

# Senate Bill 389

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## SUMMARY

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

Repeals sunset applicable to statutes providing authorized tribal police officers with certain powers and protections provided to Oregon law enforcement officers.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to tribal police officers; creating new provisions; amending ORS 40.275, 90.440, 133.005,  
3 133.525, 133.721, 133.726, 136.595, 147.425, 153.005, 161.015, 163.730, 165.535, 181.010, 181.610,  
4 181.781, 181.783, 181.796, 348.270, 414.805, 419B.902, 420.905, 801.395, 811.720 and 830.005; re-  
5 pealing section 58, chapter 644, Oregon Laws 2011; and declaring an emergency.

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

7 **SECTION 1.** ORS 40.275, as amended by section 37, chapter 644, Oregon Laws 2011, and section  
8 3, chapter 180, Oregon Laws 2013, is amended to read:

9 40.275. (1) As used in this section, "unit of government" means:

10 (a) The federal government or any state or political subdivision thereof; *[or]*

11 (b) A university that has commissioned police officers under ORS 352.383 or 353.125; **or**

12 (c) **A tribal government as defined in section 1, chapter 644, Oregon Laws 2011, if the**  
13 **information relates to or assists in an investigation conducted by an authorized tribal police**  
14 **officer as defined in section 1, chapter 644, Oregon Laws 2011.**

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

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

21 (4) No privilege exists under this section:

22 (a) If the identity of the informer or the informer's interest in the subject matter of the com-  
23 munication has been disclosed to those who would have cause to resent the communication by a  
24 holder of the privilege or by the informer's own action, or if the informer appears as a witness for  
25 the unit of government.

26 (b) If it appears from the evidence in the case or from other showing by a party that an informer  
27 may be able to give testimony necessary to a fair determination of the issue of guilt or innocence  
28 in a criminal case or of a material issue on the merits in a civil case to which the unit of govern-  
29 ment is a party, and the unit of government invokes the privilege, and the judge gives the unit of  
30 government an opportunity to show in camera facts relevant to determining whether the informer

**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 can, in fact, supply that testimony. The showing will ordinarily be in the form of affidavits, but the  
 2 judge may direct that testimony be taken if the judge finds that the matter cannot be resolved sat-  
 3 isfactorily upon affidavit. If the judge finds that there is a reasonable probability that the informer  
 4 can give the testimony, and the unit of government elects not to disclose identity of the informer,  
 5 the judge on motion of the defendant in a criminal case shall dismiss the charges to which the tes-  
 6 timony would relate, and the judge may do so on the judge's own motion. In civil cases, the judge  
 7 may make any order that justice requires. Evidence submitted to the judge shall be sealed and pre-  
 8 served to be made available to the appellate court in the event of an appeal, and the contents shall  
 9 not otherwise be revealed without consent of the unit of government. All counsel and parties shall  
 10 be permitted to be present at every stage of proceedings under this paragraph except a showing in  
 11 camera, at which no counsel or party shall be permitted to be present.

12 (c) If information from an informer is relied upon to establish the legality of the means by which  
 13 evidence was obtained and the judge is not satisfied that the information was received from an in-  
 14 former reasonably believed to be reliable or credible. The judge may require the identity of the  
 15 informer to be disclosed. The judge shall, on request of the unit of government, direct that the dis-  
 16 closure be made in camera. All counsel and parties concerned with the issue of legality shall be  
 17 permitted to be present at every stage of proceedings under this paragraph except a disclosure in  
 18 camera, at which no counsel or party shall be permitted to be present. If disclosure of the identity  
 19 of the informer is made in camera, the record thereof shall be sealed and preserved to be made  
 20 available to the appellate court in the event of an appeal, and the contents shall not otherwise be  
 21 revealed without consent of the unit of government.

22 **SECTION 2.** ORS 90.440, as amended by section 69, chapter 644, Oregon Laws 2011, and section  
 23 6, chapter 180, Oregon Laws 2013, is amended to read:

24 90.440. (1) As used in this section:

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

27 (b) "Illegal drugs" includes controlled substances or prescription drugs:

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

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

30 (c) "Peace officer" means:

31 (A) A sheriff, constable, marshal or deputy;

32 (B) A member of a state or city police force; *[or]*

33 (C) A police officer commissioned by a university under ORS 352.383 or 353.125; **or**

34 **(D) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
 35 **2011.**

36 (2) Notwithstanding ORS 90.375 and 90.435, a group recovery home may terminate a tenancy and  
 37 peaceably remove a tenant without complying with ORS 105.105 to 105.168 if the tenant has used  
 38 or possessed alcohol or illegal drugs within the preceding seven days. For purposes of this sub-  
 39 section, the following are sufficient proof that a tenant has used or possessed alcohol or illegal  
 40 drugs:

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

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

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

45 (3) A group recovery home that undertakes the removal of a tenant under this section shall

1 personally deliver to the tenant a written notice that:

2 (a) Describes why the tenant is being removed;

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

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

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

9 (e) Gives contact information for the local legal services office and for the Oregon State Bar's  
10 Lawyer Referral Service, identifying those services as possible sources for free or reduced-cost legal  
11 services.

12 (4) A written notice in substantially the following form meets the requirements of subsection (3)  
13 of this section:

14 \_\_\_\_\_  
15  
16 This notice is to inform you that you must move out of \_\_\_\_\_ (insert address of group  
17 recovery home) by \_\_\_\_\_ (insert date and time that is not less than 24 hours after delivery  
18 of notice).

19 The reason for this notice is \_\_\_\_\_ (specify use or possession of alcohol or illegal drugs,  
20 as applicable, and dates of occurrence).

21 The proof of your use or possession is \_\_\_\_\_ (specify facts).

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

26 You may be eligible for free legal services at your local legal services office \_\_\_\_\_ (in-  
27 sert telephone number) or reduced fee legal services through the Oregon State Bar at 1-800-452-7636.  
28

29 \_\_\_\_\_  
30 (5) Within the notice period, a group recovery home shall allow a tenant removed under this  
31 section to follow any emergency departure plan that was prepared by the tenant and approved by  
32 the group recovery home at the time the tenancy began. If the removed tenant does not have an  
33 emergency departure plan, a representative of the group recovery home shall offer to take the re-  
34 moved tenant to a public shelter, detoxification center or similar location if existing in the commu-  
35 nity.

