

Senate Bill 573

Sponsored by Senator KNOPP (Presession filed.)

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**.

Directs Teacher Standards and Practices Commission to immediately suspend license or registration of teacher or administrator if commission determines there is reasonable cause to support report that teacher or administrator engaged in specified behavior.

Directs education provider to place school employee on paid administrative leave if education provider determines there is reasonable cause to support report that school employee engaged in specified behavior.

Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT

1
2 Relating to investigations of school employees; creating new provisions; amending ORS 339.388,
3 342.143, 342.175, 342.553 and 670.280; and declaring an emergency.

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

5 **SECTION 1.** ORS 342.175 is amended to read:

6 342.175. (1) **Except as provided in subsection (2) of this section**, the Teacher Standards and
7 Practices Commission may suspend or revoke the license or registration of a teacher or adminis-
8 trator, discipline a teacher or administrator, or suspend or revoke the right of any person to apply
9 for a license or registration, if the licensee, registrant or applicant has held a license or registration
10 at any time within five years prior to issuance of the notice of charges under ORS 342.176 based
11 on the following:

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

13 (b) Gross neglect of duty;

14 (c) Any gross unfitness;

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

17 (e) Conviction of a crime described in ORS 475B.010 to 475B.545;

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

20 (g) Failure to comply with any condition of reinstatement under subsection [(4)] (5) of this sec-
21 tion or any condition of probation under ORS 342.177 (3)(b).

22 **(2)(a) The commission shall immediately suspend the license or registration of a teacher**
23 **or administrator if the commission determines that there is reasonable cause to support a**
24 **report that the teacher or administrator engaged in:**

25 **(A) Abuse, as defined in ORS 419B.005;**

26 **(B) Sexual conduct, as defined in ORS 339.370;**

27 **(C) Drug or alcohol abuse;**

28 **(D) Physical force upon a student;**

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 (E) Sexual harassment;
- 2 (F) Assault in any degree; or
- 3 (G) Domestic violence.

4 (b) A license or registration that is suspended under paragraph (a) of this subsection
 5 shall remain suspended until the commission determines that:

- 6 (A) The report cannot be substantiated or that the report will not be pursued; or
- 7 (B) The report is substantiated and the commission takes final disciplinary action against
 8 the teacher or administrator.

9 [(2)] (3) If a person is enrolled in an approved educator preparation program under ORS 342.147,
 10 the commission may issue a public reprimand or may suspend or revoke the right to apply for a li-
 11 cense or registration based on the following:

- 12 (a) Conviction of a crime listed in ORS 342.143 (3) or a crime described by the commission by
 13 rule;
- 14 (b) Conviction of a crime for violating any law of this state or any state or of the United States
 15 involving the illegal use, sale or possession of controlled substances; or
- 16 (c) Any conduct that may cause the commission to issue a public reprimand for a teacher or to
 17 suspend or revoke the license or registration of a teacher.

18 [(3)] (4) The commission shall revoke any license or registration and shall revoke the right of
 19 any person to apply for a license or registration if the person has been convicted of any crime listed
 20 in ORS 342.143 (3).

21 [(4)(a)] (5)(a) Except for convictions for crimes listed in ORS 342.143 (3) and subject to sub-
 22 section [(5)] (6) of this section, any person whose license or registration has been revoked, or whose
 23 right to apply for a license or registration has been revoked, may apply to the commission for
 24 reinstatement of the license or registration after one year from the date of the revocation.

25 (b) Any person whose license or registration has been suspended, or whose right to apply for a
 26 license or registration has been suspended, may apply to the commission for reinstatement of the
 27 license or registration.

28 (c) The commission may require an applicant for reinstatement to furnish evidence satisfactory
 29 to the commission of good moral character, mental and physical health and such other evidence as
 30 the commission may consider necessary to establish the applicant's fitness. The commission may
 31 impose a probationary period and such conditions as the commission considers necessary upon ap-
 32 proving an application for reinstatement.

33 [(5)] (6) The commission shall reconsider immediately a license or registration suspension or
 34 revocation or the situation of a person whose right to apply for a license or registration has been
 35 revoked, upon application therefor, when the license or registration suspension or revocation or the
 36 right revocation is based on a criminal conviction that is reversed on appeal.

37 [(6)] (7) Violation of rules adopted by the commission relating to competent and ethical per-
 38 formance of professional duties shall be admissible as evidence of gross neglect of duty or gross
 39 unfitness.

40 [(7)] (8) A copy of the record of conviction, certified to by the clerk of the court entering the
 41 conviction, shall be conclusive evidence of a conviction described in this section.

