victim.

40 “(6) The fact that a personal representative was allowed or was not allowed to accompany a
41 victim may not be used as a basis for excluding otherwise admissible evidence.

42 “(7) The fact that a victim has or has not selected a personal representative under this section
43 may not be used as evidence in the criminal case.

44 “**SECTION 45.** ORS 153.005, as amended by section 22 of this 2011 Act, is amended to read:

45 “153.005. As used in this chapter:

1 “(1) ‘Enforcement officer’ means:
2 “(a) A member of the Oregon State Police.
3 “(b) A sheriff or deputy sheriff.
4 “(c) A city marshal or a member of the police of a city, municipal or quasi-municipal corpo-
5 ration.
6 “(d) An investigator of a district attorney’s office if the investigator is or has been certified as
7 a peace officer in this or any other state.
8 “(e) An investigator of the Criminal Justice Division of the Department of Justice of the State
9 of Oregon.
10 “(f) A Port of Portland peace officer.
11 “[*(g) An authorized tribal police officer as defined in section 1 of this 2011 Act.*]
12 “[*(h)*] **(g)** Any other person specifically authorized by law to issue citations for the commission
13 of violations.
14 “(2) ‘Traffic offense’ has the meaning given that term in ORS 801.555.
15 “(3) ‘Violation’ means an offense described in ORS 153.008.
16 “(4) ‘Violation proceeding’ means a judicial proceeding initiated by issuance of a citation that
17 charges a person with commission of a violation.
18 “**SECTION 46.** ORS 161.015, as amended by section 23 of this 2011 Act, is amended to read:
19 “161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context re-
20 quires otherwise:
21 “(1) ‘Dangerous weapon’ means any weapon, device, instrument, material or substance which
22 under the circumstances in which it is used, attempted to be used or threatened to be used, is
23 readily capable of causing death or serious physical injury.
24 “(2) ‘Deadly weapon’ means any instrument, article or substance specifically designed for and
25 presently capable of causing death or serious physical injury.
26 “(3) ‘Deadly physical force’ means physical force that under the circumstances in which it is
27 used is readily capable of causing death or serious physical injury.
28 “(4) ‘Peace officer’ means:
29 “(a) A member of the Oregon State Police;
30 “(b) A sheriff, constable, marshal or municipal police officer;
31 “(c) An investigator of the Criminal Justice Division of the Department of Justice or investi-
32 gator of a district attorney’s office; **and**
33 “[*(d) An authorized tribal police officer as defined in section 1 of this 2011 Act; and*]
34 “[*(e)*] **(d)** Any other person designated by law as a peace officer.
35 “(5) ‘Person’ means a human being and, where appropriate, a public or private corporation, an
36 unincorporated association, a partnership, a government or a governmental instrumentality.
37 “(6) ‘Physical force’ includes, but is not limited to, the use of an electrical stun gun, tear gas
38 or mace.
39 “(7) ‘Physical injury’ means impairment of physical condition or substantial pain.
40 “(8) ‘Serious physical injury’ means physical injury which creates a substantial risk of death or
41 which causes serious and protracted disfigurement, protracted impairment of health or protracted
42 loss or impairment of the function of any bodily organ.
43 “(9) ‘Possess’ means to have physical possession or otherwise to exercise dominion or control
44 over property.
45 “(10) ‘Public place’ means a place to which the general public has access and includes, but is

1 not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting
2 rooms or apartments designed for actual residence, and highways, streets, schools, places of
3 amusement, parks, playgrounds and premises used in connection with public passenger transporta-
4 tion.

5 “**SECTION 47.** ORS 163.730, as amended by section 24 of this 2011 Act, is amended to read:

6 “163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

7 “(1) ‘Alarm’ means to cause apprehension or fear resulting from the perception of danger.

8 “(2) ‘Coerce’ means to restrain, compel or dominate by force or threat.

9 “(3) ‘Contact’ includes but is not limited to:

10 “(a) Coming into the visual or physical presence of the other person;

11 “(b) Following the other person;

12 “(c) Waiting outside the home, property, place of work or school of the other person or of a
13 member of that person’s family or household;

14 “(d) Sending or making written or electronic communications in any form to the other person;

15 “(e) Speaking with the other person by any means;

16 “(f) Communicating with the other person through a third person;

17 “(g) Committing a crime against the other person;

18 “(h) Communicating with a third person who has some relationship to the other person with the
19 intent of affecting the third person’s relationship with the other person;

20 “(i) Communicating with business entities with the intent of affecting some right or interest of
21 the other person;

22 “(j) Damaging the other person’s home, property, place of work or school;

23 “(k) Delivering directly or through a third person any object to the home, property, place of
24 work or school of the other person; or

25 “(L) Service of process or other legal documents unless the other person is served as provided
26 in ORCP 7 or 9.

