

**A-Engrossed**  
**Senate Bill 104**

Ordered by the House March 14  
Including House Amendments dated March 14

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for Department of Education)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows Department of Education to require fingerprints of person who is community college faculty member providing instruction **at site of early childhood education program or at school site** as part of early childhood education program.

Declares emergency, effective July 1, 2013.

**A BILL FOR AN ACT**

1  
2 Relating to criminal records checks; amending ORS 326.603; and declaring an emergency.

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

4 **SECTION 1.** ORS 326.603 is amended to read:

5 326.603. (1) For the purposes of requesting a state or nationwide criminal records check under  
6 ORS 181.534, the Department of Education may require the fingerprints of:

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

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

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

13 **(A) At the site of an early childhood education program or at a school site as part of an**  
14 **early childhood education program; or**

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

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

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

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

23 (3) The Department of Education shall request that the Department of State Police conduct a  
24 criminal records check as provided in ORS 181.534 and may charge the school district or private  
25 school a fee as established by rule under ORS 181.534. The school district or private school may  
26 recover its costs or a portion thereof from the person described in subsection (1) of this section. If

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 the person described in subsection (1)(b) or (d) of this section requests, the school district shall and  
2 a private school may withhold the amount from amounts otherwise due the person, including a pe-  
3 riodic payroll deduction rather than a lump sum payment.

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) "School district" means:

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

3 (B) The Oregon School for the Deaf.

4 (C) An educational program under the Youth Corrections Education Program.

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

6 (E) An education service district.

7 **SECTION 2. This 2013 Act being necessary for the immediate preservation of the public**  
8 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
9 **July 1, 2013.**

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