

**PROPOSED AMENDMENTS TO
SENATE BILL 347**

1 On page 1 of the printed bill, after “ORS” insert “164.205, 164.255,”.

2 Delete lines 5 through 29 and delete pages 2 through 6 and insert:

3 **“SECTION 1.** ORS 166.370 is amended to read:

4 “166.370. (1)(a) [*Any*] A person who intentionally possesses a [*loaded or*
5 *unloaded*] firearm or any other instrument used as a dangerous weapon,
6 while in or on a public building, [*shall upon conviction be guilty of*] **and who**
7 **is not licensed to carry a concealed handgun under ORS 166.291 and**
8 **166.292, commits** a Class C felony.

9 “(b) **Except as provided in ORS 164.255, a person who intentionally**
10 **possesses a firearm or any other instrument used as a dangerous**
11 **weapon while in or on school grounds and who is not licensed to carry**
12 **a concealed handgun under ORS 166.291 and 166.292, commits a Class**
13 **C felony.**

14 “(2)(a) Except as otherwise provided in paragraph (b) of this subsection,
15 a person who intentionally possesses:

16 “(A) A firearm in a court facility [*is guilty, upon conviction, of*] **commits**
17 a Class C felony. A person who intentionally possesses a firearm in a court
18 facility shall surrender the firearm to a law enforcement officer.

19 “(B) A weapon, other than a firearm, in a court facility may be required
20 to surrender the weapon to a law enforcement officer or to immediately re-
21 move it from the court facility. A person who fails to comply with this sub-
22 paragraph [*is guilty, upon conviction, of*] **commits** a Class C felony.

1 “(b) The presiding judge of a judicial district may enter an order permit-
2 ting the possession of specified weapons in a court facility.

3 “(3) Subsection (1) of this section does not apply to:

4 “(a) A sheriff, police officer, other duly appointed peace officers or a
5 corrections officer while acting within the scope of employment.

6 “(b) A person summoned by a peace officer to assist in making an arrest
7 or preserving the peace, while the summoned person is engaged in assisting
8 the officer.

9 “(c) An active or reserve member of the military forces of this state or
10 the United States, when engaged in the performance of duty.

11 “[*(d)* A person who is licensed under ORS 166.291 and 166.292 to carry a
12 concealed handgun.]

13 “[*(e)*] **(d)** A person who is authorized by the [*officer or agency*] **person**
14 **or entity** that controls the public building **or the school grounds** to pos-
15 sess a firearm or dangerous weapon in [*that*] **or on the** public building[.]
16 **or in or on the school grounds. This may include, but is not limited**
17 **to, the authorized possession of a firearm for the purposes of a class,**
18 **training, program or demonstration.**

19 “[*(f)*] **(e)** An employee of the United States Department of Agriculture,
20 acting within the scope of employment, who possesses a firearm in the course
21 of the lawful taking of wildlife.

22 “[*(g)*] **(f)** Possession of a firearm on school property if the firearm:

23 “(A) Is possessed by a person who is not otherwise prohibited from pos-
24 sessed the firearm; and

25 “(B) Is unloaded and locked in a motor vehicle.

26 “(4) The [*exceptions listed in subsection (3)(b) to (g)*] **defenses described**
27 **in subsections (3)(b) to (f)** of this section [*constitute*] **are** affirmative de-
28 fenses [*to a charge of violating subsection (1) of this section*].

29 “(5)(a) [*Any*] **A** person who knowingly, or with reckless disregard for the
30 safety of another, discharges or attempts to discharge a firearm at a place

1 that the person knows is a school [*shall upon conviction be guilty of*] **com-**
2 **mits** a Class C felony.

3 “(b) Paragraph (a) of this subsection does not apply to the discharge of
4 a firearm:

5 “(A) As part of a program approved by a school in the school by an in-
6 dividual who is participating in the program;

7 “(B) By a law enforcement officer acting in the officer’s official capacity;
8 or

9 “(C) By an employee of the United States Department of Agriculture,
10 acting within the scope of employment, in the course of the lawful taking
11 of wildlife.

12 “(6) [*Any*] **A** weapon carried in violation of this section is subject to the
13 forfeiture provisions of ORS 166.279.