42 **SECTION 2.** ORS 339.388 is amended to read:

43 339.388. (1)(a) A school employee having reasonable cause to believe that a child with whom the
 44 employee comes in contact has suffered abuse by another school employee or by a student, or that
 45 another school employee or a student with whom the employee comes in contact has abused a child,

1 shall immediately report the information to:

2 (A) The person designated in the policy adopted under ORS 339.372; and

3 (B) A law enforcement agency, the Department of Human Services or a designee of the depart-
4 ment as required by ORS 419B.010 and 419B.015.

5 (b) A school employee having reasonable cause to believe that a student with whom the em-
6 ployee comes in contact has been subjected to sexual conduct by another school employee, or that
7 another school employee with whom the employee comes in contact has engaged in sexual conduct,
8 shall immediately report the information to the person designated in the policy adopted under ORS
9 339.372.

10 (2) A person who receives a report under subsection (1) of this section shall follow the proce-
11 dures required by the policy adopted by the school board under ORS 339.372.

12 [(3)(a) *Except as provided in subsection (4) of this section, when an education provider receives a*
13 *report of suspected abuse or sexual conduct by one of its employees, and the education provider's*
14 *designee determines that there is reasonable cause to support the report, the education provider:]*

15 [(A) *In the case of suspected abuse, shall place the school employee on paid administrative leave;*
16 *or]*

17 [(B) *In the case of suspected sexual conduct, may place the school employee on paid administrative*
18 *leave or in a position that does not involve direct, unsupervised contact with children.]*

19 [(b) *A school employee who is placed on paid administrative leave under paragraph (a)(A) of this*
20 *subsection shall remain on administrative leave until:]*

21 [(A) *The Department of Human Services or a law enforcement agency determines that the report*
22 *cannot be substantiated or that the report will not be pursued; or]*

23 [(B) *The Department of Human Services or a law enforcement agency determines that the report*
24 *is substantiated and the education provider takes the appropriate disciplinary action against the school*
25 *employee.]*

26 **(3)(a) Except as provided in subsection (4) of this section, when an education provider**
27 **receives a report of suspected abuse or sexual conduct by one of its employees, and the ed-**
28 **ucation provider's designee determines that there is reasonable cause to support the report,**
29 **the education provider shall place the school employee on paid administrative leave.**

30 **(b) A school employee who is placed on paid administrative leave under paragraph (a) of**
31 **this subsection shall remain on administrative leave until the Department of Human Services**
32 **or a law enforcement agency determines that the report:**

33 **(A) Cannot be substantiated or that the report will not be pursued and, if applicable, the**
34 **school employee's license or registration no longer is suspended as provided by ORS 342.175**

35 **(2)(b)(A); or**

36 **(B) Is substantiated and the education provider takes the appropriate disciplinary action**
37 **against the school employee.**

38 (4) An education provider may reinstate a school employee placed on paid administrative leave
39 [for suspected abuse] as provided under subsection (3) of this section or may take the appropriate
40 disciplinary action against the employee if:

41 (a) The Department of Human Services or a law enforcement agency is unable to determine,
42 based on a report of suspected abuse **or sexual conduct**, whether abuse **or sexual conduct**
43 occurred[.]; **and**

44 **(b) The Teacher Standards and Practices Commission reinstates any applicable license**
45 **or registration.**

1 (5) If, following an investigation, an education provider determines that a report of suspected
2 abuse or sexual conduct by a school employee is a substantiated report, the education provider shall:

3 (a) Inform the school employee that the education provider has determined that the report has
4 been substantiated.

5 (b) Provide the school employee with information about the appropriate appeal process for the
6 determination made by the education provider. The appeal process may be the process provided by
7 a collective bargaining agreement or a process administered by a neutral third party and paid for
8 by the school district.

9 (c) Following notice of a school employee's decision not to appeal the determination or following
10 the determination of an appeal that sustained the substantiated report, create a record of the sub-
11 stantiated report and place the record in the personnel file of the school employee. Records created
12 pursuant to this paragraph are confidential and are not public records as defined in ORS 192.311.
13 An education provider may use the record as a basis for providing the information required to be
14 disclosed under ORS 339.378.

15 (d) Inform the school employee that information about substantiated reports may be disclosed
16 to a potential employer as provided by subsection (8) of this section and ORS 339.378.

17 (6)(a) Notwithstanding the requirements of subsections (3), (4) and (5) of this section, an educa-
18 tion provider that is a private school:

19 (A) May discipline or terminate a school employee according to:

20 (i) The provisions of subsections (3) and (4) of this section; or

21 (ii) The standards and policies of the private school if the standards and policies provide the
22 same or greater safeguards for the protection of children compared to the safeguards described in
23 subsections (3) and (4) of this section.

24 (B) May follow the procedures described in subsection (5) of this section or may follow any ap-
25 peals process established by the private school related to suspected child abuse or sexual conduct.

26 (b) A private school that chooses to discipline or terminate a school employee according to the
27 standards and policies of the school must provide the information required to be disclosed under
28 ORS 339.378.

