

# Senate Bill 412

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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**.

Provides 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, 131.605,  
3 133.005, 133.033, 133.318, 133.525, 133.721, 133.726, 136.595, 147.425, 153.005, 161.015, 163.730,  
4 165.535, 181.010, 181.610, 348.270, 414.805, 419B.902, 420.905, 801.395, 810.410, 811.720 and 830.005;  
5 and declaring an emergency.

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

7 **SECTION 1. (1) The Legislative Assembly finds and declares that the purpose of sections**  
8 **1 to 4 of this 2011 Act is to provide a process by which police officers employed by a tribal**  
9 **government may exercise all of the powers provided to state law enforcement officers under**  
10 **the laws of this state and may receive the same authority and protections provided to those**  
11 **officers under the criminal statutes of this state.**

12 **(2) As used in sections 1 to 4 of this 2011 Act:**

13 **(a) "Certified tribal police officer" means a police officer employed by a tribal government**  
14 **acting:**

15 **(A) In accordance with sections 1 to 4 of this 2011 Act; and**

16 **(B) In the officer's capacity as a state law enforcement officer as described in subsection**  
17 **(1) of this section.**

18 **(b) "Tribal government" means a federally recognized sovereign tribal government whose**  
19 **borders lie within this state or an intertribal organization formed by two or more of those**  
20 **governments.**

21 **SECTION 2. (1) A person who is employed as a police officer by a tribal government may**  
22 **obtain certification as a certified tribal police officer in accordance in with the provisions of**  
23 **section 1 to 4 of this 2011 Act. A certified tribal police officer must:**

24 **(a) Be certified as a police officer by the Department of Public Safety Standards and**  
25 **Training in accordance with section 4 of this 2011 Act;**

26 **(b) Be employed as a police officer by a tribal government that has a valid adequacy of**  
27 **insurance certificate issued under section 3 of this 2011 Act; and**

28 **(c) Comply with rules adopted by the department under sections 1 to 4 of this 2011 Act.**

29 **(2) When the State of Oregon has jurisdiction over the commission of an offense, a ci-**  
30 **tation issued by a certified tribal police officer must:**

**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 (a) Summon the person to appear in the circuit court of the county in which the offense  
 2 was committed; and

3 (b) Be submitted to the district attorney of the county in which the offense was com-  
 4 mitted.

5 (3) For purposes of ORS 30.260 to 30.300, a certified tribal police officer is not an officer,  
 6 employee or agent of the State of Oregon or of any other public body as defined in ORS  
 7 174.109. A public body or an officer, employee or agent of a public body is not liable for cer-  
 8 tifying a police officer employed by a tribal government or for the acts or omissions of a  
 9 certified tribal police officer.

10 (4) Nothing in sections 1 to 4 of this 2011 Act affects:

11 (a) The authority of a county sheriff to appoint duly commissioned police officers as  
 12 deputy sheriffs authorized to enforce the criminal and traffic laws of the State of Oregon;  
 13 or

14 (b) The existing status and sovereignty of tribal governments whose traditional lands and  
 15 territories lie within the borders of the State of Oregon as established under the laws of the  
 16 United States.

17 (5) The Department of Public Safety Standards and Training shall adopt rules to carry  
 18 out the provisions of sections 1 to 4 of this 2011 Act.

19 (6) When the department suspends or revokes the certification of a certified tribal police  
 20 officer under sections 1 to 4 of this 2011 Act, the department shall notify the Department  
 21 of Justice in writing.

22 **SECTION 3.** (1) A tribal government that employs police officers may obtain an adequacy  
 23 of insurance certificate described in section 2 (1) of this 2011 Act if the tribal government  
 24 submits to the Department of Public Safety Standards and Training proof of a self-insurance  
 25 program or proof of:

26 (a) Public liability and property damage insurance for vehicles operated by the police of-  
 27 ficers; and

28 (b) Police professional liability insurance from a company licensed to sell insurance in  
 29 this state.

30 (2) An insurance program or policy described in subsection (1) of this section must pro-  
 31 vide:

32 (a) That the insurance is available to satisfy settlements or judgments arising from the  
 33 tortious conduct of certified tribal police officers in an amount equal to or greater than the  
 34 amounts described in ORS 30.260 to 30.300 that are applicable to a local public body; and

35 (b) That the tribal government and the insurance carrier will not raise a defense of sov-  
 36 ereign immunity for claims involving tortious conduct of a certified tribal police officer,  
 37 provided that the claims are asserted in accordance with any applicable tort claim proce-  
 38 dures of the tribal government.

39 (3)(a) No later than 30 days after the tribal government submits proof of insurance to the  
 40 department, the department shall determine whether the insurance is adequate in accord-  
 41 ance with rules adopted by the department. If the department determines the insurance is  
 42 adequate, the department shall issue the tribal government an adequacy of insurance cer-  
 43 tificate. If the department determines the insurance is inadequate, the department shall  
 44 provide the tribal government with the reasons for the determination in writing.