14 “(7) Notwithstanding the fact that a person’s conduct in a single criminal
15 episode constitutes a violation of both subsections [*(1) and (5)*] **(1)(b) and**
16 **(5)** of this section, the district attorney may charge the person with only one
17 of the offenses.

18 “(8) As used in this section, ‘dangerous weapon’ means a dangerous
19 weapon as that term is defined in ORS 161.015.

20 “**SECTION 2.** ORS 166.360 is amended to read:

21 “166.360. As used in ORS 166.360 to 166.380, unless the context requires
22 otherwise:

23 “(1) ‘Capitol building’ means the Capitol, the State Office Building, the
24 State Library Building, the Labor and Industries Building, the State Trans-
25 portation Building, the Agriculture Building or the Public Service Building
26 and includes any new buildings which may be constructed on the same
27 grounds as an addition to the group of buildings listed in this subsection.

28 “(2) ‘Court facility’ means a courthouse or that portion of any other
29 building occupied by a circuit court, the Court of Appeals, the Supreme
30 Court or the Oregon Tax Court or occupied by personnel related to the op-

1 erations of those courts, or in which activities related to the operations of
2 those courts take place.

3 “[3] ‘Loaded firearm’ means:]

4 “[a] A breech-loading firearm in which there is an unexpended cartridge
5 or shell in or attached to the firearm including but not limited to, in a cham-
6 ber, magazine or clip which is attached to the firearm.]

7 “[b] A muzzle-loading firearm which is capped or primed and has a pow-
8 der charge and ball, shot or projectile in the barrel or cylinder.]

9 “[4] (3) ‘Public building’ means a hospital, a capitol building, [a public
10 or private school, as defined in ORS 339.315,] a college or university, a city
11 hall or the residence of any state official elected by the state at large, and
12 the grounds adjacent to each such building. The term also includes that
13 portion of any other building occupied by an agency of the state or a mu-
14 nicipal corporation, as defined in ORS 297.405, other than a court facility
15 **or a building on school grounds.**

16 “(4) ‘School grounds’ means a school as defined in ORS 339.315.

17 “(5) ‘Weapon’ means:

18 “(a) A firearm;

19 “(b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar
20 instrument or a knife other than an ordinary pocket knife, the use of which
21 could inflict injury upon a person or property;

22 “(c) Mace, tear gas, pepper mace or any similar deleterious agent as de-
23 fined in ORS 163.211;

24 “(d) An electrical stun gun or any similar instrument;

25 “(e) A tear gas weapon as defined in ORS 163.211;

26 “(f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku,
27 nightstick, truncheon or any similar instrument, the use of which could in-
28 flict injury upon a person or property; or

29 “(g) A dangerous or deadly weapon as those terms are defined in ORS
30 161.015.

1 **“SECTION 3.** ORS 166.380 is amended to read:

2 “166.380. *[(1) A peace officer may examine a firearm possessed by anyone*
3 *on the person while in or on a public building to determine whether the*
4 *firearm is a loaded firearm.]*

5 “*[(2) Refusal by a person to allow the examination authorized by subsection*
6 *(1) of this section constitutes reason to believe that the person has committed*
7 *a crime and the peace officer may make an arrest pursuant to ORS 133.310.]*

8 **“(1) A school district or other entity that controls school grounds**
9 **may adopt a written policy:**

10 **“(a) Prohibiting persons licensed under ORS 166.291 and 166.292 from**
11 **possessing a firearm in or on the school grounds under the control of**
12 **the district or other entity; or**

13 **“(b) Requiring all persons licensed under ORS 166.291 and 166.292 to**
14 **store firearms in a locked metal safe or vault provided by the school**
15 **or the district or other entity while in or on the school grounds under**
16 **the control of the district or other entity.**

17 **“(2) A school district or other entity that adopts a written policy**
18 **under this section may not prohibit a person who is licensed under**
19 **ORS 166.291 and 166.292 from possessing a firearm on the school**
20 **grounds under the control of the district or other entity if the person**
21 **is a parent of a student at the school and the person, for the purposes**
22 **of accompanying the student to or from the school, enters onto the**
23 **school grounds but does not enter a school building.**

24 **“SECTION 4.** ORS 166.173 is amended to read:

25 “166.173. (1) A city or county may adopt ordinances to regulate, restrict
26 or prohibit the possession of loaded firearms in public places as defined in
27 ORS 161.015.

