

HB 4030-A5
(LC 198)
2/15/22 (HRL/ps)

Requested by HOUSE COMMITTEE ON RULES (at the request of Representative Barbara Smith Warner)

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4030**

1 On page 1 of the printed A-engrossed bill, delete lines 8 through 10 and
2 delete page 2.

3 On page 3, delete lines 1 through 36 and insert:

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

5 “326.603. (1) For the purposes of requesting a state or nationwide criminal
6 records check under ORS 181A.195, the Department of Education may require
7 the fingerprints of:

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

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

14 “(c) A person who is a community college faculty member providing in-
15 struction:

16 “(A) At the site of an early childhood education program or at a school
17 site as part of an early childhood education program; or

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

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

21 “(2)(a) A school district shall send to the Department of Education for

1 purposes of a criminal records check any information, including fingerprints,
2 for each person described in subsection (1) of this section.

3 “(b) A private school may send to the Department of Education for pur-
4 poses of a criminal records check any information, including fingerprints, for
5 each person described in subsection (1)(a), (b) or (c) of this section.

6 “(3) The Department of Education shall request that the Department of
7 State Police conduct a criminal records check as provided in ORS 181A.195
8 and may charge the school district or private school a fee as established by
9 rule under ORS 181A.195. The school district or private school may recover
10 its costs or a portion thereof from the person described in subsection (1) of
11 this section. If the person described in subsection (1)(b) or (d) of this section
12 requests, the school district shall and a private school may withhold the
13 amount from amounts otherwise due the person, including a periodic payroll
14 deduction rather than a lump sum payment.

15 “(4) Notwithstanding subsection (1) of this section, the Department of
16 Education may not require fingerprints of a person described in subsection
17 (1) of this section if:

18 “(a) The person or the person’s employer was checked in one school dis-
19 trict or private school and is currently seeking to work in another district
20 or private school unless the person lived outside this state during the inter-
21 val between the two periods of time of working in the district or private
22 school[.]; or

23 “(b) **The department determines that the person:**

24 “(A) **Submitted to a criminal records check for the person’s imme-**
25 **diately previous employer, the employer is a school district or private**
26 **school and the person has not lived outside this state between the two**
27 **periods of employment;**

28 “(B) **Submitted to a criminal records check conducted by the**
29 **Teacher Standards and Practices Commission within the previous**
30 **three years; or**

1 **“(C) Remained continuously licensed or registered with the com-**
2 **mission.**

3 “(5) Nothing in this section requires a person described in subsection
4 (1)(a), (b) or (d) of this section to submit to fingerprinting until the person
5 has been offered employment or a contract by a school district or private
6 school. Contractor employees may not be required to submit to fingerprinting
7 until the contractor has been offered a contract.

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

15 “(7)(a) The Superintendent of Public Instruction shall inform a school
16 district or private school if a person described in subsection (1) of this sec-
17 tion has been convicted of a crime listed in ORS 342.143 (3) or has knowingly
18 made a false statement on a criminal history form provided by the Depart-
19 ment of Education as to the conviction of any crime.

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

28 “(c) If a person described in subsection (1) of this section has knowingly
29 made a false statement on a criminal history form provided by the Depart-
30 ment of Education as to the conviction of a crime not listed in ORS 342.143

1 (3), a school district or private school may choose to employ or contract with
2 the person.

3 “(8) If a person described in subsection (1) of this section refuses to con-
4 sent to the criminal records check or refuses to be fingerprinted, the school
5 district shall terminate the employment or contract status of the person.
6 Termination under this subsection removes the person from any school dis-
7 trict policies, collective bargaining provisions regarding dismissal procedures
8 and appeals and the provisions of ORS 342.805 to 342.937.

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

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

14 “(a) ‘Private school’ means a school that:

15 “(A) Offers education in prekindergarten, kindergarten or grades 1
16 through 12, or any combination of those grade levels; and

17 “(B) Provides instructional programs that are not limited solely to danc-
18 ing, drama, music, religious or athletic instruction.