45 (b) An adequacy of insurance certificate issued under this section is subject to annual

1 review by the department.

2 (c) If, after receiving an adequacy of insurance certificate, there is a material change in  
3 the tribal government's insurance coverage, the tribal government shall provide the depart-  
4 ment with a written description of the change as soon as practicable.

5 **SECTION 4.** (1) The Department of Public Safety Standards and Training shall certify a  
6 person as a police officer for purposes of section 2 (1) of this 2011 Act if the person is em-  
7 ployed by a tribal government as a police officer and is:

8 (a) Certified by the department as a police officer under ORS 181.610 to 181.712;

9 (b) Under the direct and immediate training supervision of a person who is certified by  
10 the department as a police officer under ORS 181.610 to 181.712; or

11 (c) Participating in a field training precertification program and has successfully com-  
12 pleted any field training and evaluation programs required by the department.

13 (2) A tribal government shall submit to the department proof of certification for each  
14 person employed by the tribal government that is certified as a police officer under this  
15 section. The tribal government shall notify the department in writing when a person certified  
16 as a police officer under this section is no longer employed by the tribal government.

17 **SECTION 5.** ORS 40.275 is amended to read:

18 40.275. (1) As used in this section, "unit of government" means:

19 (a) The federal government or any state or political subdivision thereof; or

20 (b) A tribal government as defined in section 1 of this 2011 Act, if the information relates  
21 to or assists in an investigation conducted by a certified tribal police officer as defined in  
22 section 1 of this 2011 Act.

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

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

29 (4) No privilege exists under this section:

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

34 (b) If it appears from the evidence in the case or from other showing by a party that an informer  
35 may be able to give testimony necessary to a fair determination of the issue of guilt or innocence  
36 in a criminal case or of a material issue on the merits in a civil case to which the unit of govern-  
37 ment is a party, and the unit of government invokes the privilege, and the judge gives the unit of  
38 government an opportunity to show in camera facts relevant to determining whether the informer  
39 can, in fact, supply that testimony. The showing will ordinarily be in the form of affidavits, but the  
40 judge may direct that testimony be taken if the judge finds that the matter cannot be resolved sat-  
41 isfactorily upon affidavit. If the judge finds that there is a reasonable probability that the informer  
42 can give the testimony, and the unit of government elects not to disclose identity of the informer,  
43 the judge on motion of the defendant in a criminal case shall dismiss the charges to which the tes-  
44 timony would relate, and the judge may do so on the judge's own motion. In civil cases, the judge  
45 may make any order that justice requires. Evidence submitted to the judge shall be sealed and pre-

1 served to be made available to the appellate court in the event of an appeal, and the contents shall  
 2 not otherwise be revealed without consent of the unit of government. All counsel and parties shall  
 3 be permitted to be present at every stage of proceedings under this paragraph except a showing in  
 4 camera, at which no counsel or party shall be permitted to be present.

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

15 **SECTION 6.** ORS 90.440 is amended to read:

16 90.440. (1) As used in this section:

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

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

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

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

22 (c) "Peace officer" means a sheriff, constable, marshal or deputy, [or] a member of a state or  
 23 city police force **or a certified tribal police officer as defined in section 1 of this 2011 Act.**

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

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

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

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

33 (3) A group recovery home that undertakes the removal of a tenant under this section shall  
 34 personally deliver to the tenant a written notice that:

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

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

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

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

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

45 (4) A written notice in substantially the following form meets the requirements of subsection (3)

1 of this section:

2 \_\_\_\_\_  
3  
4 This notice is to inform you that you must move out of \_\_\_\_\_ (insert address of group  
5 recovery home) by \_\_\_\_\_ (insert date and time that is not less than 24 hours after delivery  
6 of notice).

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

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

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

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

17  
18 (5) Within the notice period, a group recovery home shall allow a tenant removed under this  
19 section to follow any emergency departure plan that was prepared by the tenant and approved by  
20 the group recovery home at the time the tenancy began. If the removed tenant does not have an  
21 emergency departure plan, a representative of the group recovery home shall offer to take the re-  
22 moved tenant to a public shelter, detoxification center or similar location if existing in the commu-  
23 nity.

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

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

33 (8) A tenant who is removed under subsection (2) of this section may obtain injunctive relief to  
34 recover possession and may recover an amount equal to the greater of actual damages or three  
35 times the tenant's monthly rent if:

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

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

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

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

1 subsection (3) of this section.

2 (11) This section does not prevent a group recovery home from terminating a tenancy as pro-  
 3 vided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to  
 4 105.168.

5 **SECTION 7.** ORS 131.605 is amended to read:

6 131.605. As used in ORS 131.605 to 131.625, unless the context requires otherwise:

7 (1) “Crime” has the meaning provided for that term in ORS 161.515.

8 (2) “Dangerous weapon,” “deadly weapon” and “person” have the *[meaning provided for]*  
 9 **meanings given** those terms in ORS 161.015.