28 “(2) Ordinances adopted under subsection (1) of this section do not apply
29 to or affect:

30 “(a) A law enforcement officer in the performance of official duty.

1 “(b) A member of the military in the performance of official duty.

2 “(c) A person licensed to carry a concealed handgun.

3 “(d) A person authorized to possess a [*loaded*] firearm while in or on a
4 public building, **in or on school grounds** or **in a** court facility under ORS
5 166.370.

6 “(e) An employee of the United States Department of Agriculture, acting
7 within the scope of employment, who possesses a loaded firearm in the course
8 of the lawful taking of wildlife.

9 **“SECTION 5.** ORS 166.262 is amended to read:

10 “166.262. A peace officer may not arrest or charge a person for violating
11 ORS 166.250 (1)(a) or (b) or 166.370 (1)(a) if the person has in the person’s
12 immediate possession a valid license to carry a firearm as provided in ORS
13 166.291 and 166.292.

14 **“SECTION 6.** ORS 419A.004, as amended by section 30, chapter 97,
15 Oregon Laws 2012, is amended to read:

16 “419A.004. As used in this chapter and ORS chapters 419B and 419C, un-
17 less the context requires otherwise:

18 “(1) ‘CASA Volunteer Program’ means a program that is approved or
19 sanctioned by a juvenile court, has received accreditation from the National
20 CASA Association and has entered into a contract with the Oregon Volun-
21 teers Commission for Voluntary Action and Service under section 4, chapter
22 97, Oregon Laws 2012, to recruit, train and supervise volunteers to serve as
23 court appointed special advocates.

24 “(2) ‘Child care center’ means a residential facility for wards or youth
25 offenders that is licensed under the provisions of ORS 418.240.

26 “(3) ‘Community service’ has the meaning given that term in ORS 137.126.

27 “(4) ‘Conflict of interest’ means a person appointed to a local citizen re-
28 view board who has a personal or pecuniary interest in a case being reviewed
29 by that board.

30 “(5) ‘Counselor’ means a juvenile department counselor or a county juve-

1 nile probation officer.

2 “(6) ‘Court’ means the juvenile court.

3 “(7) ‘Court appointed special advocate’ means a person in a CASA Vol-
4 unteer Program who is appointed by the court to act as a court appointed
5 special advocate pursuant to section 2, chapter 97, Oregon Laws 2012.

6 “(8) ‘Court facility’ has the meaning given that term in ORS 166.360.

7 “(9) ‘Department’ means the Department of Human Services.

8 “(10) ‘Detention’ or ‘detention facility’ means a facility established under
9 ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of
10 children, wards, youths or youth offenders pursuant to a judicial commitment
11 or order.

12 “(11) ‘Director’ means the director of a juvenile department established
13 under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063.

14 “(12) ‘Guardian’ means guardian of the person and not guardian of the
15 estate.

16 “(13) ‘Indian child’ means any unmarried person less than 18 years of age
17 who is:

18 “(a) A member of an Indian tribe; or

19 “(b) Eligible for membership in an Indian tribe and is the biological child
20 of a member of an Indian tribe.

21 “(14) ‘Juvenile court’ means the court having jurisdiction of juvenile
22 matters in the several counties of this state.

23 “(15) ‘Local citizen review board’ means the board specified by ORS
24 419A.090 and 419A.092.

25 “(16) ‘Parent’ means the biological or adoptive mother and the legal fa-
26 ther of the child, ward, youth or youth offender. As used in this subsection,
27 ‘legal father’ means:

28 “(a) A man who has adopted the child, ward, youth or youth offender or
29 whose paternity has been established or declared under ORS 109.070 or
30 416.400 to 416.465 or by a juvenile court; and

1 “(b) In cases in which the Indian Child Welfare Act applies, a man who
2 is a father under applicable tribal law.

3 “(17) ‘Permanent foster care’ means an out-of-home placement in which
4 there is a long-term contractual foster care agreement between the foster
5 parents and the department that is approved by the juvenile court and in
6 which the foster parents commit to raise a ward in substitute care or youth
7 offender until the age of majority.

8 “(18) ‘Planned permanent living arrangement’ means an out-of-home
9 placement other than by adoption, placement with a relative or placement
10 with a legal guardian that is consistent with the case plan and in the best
11 interests of the ward.