27 “(4) ‘Household member’ means any person residing in the same residence as the victim.

28 “(5) ‘Immediate family’ means father, mother, child, sibling, spouse, grandparent, stepparent and
29 stepchild.

30 “(6) ‘Law enforcement officer’ means[:]

31 “[*a*] a person employed in this state as a police officer by a county sheriff, constable or marshal
32 or a municipal or state police agency.[: or]

33 “[*b*] *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

34 “(7) ‘Repeated’ means two or more times.

35 “(8) ‘School’ means a public or private institution of learning or a child care facility.

36 “**SECTION 48.** ORS 165.535, as amended by section 25 of this 2011 Act, is amended to read:

37 “165.535. As used in ORS 41.910, 133.723, 133.724, 165.540 and 165.545:

38 “(1) ‘Conversation’ means the transmission between two or more persons of an oral communi-
39 cation which is not a telecommunication or a radio communication.

40 “(2) ‘Person’ has the meaning given that term in ORS 174.100 and includes[:]

41 “[*a*] public officials and law enforcement officers of the state and of a county, municipal cor-
42 poration or any other political subdivision of the state.[: and]

43 “[*b*] *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

44 “(3) ‘Radio communication’ means the transmission by radio or other wireless methods of writ-
45 ing, signs, signals, pictures and sounds of all kinds, including all instrumentalities, facilities, equip-

1 ment and services (including, among other things, the receipt, forwarding and delivering of
2 communications) incidental to such transmission.

3 “(4) ‘Telecommunication’ means the transmission of writing, signs, signals, pictures and sounds
4 of all kinds by aid of wire, cable or other similar connection between the points of origin and re-
5 ception of such transmission, including all instrumentalities, facilities, equipment and services (in-
6 cluding, among other things, the receipt, forwarding and delivering of communications) incidental
7 to such transmission.

8 “**SECTION 49.** ORS 181.010, as amended by section 26 of this 2011 Act, is amended to read:

9 “181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires
10 otherwise:

11 “(1) ‘Bureau’ means the Department of State Police bureau of criminal identification.

12 “(2) ‘Criminal justice agency’ means:

13 “(a) The Governor;

14 “(b) Courts of criminal jurisdiction;

15 “(c) The Attorney General;

16 “(d) District attorneys, city attorneys with criminal prosecutive functions, attorney employees
17 of the office of public defense services and nonprofit public defender organizations established under
18 contract with the Public Defense Services Commission;

19 “(e) Law enforcement agencies;

20 “(f) The Department of Corrections;

21 “(g) The State Board of Parole and Post-Prison Supervision;

22 “(h) The Department of Public Safety Standards and Training; and

23 “(i) Any other state or local agency with law enforcement authority designated by order of the
24 Governor.

25 “(3) ‘Criminal offender information’ includes records and related data as to physical description
26 and vital statistics, fingerprints received and compiled by the bureau for purposes of identifying
27 criminal offenders and alleged offenders, records of arrests and the nature and disposition of crimi-
28 nal charges, including sentencing, confinement, parole and release.

29 “(4) ‘Department’ means the Department of State Police established under ORS 181.020.

30 “(5) ‘Deputy superintendent’ means the Deputy Superintendent of State Police.

31 “(6) ‘Designated agency’ means any state, county or municipal government agency where Oregon
32 criminal offender information is required to implement a federal or state statute, executive order
33 or administrative rule that expressly refers to criminal conduct and contains requirements or ex-
34 clusions expressly based on such conduct or for agency employment purposes, licensing purposes or
35 other demonstrated and legitimate needs when designated by order of the Governor.

36 “(7) ‘Disposition report’ means a form or process prescribed or furnished by the bureau, con-
37 taining a description of the ultimate action taken subsequent to an arrest.

38 “(8) ‘Law enforcement agency’ means:

39 “(a) County sheriffs, municipal police departments and State Police;

40 “(b) Other police officers of this state and other states; **and**

41 “[*(c) A tribal government as defined in section 1 of this 2011 Act that employs authorized tribal*
42 *police officers as defined in section 1 of this 2011 Act; and*]

43 “[*(d)*] (c) Law enforcement agencies of the federal government.