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

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

45 (8) A tenant who is removed under subsection (2) of this section may obtain injunctive relief to

1 recover possession and may recover an amount equal to the greater of actual damages or three  
2 times the tenant's monthly rent if:

3 (a) The group recovery home removed the tenant in bad faith or without substantially complying  
4 with this section; or

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

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

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

14 (11) This section does not prevent a group recovery home from terminating a tenancy as pro-  
15 vided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to  
16 105.168.

17 **SECTION 3.** ORS 133.005, as amended by section 39, chapter 644, Oregon Laws 2011, section  
18 7, chapter 54, Oregon Laws 2012, section 4, chapter 67, Oregon Laws 2012, section 5, chapter 154,  
19 Oregon Laws 2013, and section 9, chapter 180, Oregon Laws 2013, is amended to read:

20 133.005. As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires  
21 otherwise:

22 (1) "Arrest" means to place a person under actual or constructive restraint or to take a person  
23 into custody for the purpose of charging that person with an offense. A "stop" as authorized under  
24 ORS 131.605 to 131.625 is not an arrest.

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

28 (3) "Peace officer" means:

29 (a) A member of the Oregon State Police;

30 (b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer  
31 commissioned by a university under ORS 352.383 or 353.125;

32 (c) An investigator of a district attorney's office if the investigator is or has been certified as  
33 a peace officer in this or any other state;

34 (d) An investigator of the Criminal Justice Division of the Department of Justice of the State  
35 of Oregon;

36 (e) A humane special agent as defined in ORS 181.435;

37 (f) A liquor enforcement inspector exercising authority described in ORS 471.775 (2); [or]

38 **(g) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
39 **2011; or**

40 [(g)] **(h)** A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647.

41 (4) "Reserve officer" means an officer or member of a law enforcement agency who is:

42 (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port,  
43 school district, mass transit district, county, county service district authorized to provide law  
44 enforcement services under ORS 451.010, the Criminal Justice Division of the Department of Justice,  
45 the Oregon State Lottery Commission or the Governor or a member of the Department of State

1 Police;

2 (b) Armed with a firearm; and

3 (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordi-  
4 nances relating to airport security.

5 **SECTION 4.** ORS 133.525, as amended by section 40, chapter 644, Oregon Laws 2011, section  
6 9, chapter 54, Oregon Laws 2012, section 6, chapter 67, Oregon Laws 2012, and section 11, chapter  
7 180, Oregon Laws 2013, is amended to read:

8 133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

9 (1) "Judge" means any judge of the circuit court, the Court of Appeals, the Supreme Court, any  
10 justice of the peace or municipal judge authorized to exercise the powers and perform the duties  
11 of a justice of the peace.

12 (2) "Police officer" means:

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

14 (b) A sheriff or municipal police officer, [or] a police officer commissioned by a university under  
15 ORS 352.383 or 353.125 **or an authorized tribal police officer as defined in section 1, chapter**  
16 **644, Oregon Laws 2011;**

17 (c) An investigator of a district attorney's office if the investigator is or has been certified as  
18 a peace officer in this or any other state;

19 (d) An investigator of the Criminal Justice Division of the Department of Justice;

20 (e) A humane special agent as defined in ORS 181.435; or

21 (f) A liquor enforcement inspector exercising authority described in ORS 471.775 (2).

22 **SECTION 5.** ORS 133.721, as amended by section 70, chapter 644, Oregon Laws 2011, section  
23 11, chapter 54, Oregon Laws 2012, and section 13, chapter 180, Oregon Laws 2013, is amended to  
24 read:

25 133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

26 (1) "Aggrieved person" means a person who was a party to any wire, electronic or oral com-  
27 munication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was  
28 directed and who alleges that the interception was unlawful.

29 (2) "Contents," when used with respect to any wire, electronic or oral communication, includes  
30 any information concerning the identity of the parties to such communication or the existence,  
31 substance, purport or meaning of that communication.

32 (3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds,  
33 data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic,  
34 photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:

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

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

37 (4) "Electronic, mechanical or other device" means any device or apparatus that can be used  
38 to intercept a wire, electronic or oral communication other than:

39 (a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that  
40 is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its  
41 business and that is being used by the subscriber or user in the ordinary course of its business or  
42 being used by a telecommunications carrier in the ordinary course of its business, or by an investi-  
43 gative or law enforcement officer in the ordinary course of official duties; or

44 (b) A hearing aid or similar device being used to correct subnormal hearing to not better than  
45 normal.

1 (5) "Intercept" means the acquisition, by listening or recording, of the contents of any wire,  
2 electronic or oral communication through the use of any electronic, mechanical or other device.

3 (6) "Investigative or law enforcement officer" means:

4 (a) An officer or other person employed to investigate or enforce the law by:

5 (A) A county sheriff or municipal police department, or a police department established by a  
6 university under ORS 352.383 or 353.125;

7 (B) The Oregon State Police, the Department of Corrections, the Attorney General or a district  
8 attorney; or

9 (C) Law enforcement agencies of other states or the federal government; [*or*]

10 **(b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
11 **2011; or**

12 [*b*] (c) A liquor enforcement inspector exercising authority described in ORS 471.775 (2).

13 (7) "Oral communication" means:

14 (a) Any oral communication, other than a wire or electronic communication, uttered by a person  
15 exhibiting an expectation that such communication is not subject to interception under circum-  
16 stances justifying such expectation; or

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

20 (8) "Telecommunications carrier" means:

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

22 (b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications  
23 services.

24 (9) "Telecommunications service" has the meaning given that term in ORS 759.005.

25 (10) "Wire communication" means any communication made in whole or in part through the use  
26 of facilities for the transmission of communications by the aid of wire, cable or other like connection  
27 between the point of origin and the point of reception, whether furnished or operated by a public  
28 utility or privately owned or leased.

29 **SECTION 6.** ORS 133.726, as amended by section 71, chapter 644, Oregon Laws 2011, section  
30 13, chapter 54, Oregon Laws 2012, and section 15, chapter 180, Oregon Laws 2013, is amended to  
31 read:

32 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a  
33 law enforcement officer is authorized to intercept an oral communication to which the officer or a  
34 person under the direct supervision of the officer is a party, without obtaining an order for the in-  
35 terception of a wire, electronic or oral communication under ORS 133.724.