10 (3) “Frisk” is an external patting of a person’s outer clothing.

11 (4) “Is about to commit” means unusual conduct that leads a peace officer reasonably to con-  
 12 clude in light of the officer’s training and experience that criminal activity may be afoot.

13 **(5) “Peace officer” has the meaning given that term in ORS 133.005.**

14 *[(5)]* **(6)** “Reasonably suspects” means that a peace officer holds a belief that is reasonable under  
 15 the totality of the circumstances existing at the time and place the peace officer acts as authorized  
 16 in ORS 131.605 to 131.625.

17 *[(6)]* **(7)** A “stop” is a temporary restraint of a person’s liberty by a peace officer lawfully pres-  
 18 ent in any place.

19 **SECTION 8.** ORS 133.005 is amended to read:

20 133.005. As used in ORS 133.005 to 133.381 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; *[or]*

30 **(b)** A sheriff, constable, marshal[,] **or** municipal police officer[.];

31 **(c)** **An** investigator of a district attorney’s office if the investigator is or has been certified as  
 32 a peace officer in this or any other state[, *or*];

33 **(d)** An investigator of the Criminal Justice Division of the Department of Justice of the State  
 34 of Oregon; **or**

35 **(e)** **A certified tribal police officer as defined in section 1 of this 2011 Act.**

36 **SECTION 9. ORS 133.033 is added to and made a part of ORS 133.005 to 133.381.**

37 **SECTION 10.** ORS 133.033 is amended to read:

38 133.033. (1) Except as otherwise expressly prohibited by law, any peace officer of this state[, *as*  
 39 *defined in ORS 133.005,*] is authorized to perform community caretaking functions.

40 (2) As used in this section, “community caretaking functions” means any lawful acts that are  
 41 inherent in the duty of the peace officer to serve and protect the public. “Community caretaking  
 42 functions” includes, but is not limited to:

43 (a) The right to enter or remain upon the premises of another if it reasonably appears to be  
 44 necessary to:

45 (A) Prevent serious harm to any person or property;

1 (B) Render aid to injured or ill persons; or

2 (C) Locate missing persons.

3 (b) The right to stop or redirect traffic or aid motorists or other persons when such action  
4 reasonably appears to be necessary to:

5 (A) Prevent serious harm to any person or property;

6 (B) Render aid to injured or ill persons; or

7 (C) Locate missing persons.

8 (3) Nothing contained in this section shall be construed to limit the authority of a peace officer  
9 that is inherent in the office or that is granted by any other provision of law.

10 **SECTION 11. ORS 133.318 is added to and made a part of ORS 133.005 to 133.381.**

11 **SECTION 12.** ORS 133.318 is amended to read:

12 133.318. (1) Any person who provides to a peace officer a copy of a writing purporting to be a  
13 foreign restraining order as defined by ORS 24.190 knowing that no valid foreign restraining order  
14 is in effect shall be guilty of a Class A misdemeanor.

15 (2) Any person who represents to a [*police*] **peace** officer that a foreign restraining order is the  
16 most recent order in effect between the parties or that the person restrained by the order has been  
17 personally served with a copy of the order or has actual notice of the order knowing that the rep-  
18 resentation is false commits a Class A misdemeanor.

19 **SECTION 13. ORS 133.400 is added to and made a part of ORS 133.005 to 133.381.**

20 **SECTION 14.** ORS 133.525 is amended to read:

21 133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

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

25 (2) "Police officer" means:

26 (a) **A member of the Oregon State Police;**

27 (b) A sheriff[, ] **or** municipal police officer[, *member of the Oregon State Police,*] **or a certified**  
28 **tribal police officer as defined in section 1 of this 2011 Act;**

29 (c) **An** investigator of a district attorney's office if the investigator is or has been certified as  
30 a peace officer in this or any other state[, ]; or

31 (d) An investigator of the Criminal Justice Division of the Department of Justice.

32 **SECTION 15.** ORS 133.721 is amended to read:

33 133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

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

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

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

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

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

45 (4) "Electronic, mechanical or other device" means any device or apparatus that can be used

1 to intercept a wire, electronic or oral communication other than:

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

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

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

11 (6) "Investigative or law enforcement officer" means an officer or other person employed **to**  
 12 **investigate or enforce the law** by:

13 (a) A county sheriff or municipal police department[,];

14 (b) The Oregon State Police, **the Department of Corrections, the Attorney General[,]** or a  
 15 district attorney [*or the Department of Corrections, and officers or other persons employed by*];

16 (c) Law enforcement agencies of other states or the federal government[, *to investigate or enforce*  
 17 *the law.*]; or

18 (d) **A tribal government as defined in section 1 of this 2011 Act, if the officer is a certified**  
 19 **tribal police officer as defined in section 1 of this 2011 Act.**

20 (7) "Oral communication" means:

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

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

27 (8) "Telecommunications carrier" means:

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

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

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

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

36 **SECTION 16.** ORS 133.726 is amended to read:

37 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a  
 38 law enforcement officer is authorized to intercept an oral communication to which the officer or a  
 39 person under the direct supervision of the officer is a party, without obtaining an order for the in-  
 40 terception of a wire, electronic or oral communication under ORS 133.724.