44 “(9) ‘State Police’ means the members of the state police force appointed under ORS 181.250.

45 “(10) ‘Superintendent’ means the Superintendent of State Police.

1 “**SECTION 50.** ORS 181.610, as amended by section 27 of this 2011 Act, is amended to read:

2 “181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

3 “(1) ‘Abuse’ has the meaning given the term in ORS 107.705.

4 “(2) ‘Board’ means the Board on Public Safety Standards and Training appointed pursuant to
5 ORS 181.620.

6 “(3) ‘Certified reserve officer’ means a reserve officer who has been designated by a local law
7 enforcement unit, has received training necessary for certification and has met the minimum stan-
8 dards and training requirements established under ORS 181.640.

9 “(4) ‘Commissioned’ means an authorization granting the power to perform various acts or duties
10 of a police officer or certified reserve officer and acting under the supervision and responsibility of
11 a county sheriff or as otherwise provided by law.

12 “(5) ‘Corrections officer’ means an officer or member of a law enforcement unit who is employed
13 full-time thereby and is charged with and primarily performs the duty of custody, control or super-
14 vision of individuals convicted of or arrested for a criminal offense and confined in a place of
15 incarceration or detention other than a place used exclusively for incarceration or detention of ju-
16 veniles.

17 “(6) ‘Department’ means the Department of Public Safety Standards and Training.

18 “(7) ‘Director’ means the Director of the Department of Public Safety Standards and Training.

19 “(8) ‘Domestic violence’ means abuse between family or household members.

20 “(9) ‘Emergency medical dispatcher’ means a person who has responsibility to process requests
21 for medical assistance from the public or to dispatch medical care providers.

22 “(10) ‘Family or household members’ has the meaning given that term in ORS 107.705.

23 “(11) ‘Fire service professional’ means a paid or volunteer firefighter, an officer or a member
24 of a public or private fire protection agency that is engaged primarily in fire investigation, fire
25 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light
26 and heavy rescue services, search and rescue services or hazardous materials incident response.
27 ‘Fire service professional’ does not include forest fire protection agency personnel.

28 “(12)(a) ‘Law enforcement unit’ means a police force or organization of the state, a city, port,
29 school district, mass transit district, county, county service district authorized to provide law
30 enforcement services under ORS 451.010, tribal government [*as defined in section 1 of this 2011 Act*
31 *that employs authorized tribal police officers as defined in section 1 of this 2011 Act*], the Criminal
32 Justice Division of the Department of Justice, the Department of Corrections, the Oregon State
33 Lottery Commission or common carrier railroad whose primary duty, as prescribed by law, ordi-
34 nance or directive, is any one or more of the following:

35 “(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating
36 to airport security;

37 “(B) The custody, control or supervision of individuals convicted of or arrested for a criminal
38 offense and confined to a place of incarceration or detention other than a place used exclusively for
39 incarceration or detention of juveniles; or

40 “(C) The control, supervision and reformation of adult offenders placed on parole or sentenced
41 to probation and investigation of adult offenders on parole or probation or being considered for
42 parole or probation.

43 “(b) ‘Law enforcement unit’ also means:

44 “(A) A police force or organization of a private entity with a population of more than 1,000
45 residents in an unincorporated area whose employees are commissioned by a county sheriff;