36 (2) For purposes of this section and ORS 133.736, a person is a party to an oral communication  
37 if the oral communication is made in the person's immediate presence and is audible to the person  
38 regardless of whether the communication is specifically directed to the person.

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

44 (a) The name of the applicant and the applicant's authority to make the application;

45 (b) A statement demonstrating that there is probable cause to believe that a person whose oral

1 communication is to be intercepted is engaged in committing, has committed or is about to commit  
2 a particular felony, or a misdemeanor under ORS 167.007 or 167.008, and that intercepting the oral  
3 communication will yield evidence thereof; and

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

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

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

11 (a) There is probable cause to believe that a person is engaged in committing, has committed  
12 or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008; and

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

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 475.752, 475.806 to 475.894 or 475.906 or as a  
31 misdemeanor under ORS 167.007 or 167.008; 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 intercepted  
42 under this section before a preliminary hearing or trial in which an oral communication is going to  
43 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:

7 (a) An officer employed to enforce criminal laws by:

8 (A) The United States, this state or a municipal government within this state;

9 (B) A political subdivision, agency, department or bureau of the governments described in sub-  
10 paragraph (A) of this paragraph; or

11 (C) A police department established by a university under ORS 352.383 or 353.125; [or]

12 **(b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
13 **2011; or**

14 [(b)] (c) A liquor enforcement inspector as defined in ORS 471.001.

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

16 **SECTION 7.** ORS 136.595, as amended by section 72, chapter 644, Oregon Laws 2011, and sec-  
17 tion 17, chapter 180, Oregon Laws 2013, is amended to read:

18 136.595. (1) Except as provided in ORS 136.447 and 136.583 and subsection (2) of this section, a  
19 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, a municipal police department, [or] a police department established by  
42 a university under ORS 352.383 or 353.125 **or, if the witness whose attendance at trial is re-**  
43 **quired is an authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
44 **2011, a tribal government as defined in section 1, chapter 644, Oregon Laws 2011.**

45 (3) When a subpoena has been served as provided in ORS 136.583 or subsection (1) or (2) of this



1 section and, subsequent to service, the date on, or the time at, which the person subpoenaed is to  
 2 appear has changed, a new subpoena is not required to be served if:

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

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

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

8 (B) Express mail.

9 **SECTION 8.** ORS 147.425, as amended by section 44, chapter 644, Oregon Laws 2011, and sec-  
 10 tion 20, chapter 180, Oregon Laws 2013, is amended to read:

11 147.425. (1) As used in this section:

12 (a) "Health care provider" has the meaning given that term in ORS 192.556.

13 (b) "Law enforcement agency" means:

14 (A) A city or municipal police department.

15 (B) A county sheriff's office.

16 (C) The Oregon State Police.

17 (D) A district attorney.

18 (E) A police department established by a university under ORS 352.383 or 353.125.

19 (F) A special campus security officer commissioned under ORS 352.385.

20 **(G) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
 21 **2011.**

22 (c) "Person crime" means a person felony or person Class A misdemeanor, as those terms are  
 23 defined in the rules of the Oregon Criminal Justice Commission.

24 (d) "Personal representative" means a person selected under subsection (2) of this section to  
 25 accompany the victim of a crime to certain phases of an investigation and prosecution.

26 (e) "Protective service worker" means an employee or contractor of a local or state agency  
 27 whose role it is to protect children or vulnerable adults from abuse or neglect.

28 (2) A victim of a person crime, who is at least 15 years of age at the time the crime is com-  
 29 mitted, may select a person who is at least 18 years of age as the victim's personal representative  
 30 for purposes of this section. The victim may not select a person who is a suspect in, or a party or  
 31 witness to, the crime as a personal representative.

32 (3) Except for grand jury proceedings and child abuse assessments occurring at a child advocacy  
 33 center recognized by the Department of Justice, a personal representative may accompany the vic-  
 34 tim to those phases of the investigation, including medical examinations, and prosecution of the  
 35 crime at which the victim is entitled or required to be present.

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

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

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

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

3 **SECTION 9.** ORS 153.005, as amended by section 45, chapter 644, Oregon Laws 2011, section  
 4 15, chapter 54, Oregon Laws 2012, section 8, chapter 67, Oregon Laws 2012, and section 22, chapter  
 5 180, Oregon Laws 2013, is amended to read:

6 153.005. As used in this chapter:

7 (1) “Enforcement officer” means:

8 (a) A member of the Oregon State Police.

9 (b) A sheriff or deputy sheriff.

10 (c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

11 (d) A police officer commissioned by a university under ORS 352.383 or 353.125.

12 (e) An investigator of a district attorney’s office if the investigator is or has been certified as  
 13 a peace officer in this or any other state.

14 (f) An investigator of the Criminal Justice Division of the Department of Justice of the State  
 15 of Oregon.

16 (g) A Port of Portland peace officer.

17 (h) A humane special agent as defined in ORS 181.435.

18 (i) A liquor enforcement inspector exercising authority described in ORS 471.775 (2).

19 **(j) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
 20 **2011.**

21 ~~[(j)]~~ **(k)** Any other person specifically authorized by law to issue citations for the commission  
 22 of violations.

23 (2) “Traffic offense” has the meaning given that term in ORS 801.555.

24 (3) “Violation” means an offense described in ORS 153.008.

25 (4) “Violation proceeding” means a judicial proceeding initiated by issuance of a citation that  
 26 charges a person with commission of a violation.

27 **SECTION 10.** ORS 161.015, as amended by section 46, chapter 644, Oregon Laws 2011, section  
 28 17, chapter 54, Oregon Laws 2012, section 10, chapter 67, Oregon Laws 2012, and section 24, chapter  
 29 180, Oregon Laws 2013, is amended to read:

30 161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires  
 31 otherwise:

32 (1) “Dangerous weapon” means any weapon, device, instrument, material or substance which  
 33 under the circumstances in which it is used, attempted to be used or threatened to be used, is  
 34 readily capable of causing death or serious physical injury.

35 (2) “Deadly weapon” means any instrument, article or substance specifically designed for and  
 36 presently capable of causing death or serious physical injury.