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

44 (3) An ex parte order for intercepting an oral communication in any county of this state under  
 45 this section may be issued by any judge as defined in ORS 133.525 upon written application made

1 upon oath or affirmation of the district attorney or a deputy district attorney authorized by the  
2 district attorney for the county in which the order is sought or upon the oath or affirmation of any  
3 peace officer as defined in ORS 133.005. The application shall include:

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

5 (b) A statement demonstrating that:

6 (A) There is probable cause to believe that a person whose oral communication is to be inter-  
7 cepted is engaged in committing, has committed or is about to commit a particular felony, or a  
8 misdemeanor under ORS 167.007, and that intercepting the oral communication will yield evidence  
9 thereof; or

10 (B)(i) There is reasonable suspicion to believe that a person whose oral communication is to be  
11 intercepted is engaged in committing, has committed or is about to commit a crime;

12 (ii) There is reasonable suspicion to believe that the circumstances in which the oral communi-  
13 cation is to be intercepted present a substantial risk of death, serious physical injury or sexual as-  
14 sault to a law enforcement officer or a person under the direct supervision of the officer;

15 (iii) Interception of the oral communication is necessary to protect the safety of the person who  
16 may be endangered; and

17 (iv) Other investigative procedures have been tried and have failed or reasonably appear to be  
18 unlikely to succeed if tried or are likely to be too dangerous; and

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

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

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

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

28 (B) There is probable cause to believe that the oral communication to be obtained will contain  
29 evidence concerning that crime; or

30 (b)(A) There is reasonable suspicion to believe that a person whose oral communication is to  
31 be intercepted is engaged in committing, has committed or is about to commit a crime;

32 (B) There is reasonable suspicion to believe that the circumstances in which the oral communi-  
33 cation is to be intercepted present a substantial risk of death, serious physical injury or sexual as-  
34 sault to a law enforcement officer or a person under the direct supervision of the officer;

35 (C) Interception of the oral communication is necessary to protect the safety of the person who  
36 may be endangered; and

37 (D) Other investigative procedures have been tried and have failed or reasonably appear to be  
38 unlikely to succeed if tried or are likely to be too dangerous.

39 (6) An order authorizing or approving the interception of an oral communication under this  
40 section must specify:

41 (a) The identity of the person, if known, whose oral communication is to be intercepted;

42 (b) A statement identifying the particular crime to which the oral communication is expected  
43 to relate;

44 (c) The agency authorized under the order to intercept the oral communication;

45 (d) The name and office of the applicant and the signature and title of the issuing judge;

1 (e) A period of time after which the order shall expire; and

2 (f) A statement that the order authorizes only the interception of an oral communication to  
 3 which a law enforcement officer or a person under the direct supervision of a law enforcement of-  
 4 ficer is a party.

5 (7) An order under ORS 133.724 or this section is not required when a law enforcement officer  
 6 intercepts an oral communication to which the officer or a person under the direct supervision of  
 7 the officer is a party if the oral communication is made by a person whom the officer has probable  
 8 cause to believe has committed, is engaged in committing or is about to commit:

9 (a) A crime punishable as a felony under ORS 475.840, 475.846 to 475.894 or 475.904 to 475.910  
 10 or as a misdemeanor under ORS 167.007; or

11 (b) Any other crime punishable as a felony if the circumstances at the time the oral communi-  
 12 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order  
 13 under ORS 133.724 or this section.

14 (8) A law enforcement officer who intercepts an oral communication pursuant to this section  
 15 may not intentionally fail to record and preserve the oral communication in its entirety. A law  
 16 enforcement officer, or a person under the direct supervision of the officer, who is authorized under  
 17 this section to intercept an oral communication is not required to exclude from the interception an  
 18 oral communication made by a person for whom probable cause does not exist if the officer or the  
 19 person under the officer's direct supervision is a party to the oral communication.

20 (9) A law enforcement officer may not divulge the contents of an oral communication intercepted  
 21 under this section before a preliminary hearing or trial in which an oral communication is going to  
 22 be introduced as evidence against a person except:

23 (a) To a superior officer or other official with whom the law enforcement officer is cooperating  
 24 in the enforcement of the criminal laws of this state or the United States;

25 (b) To a magistrate;

26 (c) In a presentation to a federal or state grand jury; or

27 (d) In compliance with a court order.

28 (10) A law enforcement officer may intercept an oral communication under this section only  
 29 when acting within the scope of the officer's employment and as a part of assigned duties.