12 “(19) ‘Public building’ [*has the meaning given that term in ORS 166.360.*]
13 **means:**

14 **“(a) A public building as defined in ORS 166.360; or**

15 **“(b) School grounds as defined in ORS 166.360.**

16 “(20) ‘Reasonable time’ means a period of time that is reasonable given
17 a child or ward’s emotional and developmental needs and ability to form and
18 maintain lasting attachments.

19 “(21) ‘Records’ means any information in written form, pictures, photo-
20 graphs, charts, graphs, recordings or documents pertaining to a case.

21 “(22) ‘Resides’ or ‘residence,’ when used in reference to the residence of
22 a child, ward, youth or youth offender, means the place where the child,
23 ward, youth or youth offender is actually living or the jurisdiction in which
24 wardship or jurisdiction has been established.

25 “(23) ‘Restitution’ has the meaning given that term in ORS 137.103.

26 “(24) ‘Serious physical injury’ means:

27 “(a) A serious physical injury as defined in ORS 161.015; or

28 “(b) A physical injury that:

29 “(A) Has a permanent or protracted significant effect on a child’s daily
30 activities;

1 “(B) Results in substantial and recurring pain; or
2 “(C) In the case of a child under 10 years of age, is a broken bone.
3 “(25) ‘Shelter care’ means a home or other facility suitable for the safe-
4 keeping of a child, ward, youth or youth offender who is taken into tempo-
5 rary custody pending investigation and disposition.
6 “(26) ‘Short-term detention facility’ means a facility established under
7 ORS 419A.050 (3) for holding children, youths and youth offenders pending
8 further placement.
9 “(27) ‘Sibling’ means one of two or more children or wards related:
10 “(a) By blood or adoption through a common legal parent; or
11 “(b) Through the marriage of the children’s or wards’ legal or biological
12 parents.
13 “(28) ‘Substitute care’ means an out-of-home placement directly supervised
14 by the department or other agency, including placement in a foster family
15 home, group home or other child caring institution or facility. ‘Substitute
16 care’ does not include care in:
17 “(a) A detention facility, forestry camp or youth correction facility;
18 “(b) A family home that the court has approved as a ward’s permanent
19 placement, when a private child caring agency has been appointed guardian
20 of the ward and when the ward’s care is entirely privately financed; or
21 “(c) In-home placement subject to conditions or limitations.
22 “(29) ‘Surrogate’ means a person appointed by the court to protect the
23 right of the child, ward, youth or youth offender to receive procedural safe-
24 guards with respect to the provision of free appropriate public education.
25 “(30) ‘Tribal court’ means a court with jurisdiction over child custody
26 proceedings and that is either a Court of Indian Offenses, a court established
27 and operated under the code of custom of an Indian tribe or any other ad-
28 ministrative body of a tribe that is vested with authority over child custody
29 proceedings.
30 “(31) ‘Victim’ means any person determined by the district attorney, the

1 juvenile department or the court to have suffered direct financial, psycho-
2 logical or physical harm as a result of the act that has brought the youth
3 or youth offender before the juvenile court. When the victim is a minor,
4 ‘victim’ includes the legal guardian of the minor. The youth or youth
5 offender may not be considered the victim. When the victim of the crime
6 cannot be determined, the people of Oregon, as represented by the district
7 attorney, are considered the victims.

8 “(32) ‘Violent felony’ means any offense that, if committed by an adult,
9 would constitute a felony and:

10 “(a) Involves actual or threatened serious physical injury to a victim; or

11 “(b) Is a sexual offense. As used in this paragraph, ‘sexual offense’ has
12 the meaning given the term ‘sex crime’ in ORS 181.594.

13 “(33) ‘Ward’ means a person within the jurisdiction of the juvenile court
14 under ORS 419B.100.

15 “(34) ‘Young person’ means a person who has been found responsible ex-
16 cept for insanity under ORS 419C.411 and placed under the jurisdiction of
17 the Psychiatric Security Review Board.

18 “(35) ‘Youth’ means a person under 18 years of age who is alleged to have
19 committed an act that is a violation, or, if done by an adult would constitute
20 a violation, of a law or ordinance of the United States or a state, county or
21 city.

22 “(36) ‘Youth care center’ has the meaning given that term in ORS 420.855.