29 (7) Upon request from a law enforcement agency, the Department of Human Services or the
30 Teacher Standards and Practices Commission, a school district shall provide the records of investi-
31 gations of suspected abuse by a school employee or former school employee.

32 (8)(a) The disciplinary records of a school employee or former school employee convicted of a
33 crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.345 or 192.355.

34 (b) If a school employee is convicted of a crime listed in ORS 342.143, the education provider
35 that is the employer of the employee shall disclose the disciplinary records of the employee to any
36 person upon request.

37 (c) If a former school employee is convicted of a crime listed in ORS 342.143, the education
38 provider that was the employer of the former employee when the crime was committed shall disclose
39 the disciplinary records of the former employee to any person upon request.

40 (9) Prior to disclosure of a disciplinary record under subsection (8) of this section, an education
41 provider shall remove any personally identifiable information from the record that would disclose
42 the identity of a child, a crime victim or a school employee or former school employee who is not
43 the subject of the disciplinary record.

44 **SECTION 3. The amendments to ORS 339.388 and 342.175 by sections 1 and 2 of this 2019**
45 **Act apply to reports received on or after the effective date of this 2019 Act.**

1 **SECTION 4.** ORS 342.143 is amended to read:

2 342.143. (1) A teaching, personnel service or administrative license, or public charter school
3 registration, may not be issued to any person until the person has attained the age of 18 years and
4 has furnished satisfactory evidence of proper educational training.

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

10 (3) Without limiting the powers of the Teacher Standards and Practices Commission under sub-
11 section (2) of this section:

12 (a) A teaching, personnel service or administrative license, or a public charter school registra-
13 tion, may not be issued to any person who:

14 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,
15 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433,
16 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part),
17 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087,
18 167.007, 167.008, 167.012, 167.017, 167.057, 167.062, 167.075, 167.080, 167.090, 475.808, 475.810, 475.812,
19 475.818, 475.820, 475.822, 475.828, 475.830, 475.832, 475.848, 475.852, 475.868, 475.872, 475.878, 475.880,
20 475.882, 475.888, 475.890, 475.892, 475.904 or 475.906.

21 (B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in
22 subparagraph (A) of this paragraph.

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

25 (D) Has had a teaching, personnel service or administrative license, or a public charter school
26 registration, revoked in another jurisdiction for a reason that is substantially equivalent, as defined
27 by rule, to a reason described in ORS 342.175 and the revocation is not subject to further appeal.
28 A person whose right to apply for a license or registration is denied under this subparagraph may
29 apply for reinstatement of the right as provided in ORS 342.175 [(4)] (5).

30 (b) The Teacher Standards and Practices Commission may refuse to issue a license or registra-
31 tion to any person who has been convicted of:

32 (A) A crime involving the illegal use, sale or possession of controlled substances; or

33 (B) A crime described in ORS 475B.010 to 475B.545.

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

36 **SECTION 5.** ORS 342.553 is amended to read:

37 342.553. (1) Upon notice from a district school board of the resignation of a person who is li-
38 censed by or registered with the Teacher Standards and Practices Commission, the commission may
39 discipline the person if the person entered into a written contract to work in a public school and
40 resigned the position without first providing 60 days' written notice, or the notice required in the
41 applicable collective bargaining agreement, to the district superintendent or the school board.

42 (2) In disciplining a person as provided under this section, the commission shall follow the pro-
43 cedure set forth in ORS 342.175 [(4)] (5), 342.176 and 342.177.

44 **SECTION 6.** ORS 670.280 is amended to read:

45 670.280. (1) As used in this section:

1 (a) "License" includes a registration, certification or permit.

2 (b) "Licensee" includes a registrant or a holder of a certification or permit.

3 (2) Except as provided in ORS 342.143 (3) or 342.175 [(3)] (4), a licensing board, commission or
4 agency may not deny, suspend or revoke an occupational or professional license solely for the rea-
5 son that the applicant or licensee has been convicted of a crime, but it may consider the relationship
6 of the facts which support the conviction and all intervening circumstances to the specific occupa-
7 tional or professional standards in determining the fitness of the person to receive or hold the li-
8 cense.

9 (3) Except as provided in ORS 342.143 (3) and 342.175 [(3)] (4), a licensing board, commission or
10 agency may deny an occupational or professional license or impose discipline on a licensee based
11 on conduct that is not undertaken directly in the course of the licensed activity, but that is sub-
12 stantially related to the fitness and ability of the applicant or licensee to engage in the activity for
13 which the license is required. In determining whether the conduct is substantially related to the
14 fitness and ability of the applicant or licensee to engage in the activity for which the license is re-
15 quired, the licensing board, commission or agency shall consider the relationship of the facts with
16 respect to the conduct and all intervening circumstances to the specific occupational or professional
17 standards.

18 **SECTION 7. This 2019 Act being necessary for the immediate preservation of the public**
19 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
20 **July 1, 2019.**

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