30 (11) As used in this section, "law enforcement officer" means an officer employed **to enforce**  
 31 **criminal laws** by:

32 (a) The United States, this state or a municipal government within this state[, or];

33 (b) A political subdivision, agency, department or bureau of [*those governments, to enforce crim-*  
 34 *inal laws.*] **the governments described in paragraph (a) of this subsection; or**

35 (c) **A tribal government as defined in section 1 of this 2011 Act, if the officer is a certified**  
 36 **tribal police officer as defined in section 1 of this 2011 Act.**

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

38 **SECTION 17.** ORS 133.726, as amended by section 3, chapter 442, Oregon Laws 2007, is  
 39 amended to read:

40 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a  
 41 law enforcement officer is authorized to intercept an oral communication to which the officer or a  
 42 person under the direct supervision of the officer is a party, without obtaining an order for the in-  
 43 terception of a wire, electronic or oral communication under ORS 133.724.

44 (2) For purposes of this section and ORS 133.736, a person is a party to an oral communication  
 45 if the oral communication is made in the person's immediate presence and is audible to the person

1 regardless of whether the communication is specifically directed to the person.

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

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

8 (b) A statement demonstrating that there is probable cause to believe that a person whose oral  
9 communication is to be intercepted is engaged in committing, has committed or is about to commit  
10 a particular felony, or a misdemeanor under ORS 167.007, and that intercepting the oral communi-  
11 cation will yield evidence thereof; and

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

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

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

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

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

23 (6) An order authorizing or approving the interception of an oral communication under this  
24 section must specify:

25 (a) The identity of the person, if known, whose oral communication is to be intercepted;

26 (b) A statement identifying the particular crime to which the oral communication is expected  
27 to relate;

28 (c) The agency authorized under the order to intercept the oral communication;

29 (d) The name and office of the applicant and the signature and title of the issuing judge;

30 (e) A period of time after which the order shall expire; and

31 (f) A statement that the order authorizes only the interception of an oral communication to  
32 which a law enforcement officer or a person under the direct supervision of a law enforcement of-  
33 ficer is a party.

34 (7) An order under ORS 133.724 or this section is not required when a law enforcement officer  
35 intercepts an oral communication to which the officer or a person under the direct supervision of  
36 the officer is a party if the oral communication is made by a person whom the officer has probable  
37 cause to believe has committed, is engaged in committing or is about to commit:

38 (a) A crime punishable as a felony under ORS 475.840, 475.846 to 475.894 or 475.906 or as a  
39 misdemeanor under ORS 167.007; or

40 (b) Any other crime punishable as a felony if the circumstances at the time the oral communi-  
41 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order  
42 under ORS 133.724 or this section.

43 (8) A law enforcement officer who intercepts an oral communication pursuant to this section  
44 may not intentionally fail to record and preserve the oral communication in its entirety. A law  
45 enforcement officer, or a person under the direct supervision of the officer, who is authorized under

1 this section to intercept an oral communication is not required to exclude from the interception an  
 2 oral communication made by a person for whom probable cause does not exist if the officer or the  
 3 person under the officer's direct supervision is a party to the oral communication.

4 (9) A law enforcement officer may not divulge the contents of an oral communication intercepted  
 5 under this section before a preliminary hearing or trial in which an oral communication is going to  
 6 be introduced as evidence against a person except:

7 (a) To a superior officer or other official with whom the law enforcement officer is cooperating  
 8 in the enforcement of the criminal laws of this state or the United States;

9 (b) To a magistrate;

10 (c) In a presentation to a federal or state grand jury; or

11 (d) In compliance with a court order.

12 (10) A law enforcement officer may intercept an oral communication under this section only  
 13 when acting within the scope of the officer's employment and as a part of assigned duties.

14 (11) As used in this section, "law enforcement officer" means an officer employed **to enforce**  
 15 **criminal laws** by:

16 (a) The United States, this state or a municipal government within this state[, or];

17 (b) A political subdivision, agency, department or bureau of [*those governments, to enforce crim-*  
 18 *inal laws.*] **the governments described in paragraph (a) of this subsection; or**

19 (c) **A tribal government as defined in section 1 of this 2011 Act, if the officer is a certified**  
 20 **tribal police officer as defined in section 1 of this 2011 Act.**

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

22 **SECTION 18.** ORS 136.595 is amended to read:

23 136.595. (1) Except as provided in ORS 136.447 and 136.583 and subsection (2) of this section, a  
 24 subpoena is served by delivering a copy to the witness personally. If the witness is under 14 years  
 25 of age, the subpoena may be served by delivering a copy to the witness or to the witness's parent,  
 26 guardian or guardian ad litem. Proof of the service is made in the same manner as in the service  
 27 of a summons.

28 (2)(a) Every law enforcement agency shall designate an individual or individuals upon whom  
 29 service of subpoena may be made. At least one of the designated individuals shall be available dur-  
 30 ing normal business hours. In the absence of the designated individuals, service of subpoena pursu-  
 31 ant to paragraph (b) of this subsection may be made upon the officer in charge of the law  
 32 enforcement agency.