1 “(B) A district attorney’s office; and
2 “(C) A private, nonprofit animal care agency that has maintained an animal welfare investi-
3 gation department for at least five years and has had officers commissioned as special agents by the
4 Governor.
5 “(13) ‘Parole and probation officer’ means:
6 “(a) Any officer who is employed full-time by the Department of Corrections, a county or a court
7 and who is charged with and performs the duty of:
8 “(A) Community protection by controlling, investigating, supervising and providing or making
9 referrals to reformatives services for adult parolees or probationers or offenders on post-prison
10 supervision; or
11 “(B) Investigating adult offenders on parole or probation or being considered for parole or pro-
12 bation; or
13 “(b) Any officer who:
14 “(A) Is certified and has been employed as a full-time parole and probation officer for more than
15 one year;
16 “(B) Is employed part-time by the Department of Corrections, a county or a court; and
17 “(C) Is charged with and performs the duty of:
18 “(i) Community protection by controlling, investigating, supervising and providing or making
19 referrals to reformatives services for adult parolees or probationers or offenders on post-prison
20 supervision; or
21 “(ii) Investigating adult offenders on parole or probation or being considered for parole or pro-
22 bation.
23 “(14) ‘Police officer’ means an officer, member or employee of a law enforcement unit who is
24 employed full-time as a peace officer commissioned by a city, port, school district, mass transit dis-
25 trict, county, county service district authorized to provide law enforcement services under ORS
26 451.010, tribal government [*as defined in section 1 of this 2011 Act*], the Criminal Justice Division
27 of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a
28 member of the Department of State Police and who is responsible for enforcing the criminal laws
29 of this state or laws or ordinances relating to airport security or is an investigator of a district
30 attorney’s office if the investigator is or has been certified as a peace officer in this or any other
31 state [*or is an authorized tribal police officer as defined in section 1 of this 2011 Act*].
32 “(15) ‘Public or private safety agency’ means any unit of state or local government, a special
33 purpose district or a private firm which provides, or has authority to provide, fire fighting, police,
34 ambulance or emergency medical services.
35 “(16) ‘Public safety personnel’ and ‘public safety officer’ include corrections officers, youth cor-
36 rection officers, emergency medical dispatchers, parole and probation officers, police officers, certi-
37 fied reserve officers, telecommunicators and fire service professionals.
38 “(17) ‘Reserve officer’ means an officer or member of a law enforcement unit:
39 “(a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned
40 by a city, port, school district, mass transit district, county, county service district authorized to
41 provide law enforcement services under ORS 451.010, tribal government [*as defined in section 1 of*
42 *this 2011 Act*], the Criminal Justice Division of the Department of Justice, the Oregon State Lottery
43 Commission or the Governor or who is a member of the Department of State Police;
44 “(b) Who is armed with a firearm; and
45 “(c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or

1 ordinances relating to airport security.

2 “(18) ‘Telecommunicator’ means any person employed as an emergency telephone worker as de-
3 fined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing
4 and transmitting public safety information received through a 9-1-1 emergency reporting system as
5 defined in ORS 403.105.

6 “(19) ‘Youth correction officer’ means an employee of the Oregon Youth Authority who is
7 charged with and primarily performs the duty of custody, control or supervision of youth offenders
8 confined in a youth correction facility.

9 “**SECTION 51.** ORS 348.270, as amended by section 28 of this 2011 Act, is amended to read:

10 “348.270. (1) In addition to any other scholarships provided by law, the Oregon Student Assist-
11 ance Commission shall award scholarships in any state institution under the State Board of Higher
12 Education, in the Oregon Health and Science University, in any community college operated under
13 ORS chapter 341, or in any Oregon-based regionally accredited independent institution, to any stu-
14 dent applying for enrollment or who is enrolled therein, who is:

15 “(a) The natural child, adopted child or stepchild of any public safety officer who, in the line
16 of duty, was killed or so disabled, as determined by the Oregon Student Assistance Commission, that
17 the income of the public safety officer is less than that earned by public safety officers performing
18 duties comparable to those performed at the highest rank or grade attained by the public safety of-
19 ficer; or

20 “(b) A former foster child who enrolls in an institution of higher education as an undergraduate
21 student not later than three years from the date the student was removed from the care of the De-
22 partment of Human Services, the date the student graduated from high school or the date the stu-
23 dent received the equivalent of a high school diploma, whichever date is earliest.

24 “(2) Scholarships awarded under this section to students who are dependents of public safety
25 officers or who are former foster children shall equal the amount of tuition and all fees levied by
26 the institution against the recipient of the scholarship. However, scholarships awarded to students
27 who attend independent institutions shall not exceed the amount of tuition and all fees levied by the
28 University of Oregon.

29 “(3) If the student who is the dependent of a deceased public safety officer continues to remain
30 enrolled in a state institution of higher education or a community college or an independent insti-
31 tution within the State of Oregon, the student shall be entitled to renewal of the scholarship until
32 the student has received the equivalent of four years of undergraduate education and four years of
33 post-graduate education.

34 “(4) If the student who is a former foster child or who is the dependent of a public safety officer
35 with a disability continues to remain enrolled in a state institution of higher education or a com-
36 munity college or an independent institution within the State of Oregon, the student shall be entitled
37 to renewal of the scholarship until the student has received the equivalent of four years of under-
38 graduate education.