19 “(b) ‘School district’ means:

20 “(A) A school district as defined in ORS 330.003.

21 “(B) The Oregon School for the Deaf.

22 “(C) An educational program under the Youth Corrections Education
23 Program.

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

25 “(E) An education service district.

26 “**SECTION 1a.** ORS 326.603, as amended by section 1 of this 2022 Act, is
27 amended to read:

28 “326.603. (1) For the purposes of requesting a state or nationwide criminal
29 records check under ORS 181A.195, the Department of Education may require
30 the fingerprints of:

1 “(a) A school district or private school contractor, whether part-time or
2 full-time, or an employee of a contractor, whether part-time or full-time, who
3 has direct, unsupervised contact with students as determined by the district
4 or private school.

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

7 “(c) A person who is a community college faculty member providing in-
8 struction:

9 “(A) At the site of an early childhood education program or at a school
10 site as part of an early childhood education program; or

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

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15 purposes of a criminal records check any information, including fingerprints,
16 for each person described in subsection (1) of this section.

17 “(b) A private school may send to the Department of Education for pur-
18 poses of a criminal records check any information, including fingerprints, for
19 each person described in subsection (1)(a), (b) or (c) of this section.

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

29 “(4) Notwithstanding subsection (1) of this section, the Department of
30 Education may not require fingerprints of a person described in subsection

1 (1) of this section if[.]

2 “[*(a)*] the person or the person’s employer was checked in one school dis-
3 trict or private school and is currently seeking to work in another district
4 or private school unless the person lived outside this state during the inter-
5 val between the two periods of time of working in the district or private
6 school[; *or*].

7 “[*(b)*] *The department determines that the person:*]

8 “[*(A)*] *Submitted to a criminal records check for the person’s immediately*
9 *previous employer, the employer is a school district or private school and the*
10 *person has not lived outside this state between the two periods of*
11 *employment;*]

12 “[*(B)*] *Submitted to a criminal records check conducted by the Teacher*
13 *Standards and Practices Commission within the previous three years; or]*

14 “[*(C)*] *Remained continuously licensed or registered with the commission.*]

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

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21 criminal history form provided by the Department of Education that the
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25 The department shall develop a process and criteria to use for appeals of a
26 determination under this subsection.

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28 district or private school if a person described in subsection (1) of this sec-
29 tion has been convicted of a crime listed in ORS 342.143 (3) or has knowingly
30 made a false statement on a criminal history form provided by the Depart-

1 ment of Education as to the conviction of any crime.

2 “(b) If a person described in subsection (1) of this section has been con-
3 victed of a crime listed in ORS 342.143 (3), a school district may not employ
4 or contract with the person and a private school may choose not to employ
5 or contract with the person. Notification by the superintendent that the
6 school district may not employ or contract with the person shall remove the
7 person from any school district policies, collective bargaining provisions re-
8 garding dismissal procedures and appeals and the provisions of ORS 342.805
9 to 342.937.

10 “(c) If a person described in subsection (1) of this section has knowingly
11 made a false statement on a criminal history form provided by the Depart-
12 ment of Education as to the conviction of a crime not listed in ORS 342.143
13 (3), a school district or private school may choose to employ or contract with
14 the person.

15 “(8) If a person described in subsection (1) of this section refuses to con-
16 sent to the criminal records check or refuses to be fingerprinted, the school
17 district shall terminate the employment or contract status of the person.
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19 trict policies, collective bargaining provisions regarding dismissal procedures
20 and appeals and the provisions of ORS 342.805 to 342.937.

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22 or allow the contractor to continue to assign a person to the school project
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28 through 12, or any combination of those grade levels; and

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30 ing, drama, music, religious or athletic instruction.

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

3 “(B) The Oregon School for the Deaf.

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

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

7 “(E) An education service district.

8 **“SECTION 1b. The amendments to ORS 326.603 by section 1a of this
9 2022 Act become operative on July 1, 2024.”.**

10 On page 5, line 23, delete the colon.

11 Delete line 24.

12 In line 25, delete “(2)”.

13