37 (3) “Deadly physical force” means physical force that under the circumstances in which it is  
 38 used is readily capable of causing death or serious physical injury.

39 (4) “Peace officer” means:

40 (a) A member of the Oregon State Police;

41 (b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS  
 42 133.005, or a police officer commissioned by a university under ORS 352.383 or 353.125;

43 (c) An investigator of the Criminal Justice Division of the Department of Justice or investigator  
 44 of a district attorney’s office;

45 (d) A humane special agent as defined in ORS 181.435;

1 (e) A liquor enforcement inspector exercising authority described in ORS 471.775 (2); [and]

2 (f) **An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
 3 **2011; and**

4 [(f)] (g) Any other person designated by law as a peace officer.

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

7 (6) “Physical force” includes, but is not limited to, the use of an electrical stun gun, tear gas  
 8 or mace.

9 (7) “Physical injury” means impairment of physical condition or substantial pain.

10 (8) “Serious physical injury” means physical injury which creates a substantial risk of death or  
 11 which causes serious and protracted disfigurement, protracted impairment of health or protracted  
 12 loss or impairment of the function of any bodily organ.

13 (9) “Possess” means to have physical possession or otherwise to exercise dominion or control  
 14 over property.

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

20 **SECTION 11.** ORS 163.730, as amended by section 73, chapter 644, Oregon Laws 2011, and  
 21 section 26, chapter 180, Oregon Laws 2013, is amended to read:

22 163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

23 (1) “Alarm” means to cause apprehension or fear resulting from the perception of danger.

24 (2) “Coerce” means to restrain, compel or dominate by force or threat.

25 (3) “Contact” includes but is not limited to:

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

27 (b) Following the other person;

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

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

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

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

33 (g) Committing a crime against the other person;

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

36 (i) Communicating with business entities with the intent of affecting some right or interest of  
 37 the other person;

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

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

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

43 (4) “Household member” means any person residing in the same residence as the victim.

44 (5) “Immediate family” means father, mother, child, sibling, spouse, grandparent, stepparent and  
 45 stepchild.

(6) “Law enforcement officer” means:

(a) A person employed in this state as a police officer by:

[(a)] (A) A county sheriff, constable or marshal;

[(b)] (B) A police department established by a university under ORS 352.383 or 353.125; or

[(c)] (C) A municipal or state police agency; **or**

**(b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.**

(7) “Repeated” means two or more times.

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

**SECTION 12.** ORS 165.535, as amended by section 74, chapter 644, Oregon Laws 2011, and section 28, chapter 180, Oregon Laws 2013, is amended to read:

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

(1) “Conversation” means the transmission between two or more persons of an oral communication which is not a telecommunication or a radio communication.

(2) “Person” has the meaning given that term in ORS 174.100 and includes:

(a) Public officials and law enforcement officers of:

[(a)] (A) The state and of a county, municipal corporation or any other political subdivision of the state; and

[(b)] (B) A police department established by a university under ORS 352.383 or 353.125; **and**

**(b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.**

(3) “Radio communication” means the transmission by radio or other wireless methods of writing, signs, signals, pictures and sounds of all kinds, including all instrumentalities, facilities, equipment and services (including, among other things, the receipt, forwarding and delivering of communications) incidental to such transmission.

(4) “Telecommunication” means the transmission of writing, signs, signals, pictures and sounds of all kinds by aid of wire, cable or other similar connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, equipment and services (including, among other things, the receipt, forwarding and delivering of communications) incidental to such transmission.

**SECTION 13.** ORS 181.010, as amended by section 49, chapter 644, Oregon Laws 2011, section 19, chapter 54, Oregon Laws 2012, section 12, chapter 67, Oregon Laws 2012, section 30, chapter 180, Oregon Laws 2013, and section 2, chapter 119, Oregon Laws 2014, is amended to read:

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

(1) “Criminal justice agency” means:

(a) The Governor;

(b) Courts of criminal jurisdiction;

(c) The Attorney General;

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

(e) Law enforcement agencies;

(f) The Department of Corrections;

(g) The Oregon Youth Authority;

1 (h) The State Board of Parole and Post-Prison Supervision;

2 (i) The Department of Public Safety Standards and Training;

3 (j) The enforcement division of the Oregon Liquor Control Commission;

4 (k) Regional information systems that share programs to track, identify and remove cross-  
5 jurisdictional criminal and terrorist conspiracies; and

6 (L) Any other state or local agency with law enforcement authority.

7 (2) "Criminal offender information" includes records and related data as to physical description  
8 and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders  
9 and alleged offenders, records of arrests and the nature and disposition of criminal charges, includ-  
10 ing sentencing, confinement, parole and release.

11 (3) "Department" means the Department of State Police established under ORS 181.020.

12 (4) "Deputy superintendent" means the Deputy Superintendent of State Police appointed under  
13 ORS 181.220.

14 (5) "Designated agency" means any state, county or municipal government agency where Oregon  
15 criminal offender information is required to implement a federal or state statute, executive order  
16 or administrative rule that expressly refers to criminal conduct and contains requirements or ex-  
17 clusions expressly based on such conduct or for agency employment purposes, licensing purposes or  
18 other demonstrated and legitimate needs when designated by order of the Governor.

19 (6) "Disposition report" means a form or process prescribed or furnished by the department,  
20 containing a description of the ultimate action taken subsequent to an arrest.

21 (7) "Law enforcement agency" means:

22 (a) County sheriffs, municipal police departments, police departments established by a university  
23 under ORS 352.383 or 353.125 and State Police;

24 (b) Other police officers of this state or another state, including humane special agents as de-  
25 fined in ORS 181.435; *[and]*

26 (c) **A tribal government as defined in section 1, chapter 644, Oregon Laws 2011, that**  
27 **employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws**  
28 **2011; and**

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

30 (8) "State police" means the sworn members of the state police force appointed under ORS  
31 181.250.

32 (9) "Superintendent" means the Superintendent of State Police appointed under ORS 181.200.

33 **SECTION 14.** ORS 181.610, as amended by section 50, chapter 644, Oregon Laws 2011, section  
34 23, chapter 54, Oregon Laws 2012, section 14, chapter 67, Oregon Laws 2012, section 5, chapter 88,  
35 Oregon Laws 2012, section 18, chapter 1, Oregon Laws 2013, section 7, chapter 154, Oregon Laws  
36 2013, and section 32, chapter 180, Oregon Laws 2013, is amended to read:

37 181.610. As used in ORS 181.610 to 181.712, unless the context requires otherwise:

38 (1) "Abuse" has the meaning given that term in ORS 107.705.