39 “(5) The Oregon Student Assistance Commission may require proof of the student’s relationship
40 to a public safety officer described in subsection (1) of this section or proof that the student is a
41 former foster child.

42 “(6) As used in this section:

43 “(a) ‘Former foster child’ means an individual who, for a total of 12 or more months while be-
44 tween the ages of 16 and 21, was a ward of the court pursuant to ORS 419B.100 (1)(b) to (e) and in
45 the legal custody of the Department of Human Services for out-of-home placement.

1 “(b) ‘Public safety officer’ means:
2 “(A) A firefighter or police officer as those terms are defined in ORS 237.610.
3 “(B) A member of the Oregon State Police.
4 “[*(C) An authorized tribal police officer as defined in section 1 of this 2011 Act.*]
5 “**SECTION 52.** ORS 414.805, as amended by section 29 of this 2011 Act, is amended to read:
6 “414.805. (1) An individual who receives medical services while in the custody of a law
7 enforcement officer is liable:
8 “(a) To the provider of the medical services for the charges and expenses therefor; and
9 “(b) To the Oregon Health Authority for any charges or expenses paid by the authority out of
10 the Law Enforcement Medical Liability Account for the medical services.
11 “(2) A person providing medical services to an individual described in subsection (1)(a) of this
12 section shall first make reasonable efforts to collect the charges and expenses thereof from the in-
13 dividual before seeking to collect them from the authority out of the Law Enforcement Medical Li-
14 ability Account.
15 “(3)(a) If the provider has not been paid within 45 days of the date of the billing, the provider
16 may bill the authority who shall pay the account out of the Law Enforcement Medical Liability
17 Account.
18 “(b) A bill submitted to the authority under this subsection must be accompanied by evidence
19 documenting that:
20 “(A) The provider has billed the individual or the individual’s insurer or health care service
21 contractor for the charges or expenses owed to the provider; and
22 “(B) The provider has made a reasonable effort to collect from the individual or the individual’s
23 insurer or health care service contractor the charges and expenses owed to the provider.
24 “(c) If the provider receives payment from the individual or the insurer or health care service
25 contractor after receiving payment from the authority, the provider shall repay the authority the
26 amount received from the public agency less any difference between payment received from the in-
27 dividual, insurer or contractor and the amount of the billing.
28 “(4) As used in this section:
29 “(a) ‘Law enforcement officer’ means[:]
30 “[*(A)*] an officer who is commissioned and employed by a public agency as a peace officer to
31 enforce the criminal laws of this state or laws or ordinances of a public agency.[: *or*]
32 “[*(B)*] *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]
33 “(b) ‘Public agency’ means the state, a city, port, school district, mass transit district or county.
34 “**SECTION 53.** ORS 419B.902, as amended by section 30 of this 2011 Act, is amended to read:
35 “419B.902. (1) A subpoena may be served by the party or any other person 18 years of age or
36 older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by
37 delivering a copy to the witness personally. The service must be made so as to allow the witness a
38 reasonable time for preparation and travel to the place of attendance. If the subpoena is not ac-
39 companied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the
40 subpoena is served personally or by mail, copies of a subpoena commanding production and in-
41 spection of books, papers, documents or other tangible things before trial must be served on each
42 party at least seven days before the subpoena is served on the person required to produce and per-
43 mit inspection, unless the court orders a shorter period.
44 “(2)(a) A law enforcement agency shall designate an individual upon whom service of a subpoena
45 may be made. A designated individual must be available during normal business hours. In the ab-

1 sence of a designated individual, service of a subpoena under paragraph (b) of this subsection may
2 be made upon the officer in charge of the law enforcement agency.

3 “(b) If a peace officer’s attendance at trial is required as a result of employment as a peace of-
4 ficer, a subpoena may be served on the officer by delivering a copy personally to the officer or to
5 an individual designated by the agency that employs the officer no later than 10 days prior to the
6 date attendance is sought. A subpoena may be served in this manner only if the officer is currently
7 employed as a peace officer and is present within the state at the time of service.

8 “(c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law
9 enforcement agency shall make a good faith effort to give actual notice to the officer whose at-
10 tendance is sought of the date, time and location of the court appearance. If the officer cannot be
11 notified, the law enforcement agency shall promptly notify the court and a postponement or contin-
12 uance may be granted to allow the officer to be personally served.