33 (b) If a peace officer's attendance at trial is required as a result of employment as a peace of-  
 34 ficer, a subpoena may be served on such officer by delivering a copy personally to the officer or to  
 35 one of the individuals designated by the agency that employs the officer. A subpoena may be served  
 36 by delivery to one of the individuals designated by the agency that employs the officer only if the  
 37 subpoena is delivered at least 10 days before the date the officer's attendance is required, the officer  
 38 is currently employed as a peace officer by the agency, and the officer is present within the state  
 39 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 actually notify the officer whose attendance  
 42 is sought of the date, time and location of the court appearance. If the officer cannot be notified,  
 43 the law enforcement agency shall contact the court and a continuance may be granted to allow the  
 44 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, [or] a municipal police department **or a tribal government as defined**  
 2 **in section 1 of this 2011 Act, if the peace officer whose attendance at trial is required is a**  
 3 **certified tribal police officer as defined in section 1 of this 2011 Act.**

4 (3) When a subpoena has been served as provided in ORS 136.583 or subsection (1) or (2) of this  
 5 section and, subsequent to service, the date on, or the time at, which the person subpoenaed is to  
 6 appear has changed, a new subpoena is not required to be served if:

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

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

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

12 (B) Express mail.

13 **SECTION 19.** ORS 147.425 is amended to read:

14 147.425. (1) As used in this section:

15 (a) "Health care provider" has the meaning given that term in ORS 192.519.

16 (b) "Law enforcement agency" means:

17 (A) A city or municipal police department.

18 (B) A county sheriff's office.

19 (C) The Oregon State Police.

20 (D) A district attorney.

21 (E) A special campus security officer commissioned under ORS 352.385 or 353.050.

22 **(F) A certified tribal police officer as defined in section 1 of this 2011 Act.**

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

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

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

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

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

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

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

45 (6) The fact that a personal representative was allowed or was not allowed to accompany a

1 victim may not be used as a basis for excluding otherwise admissible evidence.

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

4 **SECTION 20.** ORS 153.005 is amended to read:

5 153.005. As used in this chapter:

6 (1) "Enforcement officer" means:

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

8 (b) A sheriff or deputy sheriff.

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

10 (d) An investigator of a district attorney's office if the investigator is or has been certified as  
11 a peace officer in this or any other state.

12 (e) An investigator of the Criminal Justice Division of the Department of Justice of the State  
13 of Oregon.

14 (f) A Port of Portland peace officer.

15 **(g) A certified tribal police officer as defined in section 1 of this 2011 Act.**

16 [(g)] **(h)** Any other person specifically authorized by law to issue citations for the commission  
17 of violations.

18 (2) "Traffic offense" has the meaning given that term in ORS 801.555.

19 (3) "Violation" means an offense described in ORS 153.008.

20 (4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that  
21 charges a person with commission of a violation.

22 **SECTION 21.** ORS 161.015 is amended to read:

23 161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires  
24 otherwise:

25 (1) "Dangerous weapon" means any weapon, device, instrument, material or substance which  
26 under the circumstances in which it is used, attempted to be used or threatened to be used, is  
27 readily capable of causing death or serious physical injury.

28 (2) "Deadly weapon" means any instrument, article or substance specifically designed for and  
29 presently capable of causing death or serious physical injury.

30 (3) "Deadly physical force" means physical force that under the circumstances in which it is  
31 used is readily capable of causing death or serious physical injury.

32 (4) "Peace officer" means:

33 **(a) A member of the Oregon State Police;**

34 **(b)** A sheriff, constable, marshal[,] **or** municipal police officer[, *member of the Oregon State Po-*  
35 *lice*,];

36 **(c)** An investigator of the Criminal Justice Division of the Department of Justice or investigator  
37 of a district attorney's office;

38 **(d) A certified tribal police officer as defined in section 1 of this 2011 Act;** and

39 **(e)** [*such other persons as may be*] **Any other person** designated by law **as a peace officer.**

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

42 (6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas  
43 or mace.

44 (7) "Physical injury" means impairment of physical condition or substantial pain.

45 (8) "Serious physical injury" means physical injury which creates a substantial risk of death or

1 which causes serious and protracted disfigurement, protracted impairment of health or protracted  
 2 loss or impairment of the function of any bodily organ.

3 (9) "Possess" means to have physical possession or otherwise to exercise dominion or control  
 4 over property.

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

10 **SECTION 22.** ORS 163.730 is amended to read:

11 163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

12 (1) "Alarm" means to cause apprehension or fear resulting from the perception of danger.

13 (2) "Coerce" means to restrain, compel or dominate by force or threat.

14 (3) "Contact" includes but is not limited to:

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

16 (b) Following the other person;

17 (c) Waiting outside the home, property, place of work or school of the other person or of a  
 18 member of that person's family or household;

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

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

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

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

23 (h) Communicating with a third person who has some relationship to the other person with the  
 24 intent of affecting the third person's relationship with the other person;

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

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

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

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

32 (4) "Household member" means any person residing in the same residence as the victim.