39 (2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to  
40 ORS 181.620.

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

44 (4) "Commissioned" means being authorized to perform various acts or duties of a police officer  
45 or certified reserve officer and acting under the supervision and responsibility of a county sheriff

1 or as otherwise provided by law.

2 (5) "Corrections officer" means an officer or member employed full-time by a law enforcement  
3 unit who:

4 (a) Is charged with and primarily performs the duty of custody, control or supervision of indi-  
5 viduals convicted of or arrested for a criminal offense and confined in a place of incarceration or  
6 detention other than a place used exclusively for incarceration or detention of juveniles; or

7 (b) Has been certified as a corrections officer described in paragraph (a) of this subsection and  
8 has supervisory or management authority for corrections officers described in paragraph (a) of this  
9 subsection.

10 (6) "Department" means the Department of Public Safety Standards and Training.

11 (7) "Director" means the Director of the Department of Public Safety Standards and Training.

12 (8) "Domestic violence" means abuse between family or household members.

13 (9) "Emergency medical dispatcher" means a person who has responsibility to process requests  
14 for medical assistance from the public or to dispatch medical care providers.

15 (10) "Family or household members" has the meaning given that term in ORS 107.705.

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

21 (12) "Law enforcement unit" means:

22 (a) A police force or organization of the state, a city, university that has established a police  
23 department under ORS 352.383 or 353.125, port, school district, mass transit district, county, county  
24 service district authorized to provide law enforcement services under ORS 451.010, tribal govern-  
25 ment **as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal**  
26 **police officers as defined in section 1, chapter 644, Oregon Laws 2011**, the Criminal Justice Di-  
27 vision of the Department of Justice, the Department of Corrections, the Oregon State Lottery Com-  
28 mission, the Security and Emergency Preparedness Office of the Judicial Department or common  
29 carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is one or  
30 more of the following:

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

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

36 (C) The control, supervision and reformation of adult offenders placed on parole or sentenced  
37 to probation and investigation of adult offenders on parole or probation or being considered for  
38 parole or probation;

39 (b) A police force or organization of a private entity with a population of more than 1,000 resi-  
40 dents in an unincorporated area the employees of which are commissioned by a county sheriff;

41 (c) A district attorney's office;

42 (d) The Oregon Liquor Control Commission with regard to liquor enforcement inspectors; or

43 (e) A humane investigation agency as defined in ORS 181.433.

44 (13) "Liquor enforcement inspector" has the meaning given that term in ORS 471.001.

45 (14) "Parole and probation officer" means:

1 (a) An officer who is employed full-time by the Department of Corrections, a county or a court  
2 and who is charged with and performs the duty of:

3 (A) Community protection by controlling, investigating, supervising and providing or making  
4 referrals to reformatory services for adult parolees or probationers or offenders on post-prison  
5 supervision; or

6 (B) Investigating adult offenders on parole or probation or being considered for parole or pro-  
7 bation; or

8 (b) An officer who:

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

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

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

13 (i) Community protection by controlling, investigating, supervising and providing or making re-  
14 ferrals to reformatory services for adult parolees or probationers or offenders on post-prison super-  
15 vision; or

16 (ii) Investigating adult offenders on parole or probation or being considered for parole or pro-  
17 bation.

18 (15) "Police officer" means:

19 (a) An officer, member or employee of a law enforcement unit employed full-time as a peace of-  
20 ficer who is:

21 (A) Commissioned by a city, port, school district, mass transit district, county, county service  
22 district authorized to provide law enforcement services under ORS 451.010, tribal government **as**  
23 **defined in section 1, chapter 644, Oregon Laws 2011**, the Criminal Justice Division of the De-  
24 partment of Justice, the Oregon State Lottery Commission, a university that has established a police  
25 department under ORS 352.383 or 353.125, the Governor or the Department of State Police; and

26 (B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to  
27 airport security;

28 (b) An investigator of a district attorney's office if the investigator is or has been certified as  
29 a peace officer in this or another state;

30 (c) A humane special agent commissioned under ORS 181.433; [or]

31 (d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647; **or**

32 (e) **An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
33 **2011.**

34 (16) "Public or private safety agency" means a unit of state or local government, a special pur-  
35 pose district or a private firm that provides, or has authority to provide, fire fighting, police, am-  
36 bulance or emergency medical services.

37 (17) "Public safety personnel" and "public safety officer" include corrections officers, youth  
38 correction officers, emergency medical dispatchers, parole and probation officers, police officers,  
39 certified reserve officers, telecommunicators, liquor enforcement inspectors and fire service profes-  
40 sionals.

41 (18) "Reserve officer" means an officer or member of a law enforcement unit who is:

42 (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port,  
43 school district, mass transit district, county, county service district authorized to provide law  
44 enforcement services under ORS 451.010, tribal government **as defined in section 1, chapter 644,**  
45 **Oregon Laws 2011**, the Criminal Justice Division of the Department of Justice, the Oregon State

1 Lottery Commission, a university that has established a police department under ORS 352.383 or  
 2 353.125, the Governor or the Department of State Police;

3 (b) Armed with a firearm; and

4 (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordi-  
 5 nances relating to airport security.

6 (19) "Telecommunicator" means a person employed as an emergency telephone worker as de-  
 7 fined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing  
 8 and transmitting public safety information received through a 9-1-1 emergency reporting system as  
 9 defined in ORS 403.105.

10 (20) "Youth correction officer" means an employee of the Oregon Youth Authority who is  
 11 charged with and primarily performs the duty of custody, control or supervision of youth offenders  
 12 confined in a youth correction facility.

13 **SECTION 15.** ORS 181.781, as amended by section 50a, chapter 644, Oregon Laws 2011, is  
 14 amended to read:

15 181.781. As used in ORS 181.781 to 181.796:

16 (1) "Employ," when used in the context of the relationship between a law enforcement agency  
 17 and a police officer, includes the assignment of law enforcement duties on a volunteer basis to a  
 18 reserve officer.

