

House Bill 2058

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Education)

SUMMARY

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

Excludes from criminal records checks conducted by Department of Education certain persons who have submitted to criminal records checks conducted by Teacher Standards and Practices Commission.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to criminal records checks conducted by the Department of Education; amending ORS
3 326.603; and declaring an emergency.

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

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

6 326.603. (1) For the purposes of requesting a state or nationwide criminal records check under
7 ORS 181A.195, the Department of Education may require the fingerprints of:

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

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

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

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

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

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

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

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

24 (3) The Department of Education shall request that the Department of State Police conduct a
25 criminal records check as provided in ORS 181A.195 and may charge the school district or private
26 school a fee as established by rule under ORS 181A.195. The school district or private school may
27 recover its costs or a portion thereof from the person described in subsection (1) of this section. If
28 the person described in subsection (1)(b) or (d) of this section requests, the school district shall and
29 a private school may withhold the amount from amounts otherwise due the person, including a pe-
30 riodic payroll deduction rather than a lump sum payment.

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

6 (a) **Submitted to a criminal records check for the person's immediately previous em-**
 7 **ployer, the employer is a school district or private school and the person has not resided**
 8 **outside the state between the two periods of employment;**

9 (b) **Submitted to a criminal records check conducted by the Teacher Standards and**
 10 **Practices Commission within the previous three years;**

11 (c) **Remained continuously licensed or registered with the commission; or**

12 (d) **Had a license or registration with the commission that lapsed within the previous**
 13 **three years.**

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

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

23 (7)(a) The Superintendent of Public Instruction shall inform a school district or private school
 24 if a person described in subsection (1) of this section has been convicted of a crime listed in ORS
 25 342.143 (3) or has knowingly made a false statement on a criminal history form provided by the
 26 Department of Education as to the conviction of any crime.

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

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

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

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

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

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

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

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

6 (b) "School district" means:

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

8 (B) The Oregon School for the Deaf.

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

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

11 (E) An education service district.

12 **SECTION 2. This 2021 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
14 **on its passage.**

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