33 (5) "Immediate family" means father, mother, child, sibling, spouse, grandparent, stepparent and  
 34 stepchild.

35 (6) "Law enforcement officer" means any person employed in this state as a police officer by:

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

37 (b) **A tribal government as defined in section 1 of this 2011 Act, if the officer is a certified**  
 38 **tribal police officer;** or

39 (c) **A** municipal or state police agency.

40 (7) "Repeated" means two or more times.

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

42 **SECTION 23.** ORS 165.535 is amended to read:

43 165.535. As used in ORS 41.910, 133.723, 133.724, 165.540 and 165.545:

44 (1) "Conversation" means the transmission between two or more persons of an oral communi-  
 45 cation which is not a telecommunication or a radio communication.

1 (2) "Person" means any person as defined in ORS 174.100 and includes public officials and law  
2 enforcement officers of:

3 (a) The state[,];

4 (b) A county, municipal corporation or any other political subdivision of the state; or

5 (c) **A tribal government as defined in section 1 of this 2011 Act, if the officers are certi-**  
6 **fied tribal police officers.**

7 (3) "Radio communication" means the transmission by radio or other wireless methods of writ-  
8 ing, signs, signals, pictures and sounds of all kinds, including all instrumentalities, facilities, equip-  
9 ment and services (including, among other things, the receipt, forwarding and delivering of  
10 communications) incidental to such transmission.

11 (4) "Telecommunication" means the transmission of writing, signs, signals, pictures and sounds  
12 of all kinds by aid of wire, cable or other similar connection between the points of origin and re-  
13 ception of such transmission, including all instrumentalities, facilities, equipment and services (in-  
14 cluding, among other things, the receipt, forwarding and delivering of communications) incidental  
15 to such transmission.

16 **SECTION 24.** ORS 181.010 is amended to read:

17 181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires  
18 otherwise:

19 (1) "Bureau" means the Department of State Police bureau of criminal identification.

20 (2) "Criminal justice agency" means:

21 (a) The Governor;

22 (b) Courts of criminal jurisdiction;

23 (c) The Attorney General;

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

27 (e) Law enforcement agencies;

28 (f) The Department of Corrections;

29 (g) The State Board of Parole and Post-Prison Supervision;

30 (h) The Department of Public Safety Standards and Training; and

31 (i) Any other state or local agency with law enforcement authority designated by order of the  
32 Governor.

33 (3) "Criminal offender information" includes records and related data as to physical description  
34 and vital statistics, fingerprints received and compiled by the bureau for purposes of identifying  
35 criminal offenders and alleged offenders, records of arrests and the nature and disposition of crimi-  
36 nal charges, including sentencing, confinement, parole and release.

37 (4) "Department" means the Department of State Police established under ORS 181.020.

38 (5) "Deputy superintendent" means the Deputy Superintendent of State Police.

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

44 (7) "Disposition report" means a form or process prescribed or furnished by the bureau, con-  
45 taining a description of the ultimate action taken subsequent to an arrest.

1 (8) “Law enforcement agency” means:

2 (a) County sheriffs, municipal police departments[,] **and** State Police[.];

3 (b) Other police officers of this state and other states:

4 (c) **A tribal government as defined in section 1 of this 2011 Act that employs certified**  
5 **tribal police officers as defined in section 1 of this 2011 Act;** and

6 (d) Law enforcement agencies of the federal government.

7 (9) “State Police” means the members of the state police force appointed under ORS 181.250.

8 (10) “Superintendent” means the Superintendent of State Police.

9 **SECTION 25.** ORS 181.610 is amended to read:

10 181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

11 (1) “Abuse” has the meaning given the term in ORS 107.705.

12 (2) “Board” means the Board on Public Safety Standards and Training appointed pursuant to  
13 ORS 181.620.

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

17 (4) “Commissioned” means an authorization granting the power to perform various acts or duties  
18 of a police officer or certified reserve officer and acting under the supervision and responsibility of  
19 a county sheriff or as otherwise provided by law.

20 (5) “Corrections officer” means an officer or member of a law enforcement unit who is employed  
21 full-time thereby and is charged with and primarily performs the duty of custody, control or super-  
22 vision of individuals convicted of or arrested for a criminal offense and confined in a place of  
23 incarceration or detention other than a place used exclusively for incarceration or detention of ju-  
24 veniles.

25 (6) “Department” means the Department of Public Safety Standards and Training.

26 (7) “Director” means the Director of the Department of Public Safety Standards and Training.

27 (8) “Domestic violence” means abuse between family or household members.

28 (9) “Emergency medical dispatcher” means a person who has responsibility to process requests  
29 for medical assistance from the public or to dispatch medical care providers.

30 (10) “Family or household members” has the meaning given that term in ORS 107.705.