13 “(d) As used in this subsection, ‘law enforcement agency’ means the Oregon State Police, a
14 county sheriff’s department[,] **or** a municipal police department [*or, if the witness whose attendance*
15 *at trial is required is an authorized tribal police officer as defined in section 1 of this 2011 Act, a tribal*
16 *government as defined in section 1 of this 2011 Act*].

17 “(3) Under the following circumstances, service of a subpoena to a witness by mail has the same
18 legal force and effect as personal service:

19 “(a) The attorney mailing the subpoena certifies in connection with or upon the return of service
20 that the attorney, or the attorney’s agent, has had personal or telephone contact with the witness
21 and the witness indicated a willingness to appear at trial if subpoenaed; or

22 “(b) The subpoena was mailed to the witness more than five days before trial by certified mail
23 or some other designation of mail that provides a receipt for the mail signed by the recipient and
24 the attorney received a return receipt signed by the witness prior to trial.

25 “(4) Service of subpoena by mail may be used for a subpoena commanding production of books,
26 papers, documents or other tangible things that is not accompanied by a command to appear at trial
27 or hearing or at a deposition under ORS 419B.884.

28 “(5) Proof of service of a subpoena is made in the same manner as proof of service of a summons
29 except that the server is not required to certify that the server is not a party in the action or an
30 attorney for a party in the action.

31 “**SECTION 54.** ORS 420.905, as amended by section 31 of this 2011 Act, is amended to read:

32 “420.905. As used in ORS 420.905 to 420.915, ‘peace officer’ means:

33 “(1) A sheriff, constable or marshal, or the deputy of any such officer;

34 “(2) A member of the state police; **or**

35 “(3) A member of the police force of any city.[:; or]

36 “[*(4) An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

37 “**SECTION 55.** ORS 801.395, as amended by section 32 of this 2011 Act, is amended to read:

38 “801.395. ‘Police officer’ includes a member of the Oregon State Police, a sheriff, a deputy
39 sheriff, a city police officer, [*an authorized tribal police officer as defined in section 1 of this 2011*
40 *Act,*] a Port of Portland peace officer or a law enforcement officer employed by a service district
41 established under ORS 451.410 to 451.610 for the purpose of law enforcement services.

42 “**SECTION 56.** ORS 811.720, as amended by section 34 of this 2011 Act, is amended to read:

43 “811.720. (1) Except as provided in subsection (4) of this section, any accident occurring on a
44 highway or upon premises open to the public resulting in injury or death to any person is subject
45 to the reporting requirements under the following sections:

1 “(a) The reporting requirements for drivers under ORS 811.725.

2 “(b) The reporting requirements for occupants of vehicles in accidents under ORS 811.735.

3 “(c) The reporting requirements for owners of vehicles under ORS 811.730.

4 “(2) Except as provided in subsection (4) of this section, an accident occurring on a highway or

5 upon premises open to the public resulting in damage to the property of any person in excess of

6 \$1,500 is subject to the following reporting requirements:

7 “(a) The driver of a vehicle that has more than \$1,500 damage must report the accident in the

8 manner specified under ORS 811.725.

9 “(b) The owner of a vehicle that has more than \$1,500 damage must report the accident in the

10 manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.

11 “(c) If the property damage is to property other than a vehicle involved in the accident, each

12 driver involved in the accident must report the accident in the manner specified under ORS 811.725

13 and each owner of a vehicle involved in the accident must report the accident in the manner spec-

14 ified in ORS 811.730 and under the circumstances specified in ORS 811.730.

15 “(d) If a vehicle involved in the accident is damaged to the extent that the vehicle must be

16 towed from the scene of the accident, each driver involved in the accident must report the accident

17 in the manner specified under ORS 811.725 and each owner of a vehicle involved in the accident

18 must report the accident in the manner specified in ORS 811.730 and under the circumstances

19 specified in ORS 811.730.

20 “(3) The dollar amount specified in subsection (2) of this section may be increased every five

21 years by the Department of Transportation based upon any increase in the Portland-Salem Consumer

22 Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics

23 of the United States Department of Labor or its successor during the preceding 12-month period.

24 The amount determined under this subsection shall be rounded to the nearest \$100.

25 “(4) The following are exempt from the reporting requirements of this section:

26 “(a) Operators of snowmobiles, Class I all-terrain vehicles or Class III all-terrain vehicles.