19 (2) "Law enforcement agency" means the Department of State Police, the Department of Justice,  
 20 a district attorney, a political subdivision of the State of Oregon, a municipal corporation of the  
 21 State of Oregon, **a tribal government** and a university, that maintains a law enforcement unit as  
 22 defined in ORS 181.610 (12)(a)(A).

23 (3) "Police officer" means a person who is:

24 (a) A police officer or reserve officer as defined in ORS 181.610; and

25 (b) Employed by a law enforcement agency to enforce the criminal laws of this state.

26 (4) **"Tribal government" means a tribal government as defined in section 1, chapter 644,**  
 27 **Oregon Laws 2011:**

28 (a) **With land that is contiguous to the county in which the deadly physical force planning**  
 29 **authority is created; and**

30 (b) **That has adopted the provision of tribal law described in section 2 (4)(d)(A), chapter**  
 31 **644, Oregon Laws 2011.**

32 **SECTION 16.** ORS 181.783, as amended by section 50b, chapter 644, Oregon Laws 2011, is  
 33 amended to read:

34 181.783. (1) There is created in each county a deadly physical force planning authority consist-  
 35 ing of the following members:

36 (a) The district attorney and sheriff of the county.

37 (b) A nonmanagement police officer selected by the district attorney and sheriff. If there are  
 38 unions representing police officers within the county, the district attorney and sheriff shall select  
 39 the police officer from among candidates nominated by any union representing police officers within  
 40 the county.

41 (c) If at least one city within the county employs a police chief, a police chief selected by the  
 42 police chiefs within the county.

43 (d) A representative of the public selected by the district attorney and sheriff. The person se-  
 44 lected under this paragraph may not be employed by a law enforcement agency.

45 (e) A representative of the Oregon State Police selected by the Superintendent of State Police.



**(f) A tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011, when requested by a tribal government.**

(2) The district attorney and sheriff are cochairpersons of the planning authority.

(3) The law enforcement agency that employs the police officer selected under subsection (1)(b) of this section shall release the officer from other duties for at least 16 hours per year to enable the officer to serve on the planning authority. The agency shall compensate the officer at the officer's regular hourly wage while the officer is engaged in planning authority activities.

(4) The planning authority shall develop a plan consisting of the following:

(a) An element dealing with education, outreach and training regarding the use of deadly physical force for police officers, attorneys employed by state or local government within the county and members of the community.

(b) An element dealing with the immediate aftermath of an incident in which a police officer used deadly physical force.

(c) An element dealing with the investigation of an incident in which a police officer used deadly physical force.

(d) An element dealing with the exercise of district attorney discretion to resolve issues of potential criminal responsibility resulting from a police officer's use of deadly physical force.

(e) An element dealing with collecting information regarding a police officer's use of deadly physical force, debriefing after an incident in which a police officer used deadly physical force and revising a plan developed under this subsection based on experience.

(f) An estimate of the fiscal impact on the law enforcement agencies to which the plan applies of each element described in paragraphs (a) to (e) of this subsection.

(5) The planning authority shall conduct at least one public hearing in the county before submitting a plan, or a revision of a plan, to the governing bodies in the county under subsection (7) of this section.

(6) The planning authority may consult with anyone the planning authority determines may be helpful in carrying out its responsibilities.

(7) The planning authority shall submit the plan developed under subsection (4) of this section, and revisions of the plan, to the governing body of each law enforcement agency within the county except for the Department of State Police and the Department of Justice.

(8) A governing body shall approve or disapprove the plan submitted to it under subsection (7) of this section within 60 days after receiving the plan. The governing body may not amend the plan.

(9) If the plan is not approved by at least two-thirds of the governing bodies to which the plan is submitted, the planning authority shall develop and submit a revised plan.

(10) If the plan is approved by at least two-thirds of the governing bodies to which the plan is submitted, the planning authority shall submit the approved plan to the Attorney General. No later than 30 days after receiving the plan, the Attorney General shall review the plan for compliance with the minimum requirements described in ORS 181.786. If the Attorney General determines that the plan complies with the minimum requirements, the Attorney General shall approve the plan. Upon approval of the plan:

(a) Each law enforcement agency within the county to which the plan applies is subject to the provisions of the plan; and

(b) Each law enforcement agency subject to the plan is entitled to grants as provided in ORS 181.796.

(11) If the plan is not approved by the Attorney General, the planning authority shall develop

1 and submit a revised plan.

2 (12) Notwithstanding subsection (10)(a) of this section, a law enforcement agency is not subject  
3 to a provision of a plan approved under subsection (10) of this section that:

4 (a) Conflicts with a provision of a city or county charter or a general ordinance that applies to  
5 the law enforcement agency; or

6 (b) Imposes an obligation not required by ORS 181.789 if complying with the provision would  
7 require the law enforcement agency to budget moneys, or submit a revenue measure for a vote of  
8 the people, in order to comply with the provision.

9 (13) The Attorney General shall periodically publish all approved plans.

10 (14) A law enforcement agency within a county has a duty to participate in good faith in the  
11 planning process of the planning authority for the county.

12 (15) A person bringing an action challenging the validity or enforceability of a plan approved  
13 under subsection (10) of this section shall serve the Attorney General with a copy of the complaint.  
14 If the Attorney General is not a party to the action, the Attorney General may intervene in the  
15 action.

16 **SECTION 17.** ORS 181.796, as amended by section 50c, chapter 644, Oregon Laws 2011, is  
17 amended to read:

18 181.796. (1) As used in this section, “expenses” does not include personnel costs.

19 (2) To the extent that funds are appropriated to it for such purposes, the Department of Justice  
20 shall make grants to law enforcement agencies to reimburse the law enforcement agencies for ex-  
21 penses incurred in implementing and revising the plans required by ORS 181.783. A grant under this  
22 section may not exceed 75 percent of the expenses incurred by the law enforcement agency.

23 (3) The department may not make a grant under this section to a law enforcement agency unless  
24 the law enforcement agency is subject to a plan that has been approved by the Attorney General  
25 under ORS 181.783 (10).

26 **(4) The department may not make a grant under this section to a tribal government.**

27 [(4)] **(5)** The department shall adopt rules necessary for the administration of this section.