23 “(37) ‘Youth offender’ means a person who has been found to be within
24 the jurisdiction of the juvenile court under ORS 419C.005 for an act com-
25 mitted when the person was under 18 years of age.

26 “**SECTION 7.** ORS 164.255 is amended to read:

27 “164.255. (1) A person commits the crime of criminal trespass in the first
28 degree if the person **does any of the following:**

29 “(a) Enters or remains unlawfully in a dwelling[;].

30 “(b) Having been denied future entry to a building pursuant to a

1 merchant's notice of trespass, reenters the building during hours when the
2 building is open to the public with the intent to commit theft therein[;].

3 “(c) Enters or remains unlawfully upon railroad yards, tracks, bridges or
4 rights of way[; or].

5 “(d) Enters or remains unlawfully in or upon premises that have been
6 determined to be not fit for use under ORS 453.855 to 453.912.

7 **“(e) Is licensed under ORS 166.291 and 166.292 to carry a concealed
8 handgun, possesses or carries a firearm on school grounds in violation
9 of a policy adopted under ORS 166.380:**

10 **“(A) And fails to leave the school grounds after being lawfully di-
11 rected to do so by the person in charge; or**

12 **“(B) When there are signs posted on the school grounds that are
13 clearly visible to members of the public indicating that firearms are
14 prohibited or restricted on school grounds.**

15 “(2) Subsection (1)(d) of this section does not apply to the owner of record
16 of the premises if:

17 “(a) The owner notifies the law enforcement agency having jurisdiction
18 over the premises that the owner intends to enter the premises;

19 “(b) The owner enters or remains on the premises for the purpose of in-
20 specting or decontaminating the premises or lawfully removing items from
21 the premises; and

22 “(c) The owner has not been arrested for, charged with or convicted of a
23 criminal offense that contributed to the determination that the premises are
24 not fit for use.

25 “(3) Criminal trespass in the first degree is a Class A misdemeanor.

26 **“SECTION 8.** ORS 164.205 is amended to read:

27 **“164.205.** As used in ORS 164.205 to 164.270, except as the context requires
28 otherwise:

29 **“(1) ‘Building,’** in addition to its ordinary meaning, includes any booth,
30 vehicle, boat, aircraft or other structure adapted for overnight accommo-

1 dation of persons or for carrying on business therein. Where a building
2 consists of separate units, including, but not limited to, separate apartments,
3 offices or rented rooms, each unit is, in addition to being a part of such
4 building, a separate building.

5 “(2) ‘Dwelling’ means a building which regularly or intermittently is oc-
6 cupied by a person lodging therein at night, whether or not a person is ac-
7 tually present.

8 “(3) ‘Enter or remain unlawfully’ means:

9 “(a) To enter or remain in or upon premises when the premises, at the
10 time of such entry or remaining, are not open to the public or when the en-
11 trant is not otherwise licensed or privileged to do so;

12 “(b) To fail to leave premises that are open to the public after being
13 lawfully directed to do so by the person in charge;

14 “(c) To enter premises that are open to the public after being lawfully
15 directed not to enter the premises; or

16 “(d) To enter or remain in a motor vehicle when the entrant is not au-
17 thorized to do so.

18 “(4) ‘Open to the public’ means premises which by their physical nature,
19 function, custom, usage, notice or lack thereof or other circumstances at the
20 time would cause a reasonable person to believe that no permission to enter
21 or remain is required.

22 “(5) ‘Person in charge’ means a person, a representative or employee of
23 the person who has lawful control of premises by ownership, tenancy, official
24 position or other legal relationship. ‘Person in charge’ includes, but is not
25 limited to the person, or holder of a position, designated as the person or
26 position-holder in charge by the Governor, board, commission or governing
27 body of any political subdivision of this state.

28 “(6) ‘Premises’ includes any building and any real property, whether pri-
29 vately or publicly owned.

30 “(7) ‘School grounds’ means a school as defined in ORS 339.315.

1 **“SECTION 9. The amendments to ORS 164.255, 166.262 and 166.370**
2 **by sections 1, 5 and 7 of this 2013 Act apply to conduct occurring on**
3 **or after the effective date of this 2013 Act.**

4 **“SECTION 10. This 2013 Act being necessary for the immediate**
5 **preservation of the public peace, health and safety, an emergency is**
6 **declared to exist, and this 2013 Act takes effect on its passage.”.**

7