27 “(b) A law enforcement official acting in the course of official duty if the accident involved a

28 law enforcement official performing a lawful intervention technique or a law enforcement official

29 and a person acting during the commission of a criminal offense. As used in this paragraph:

30 “(A) ‘Law enforcement official’ means a person who is responsible for enforcing the criminal

31 laws of this state or a political subdivision of this state and who is employed or volunteers:

32 “(i) As a peace officer commissioned by a city, port, school district, mass transit district, county

33 or county service district authorized to provide law enforcement services under ORS 451.010;

34 “(ii) With the Department of State Police or the Criminal Justice Division of the Department

35 of Justice; **or**

36 “(iii) As an investigator of a district attorney’s office, if the investigator is certified as a peace

37 officer in this state.]; *or*]

38 “[(iv) As an authorized tribal police officer as defined in section 1 of this 2011 Act.]

39 “(B) ‘Lawful intervention technique’ means a method by which one motor vehicle causes, or at-

40 tempts to cause, another motor vehicle to stop.

41 “**SECTION 57.** ORS 830.005, as amended by section 35 of this 2011 Act, is amended to read:

42 “830.005. As used in this chapter, unless the context requires otherwise:

43 “(1) ‘Board’ means the State Marine Board.

44 “(2) ‘Boat’ means every description of watercraft, including a seaplane on the water and not in

45 flight, used or capable of being used as a means of transportation on the water, but does not include

1 boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.

2 “(3) ‘Boating offense’ means violation of any provision of law that is made a crime or violation
3 under the provisions of this chapter.

4 “(4) ‘In flight’ means from the moment a seaplane starts its takeoff run until the end of a normal
5 power-off landing run.

6 “(5) ‘Length’ means the length of a boat measured from end to end over the deck excluding
7 sheer.

8 “(6) ‘Motorboat’ means any boat propelled in whole or in part by machinery, including boats
9 temporarily equipped with detachable motors.

10 “(7) ‘Navigable waters of the United States’ means those waters of the United States, including
11 the territorial seas adjacent thereto, the general character of which is navigable, and that, either
12 by themselves or by uniting with other waters, form a continuous waterway on which boats or ves-
13 sels may navigate or travel between two or more states, or to and from foreign nations.

14 “(8) ‘Operate’ means to navigate or otherwise use a boat.

15 “(9) ‘Operator of a boat livery’ means any person who is engaged wholly or in part in the busi-
16 ness of chartering or renting boats to other persons.

17 “(10) ‘Passenger’ means every person on board a boat who is not the master, operator, crew
18 member or other person engaged in any capacity in the business of the boat.

19 “(11) ‘Peace officer’ includes a member of the Oregon State Police, a sheriff or deputy sheriff[,]
20 **and** a city police officer [*and an authorized tribal police officer as defined in section 1 of this 2011*
21 *Act*].

22 “(12) ‘State waters’ means those waters entirely within the confines of this state that have not
23 been declared navigable waters of the United States.

24 “(13) ‘Waters of this state’ means all waters within the territorial limits of this state, the mar-
25 ginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to
26 or from the shore of this state.

27 **“SECTION 58. (1) Sections 1 to 4 of this 2011 Act are repealed on July 1, 2019.**

28 **“(2) The amendments to ORS 40.275, 90.440, 133.005, 133.525, 133.721, 133.726, 136.595,**
29 **147.425, 153.005, 161.015, 163.730, 165.535, 181.010, 181.610, 348.270, 414.805, 419B.902, 420.905,**
30 **801.395, 811.720 and 830.005 by sections 37 to 57 of this 2011 Act become operative on July 1,**
31 **2019.**

32 **“(3) The repeal of sections 1 to 4 of this 2011 Act by subsection (1) of this section and the**
33 **amendments to ORS 40.275, 90.440, 133.005, 133.525, 133.721, 133.726, 136.595, 147.425, 153.005,**
34 **161.015, 163.730, 165.535, 181.010, 181.610, 348.270, 414.805, 419B.902, 420.905, 801.395, 811.720 and**
35 **830.005 by sections 37 to 57 of this 2011 Act:**

36 **“(a) Return the law applicable to tribal police officers to the state in which the law ex-**
37 **isted on the date immediately before the effective date of this 2011 Act; and**

38 **“(b) Do not deprive tribal police officers of any power, authority or protection provided**
39 **to tribal police officers by law on the date immediately before the effective date of this 2011**
40 **Act.**

41
42 **“MISCELLANEOUS PROVISIONS**

43
44 **“SECTION 59. ORS 133.033, 133.318 and 133.400 are added to and made a part of ORS**
45 **133.005 to 133.381.**