28 **SECTION 18.** ORS 348.270, as amended by section 51, chapter 644, Oregon Laws 2011, section  
29 3, chapter 116, Oregon Laws 2013, section 37, chapter 180, Oregon Laws 2013, section 93, chapter  
30 747, Oregon Laws 2013, and section 2, chapter 12, Oregon Laws 2014, is amended to read:

31 348.270. (1) In addition to any other scholarships provided by law, the Higher Education Coor-  
32 dinating Commission shall award scholarships in any public university listed in ORS 352.002, in the  
33 Oregon Health and Science University, in any community college operated under ORS chapter 341,  
34 or in any Oregon-based regionally accredited independent institution, to any student applying for  
35 enrollment or who is enrolled therein, who is:

36 (a) The natural child, adopted child or stepchild of any public safety officer, reserve officer or  
37 volunteer firefighter who, in the line of duty, was killed or so disabled, as determined by the Exec-  
38 utive Director of the Office of Student Access and Completion, that:

39 (A) The income of the public safety officer is less than that earned by public safety officers  
40 performing duties comparable to those performed at the highest rank or grade attained by the public  
41 safety officer; or

42 (B) The income of the reserve officer or volunteer firefighter working in their primary profession  
43 or type of employment is less than that earned by individuals in the same profession or type of  
44 employment with similar levels of education and experience; or

45 (b) A current foster child or former foster child who enrolls in an institution of higher education

1 as an undergraduate student not later than three years from the date the student was removed from  
 2 the care of the Department of Human Services, the date the student graduated from high school or  
 3 the date the student received the equivalent of a high school diploma, whichever date is earliest.

4 (2) Scholarships awarded under this section to students who are dependents of public safety of-  
 5 ficers, reserve officers or volunteer firefighters or who are current foster children or former foster  
 6 children shall equal the amount of tuition and all fees levied by the institution against the recipient  
 7 of the scholarship. However, scholarships awarded to students who attend independent institutions  
 8 may not exceed the amount of tuition and all fees levied by the University of Oregon.

9 (3) If a student who is the dependent of a deceased public safety officer, reserve officer or vol-  
 10 unteer firefighter continues to remain enrolled in a public university listed in ORS 352.002 or a  
 11 community college or an independent institution within the State of Oregon, the student shall be  
 12 entitled to renewal of the scholarship until the student has received the equivalent of four years of  
 13 undergraduate education and four years of post-graduate education.

14 (4) If a student who is a current foster child or former foster child or who is the dependent of  
 15 a public safety officer, reserve officer or volunteer firefighter with a disability continues to remain  
 16 enrolled in a public university listed in ORS 352.002 or a community college or an independent in-  
 17 stitution within the State of Oregon, the student shall be entitled to renewal of the scholarship until  
 18 the student has received the equivalent of four years of undergraduate education.

19 (5) The Executive Director **of the Office of Student Access and Completion** may require proof  
 20 of a student's relationship to a public safety officer, reserve officer or volunteer firefighter described  
 21 in subsection (1) of this section or proof that a student is a current foster child or former foster  
 22 child.

23 (6) As used in this section:

24 (a) "Former foster child" has the meaning given that term in ORS 351.293.

25 (b) "Public safety officer" means:

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

27 (B) A member of the Oregon State Police.

28 (C) A police officer commissioned by a university under ORS 352.383 or 353.125.

29 **(D) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
 30 **2011.**

31 (c) "Reserve officer" has the meaning given that term in ORS 133.005.

32 (d) "Volunteer firefighter" has the meaning given that term in ORS 652.050.

33 **SECTION 19.** ORS 414.805, as amended by section 52, chapter 644, Oregon Laws 2011, and  
 34 section 39, chapter 180, Oregon Laws 2013, is amended to read:

35 414.805. (1) An individual who receives medical services while in the custody of a law enforce-  
 36 ment officer is liable:

37 (a) To the provider of the medical services for the charges and expenses therefor; and

38 (b) To the Oregon Health Authority for any charges or expenses paid by the authority out of  
 39 the Law Enforcement Medical Liability Account for the medical services.

40 (2) A person providing medical services to an individual described in subsection (1) of this sec-  
 41 tion shall first make reasonable efforts to collect the charges and expenses thereof from the indi-  
 42 vidual before seeking to collect them from the authority out of the Law Enforcement Medical  
 43 Liability Account.

44 (3)(a) If the provider has not been paid within 45 days of the date of the billing, the provider  
 45 may bill the authority who shall pay the account out of the Law Enforcement Medical Liability

1 Account.

2 (b) A bill submitted to the authority under this subsection must be accompanied by evidence  
3 documenting that:

4 (A) The provider has billed the individual or the individual’s insurer or health care service  
5 contractor for the charges or expenses owed to the provider; and

6 (B) The provider has made a reasonable effort to collect from the individual or the individual’s  
7 insurer or health care service contractor the charges and expenses owed to the provider.

8 (c) If the provider receives payment from the individual or the insurer or health care service  
9 contractor after receiving payment from the authority, the provider shall repay the authority the  
10 amount received from the public agency less any difference between payment received from the in-  
11 dividual, insurer or contractor and the amount of the billing.

12 (4) As used in this section:

13 (a) “Law enforcement officer” means:

14 (A) An officer who is commissioned and employed by a public agency as a peace officer to en-  
15 force the criminal laws of this state or laws or ordinances of a public agency; **or**

16 (B) **An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
17 **2011.**

18 (b) “Public agency” means the state, a city, university that has established a police department  
19 under ORS 352.383 or 353.125, port, school district, mass transit district or county.

20 **SECTION 20.** ORS 419B.902, as amended by section 75, chapter 644, Oregon Laws 2011, and  
21 section 42, chapter 180, Oregon Laws 2013, is amended to read:

22 419B.902. (1) A subpoena may be served by the party or any other person 18 years of age or  
23 older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by  
24 delivering a copy to the witness personally. The service must be made so as to allow the witness a  
25 reasonable time for preparation and travel to the place of attendance. If the subpoena is not ac-  
26 companied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the  
27 subpoena is served personally or by mail, copies of a subpoena commanding production and in-  
28 spection of books, papers, documents or other tangible things before trial must be served on each  
29 party at least seven days before the subpoena is served on the person required to produce and per-  
30 mit inspection, unless the court orders a shorter period.

31 (2)(a) A law enforcement agency shall designate an individual upon whom service of a subpoena  
32 may be made. A designated individual must be available during normal business hours. In the ab-  
33 sence of a designated individual, service of a subpoena under paragraph (b) of this subsection may  
34 be made upon the officer in charge of the law enforcement agency.

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

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

45 (d) As used in this subsection, “law enforcement agency” means the Oregon State Police, a

1 county sheriff's department, a municipal police department, [or] a police department established by  
 2 a university under ORS 352.383 or 353.125, **or, if the witness whose attendance at trial is re-**  
 3 **quired is an authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
 4 **2011, a tribal government as defined in section 1, chapter 644, Oregon Laws 2011.**

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

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

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

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

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

19 **SECTION 21.** ORS 420.905, as amended by section 54, chapter 644, Oregon Laws 2011, section  
 20 44, chapter 180, Oregon Laws 2013, and section 2, chapter 259, Oregon Laws 2013, is amended to  
 21 read:

22 420.905. As used in ORS 420.905 to 420.915:

23 (1) "Juvenile community supervision officer" means an employee of the Oregon Youth Authority  
 24 who is classified as a juvenile parole and probation officer or a juvenile parole and probation as-  
 25 sistant.

26 (2) "Peace officer" means:

27 (a) A sheriff, constable or marshal, or the deputy of any such officer;

28 (b) A member of the state police; [or]

29 (c) A member of the police force of a city or a university that has established a police depart-  
 30 ment under ORS 352.383 or 353.125[.]; **or**

31 **(d) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws**  
 32 **2011.**

33 **SECTION 22.** ORS 801.395, as amended by section 55, chapter 644, Oregon Laws 2011, and  
 34 section 53, chapter 180, Oregon Laws 2013, is amended to read:

35 801.395. "Police officer" includes a member of the Oregon State Police, a sheriff, a deputy  
 36 sheriff, a city police officer, **an authorized tribal police officer as defined in section 1, chapter**  
 37 **644, Oregon Laws 2011**, a police officer commissioned by a university under ORS 352.383 or 353.125,  
 38 a Port of Portland peace officer, a reserve officer as defined in ORS 133.005 or a law enforcement  
 39 officer employed by a service district established under ORS 451.410 to 451.610 for the purpose of  
 40 law enforcement services.

41 **SECTION 23.** ORS 811.720, as amended by section 56, chapter 644, Oregon Laws 2011, and  
 42 section 55, chapter 180, Oregon Laws 2013, 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 towed  
 16 from the scene of the accident, each driver involved in the accident must report the accident in the  
 17 manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must re-  
 18 port the accident in the manner specified in ORS 811.730 and under the circumstances specified in  
 19 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 law  
 28 enforcement official performing a lawful intervention technique or a law enforcement official and a  
 29 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, university that has established a police department  
 33 under ORS 352.383 or 353.125, port, school district, mass transit district, county or county service  
 34 district authorized to provide law enforcement services under ORS 451.010;

35 (ii) With the Department of State Police or the Criminal Justice Division of the Department of  
 36 Justice; [or]

37 (iii) As an investigator of a district attorney's office, if the investigator is certified as a peace  
 38 officer in this state[.]; **or**

39 **(iv) As an authorized tribal police officer as defined in section 1, chapter 644, Oregon**  
 40 **Laws 2011.**

41 (B) "Lawful intervention technique" means a method by which one motor vehicle causes, or at-  
 42 tempts to cause, another motor vehicle to stop.

43 **SECTION 24.** ORS 830.005, as amended by section 57, chapter 644, Oregon Laws 2011, and  
 44 section 60, chapter 180, Oregon Laws 2013, is amended to read:

45 830.005. As used in this chapter, unless the context requires otherwise:

- 1 (1) "Board" means the State Marine Board.
- 2 (2) "Boat" means every description of watercraft, including a seaplane on the water and not in
- 3 flight, used or capable of being used as a means of transportation on the water, but does not include
- 4 boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.
- 5 (3) "Boating offense" means violation of any provision of law that is made a crime or violation
- 6 under the provisions of this chapter.
- 7 (4) "In flight" means from the moment a seaplane starts its takeoff run until the end of a normal
- 8 power-off landing run.
- 9 (5) "Length" means the length of a boat measured from end to end over the deck excluding
- 10 sheer.
- 11 (6) "Motorboat" means any boat propelled in whole or in part by machinery, including boats
- 12 temporarily equipped with detachable motors.
- 13 (7) "Navigable waters of the United States" means those waters of the United States, including
- 14 the territorial seas adjacent thereto, the general character of which is navigable, and that, either
- 15 by themselves or by uniting with other waters, form a continuous waterway on which boats or ves-
- 16 sels may navigate or travel between two or more states, or to and from foreign nations.
- 17 (8) "Operate" means to navigate or otherwise use a boat.
- 18 (9) "Operator of a boat livery" means any person who is engaged wholly or in part in the busi-
- 19 ness of chartering or renting boats to other persons.
- 20 (10) "Passenger" means every person on board a boat who is not the master, operator, crew
- 21 member or other person engaged in any capacity in the business of the boat.
- 22 (11) "Peace officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff,
- 23 a city police officer, **an authorized tribal police officer as defined in section 1, chapter 644,**
- 24 **Oregon Laws 2011,** and a police officer commissioned by a university under ORS 352.383 or 353.125.
- 25 (12) "State waters" means those waters entirely within the confines of this state that have not
- 26 been declared navigable waters of the United States.
- 27 (13) "Waters of this state" means all waters within the territorial limits of this state, the mar-
- 28 ginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to
- 29 or from the shore of this state.

30 **SECTION 25. Section 58, chapter 644, Oregon Laws 2011, is repealed.**

31 **SECTION 26. The amendments to ORS 40.275, 90.440, 133.005, 133.525, 133.721, 133.726,**

32 **136.595, 147.425, 153.005, 161.015, 163.730, 165.535, 181.010, 181.610, 181.781, 181.783, 181.796,**

33 **348.270, 414.805, 419B.902, 420.905, 801.395, 811.720 and 830.005 by sections 1 to 24 of this 2015**

34 **Act become operative on July 1, 2015.**

35 **SECTION 27. This 2015 Act being necessary for the immediate preservation of the public**

36 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**

37 **on its passage.**

38