31 (11) “Fire service professional” means a paid or volunteer firefighter, an officer or a member  
32 of a public or private fire protection agency that is engaged primarily in fire investigation, fire  
33 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light  
34 and heavy rescue services, search and rescue services or hazardous materials incident response.  
35 “Fire service professional” does not include forest fire protection agency personnel.

36 (12)(a) “Law enforcement unit” means a police force or organization of the state, a city, port,  
37 school district, mass transit district, county, county service district authorized to provide law  
38 enforcement services under ORS 451.010, Indian reservation, **tribal government as defined in**  
39 **section 1 of this 2011 Act that employs certified tribal police officers as defined in section 1**  
40 **of this 2011 Act,** the Criminal Justice Division of the Department of Justice, the Department of  
41 Corrections, the Oregon State Lottery Commission or common carrier railroad whose primary duty,  
42 as prescribed by law, ordinance or directive, is any one or more of the following:

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

45 (B) The custody, control or supervision of individuals convicted of or arrested for a criminal

1 offense and confined to a place of incarceration or detention other than a place used exclusively for  
2 incarceration or detention of juveniles; or

3 (C) The control, supervision and reformation of adult offenders placed on parole or sentenced  
4 to probation and investigation of adult offenders on parole or probation or being considered for  
5 parole or probation.

6 (b) "Law enforcement unit" also means:

7 (A) A police force or organization of a private entity with a population of more than 1,000 res-  
8 idents in an unincorporated area whose employees are commissioned by a county sheriff;

9 (B) A district attorney's office; and

10 (C) A private, nonprofit animal care agency that has maintained an animal welfare investigation  
11 department for at least five years and has had officers commissioned as special agents by the Gov-  
12 ernor.

13 (13) "Parole and probation officer" means:

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

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

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

21 (b) Any officer who:

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

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

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

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

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

31 (14) "Police officer" means an officer, member or employee of a law enforcement unit who is  
32 employed full-time as a peace officer commissioned by a city, port, school district, mass transit dis-  
33 trict, county, county service district authorized to provide law enforcement services under ORS  
34 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon  
35 State Lottery Commission or the Governor or who is a member of the Department of State Police  
36 and who is responsible for enforcing the criminal laws of this state or laws or ordinances relating  
37 to airport security or is an investigator of a district attorney's office if the investigator is or has  
38 been certified as a peace officer in this or any other state **or is a certified tribal police officer**  
39 **as defined in section 1 of this 2011 Act.**

40 (15) "Public or private safety agency" means any unit of state or local government, a special  
41 purpose district or a private firm which provides, or has authority to provide, fire fighting, police,  
42 ambulance or emergency medical services.

43 (16) "Public safety personnel" and "public safety officer" include corrections officers, youth  
44 correction officers, emergency medical dispatchers, parole and probation officers, police officers,  
45 certified reserve officers, telecommunicators and fire service professionals.

1 (17) "Reserve officer" means an officer or member of a law enforcement unit:

2 (a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned  
3 by a city, port, school district, mass transit district, county, county service district authorized to  
4 provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Divi-  
5 sion of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is  
6 a member of the Department of State Police **or who is a certified tribal police officer as defined**  
7 **in section 1 of this 2011 Act;**

8 (b) Who is armed with a firearm; and

9 (c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or  
10 ordinances relating to airport security.

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

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

18 **SECTION 26.** ORS 348.270 is amended to read:

19 348.270. (1) In addition to any other scholarships provided by law, the Oregon Student Assist-  
20 ance Commission shall award scholarships in any state institution under the State Board of Higher  
21 Education, in the Oregon Health and Science University, in any community college operated under  
22 ORS chapter 341, or in any Oregon-based regionally accredited independent institution, to any stu-  
23 dent applying for enrollment or who is enrolled therein, who is:

24 (a) The natural child, adopted child or stepchild of any public safety officer who, in the line of  
25 duty, was killed or so disabled, as determined by the Oregon Student Assistance Commission, that  
26 the income of the public safety officer is less than that earned by public safety officers performing  
27 duties comparable to those performed at the highest rank or grade attained by the public safety of-  
28 ficer; or

29 (b) A former foster child who enrolls in an institution of higher education as an undergraduate  
30 student not later than three years from the date the student was removed from the care of the De-  
31 partment of Human Services, the date the student graduated from high school or the date the stu-  
32 dent received the equivalent of a high school diploma, whichever date is earliest.

33 (2) Scholarships awarded under this section to students who are dependents of public safety of-  
34 ficers or who are former foster children shall equal the amount of tuition and all fees levied by the  
35 institution against the recipient of the scholarship. However, scholarships awarded to students who  
36 attend independent institutions shall not exceed the amount of tuition and all fees levied by the  
37 University of Oregon.

38 (3) If the student who is the dependent of a deceased public safety officer continues to remain  
39 enrolled in a state institution of higher education or a community college or an independent insti-  
40 tution within the State of Oregon, the student shall be entitled to renewal of the scholarship until  
41 the student has received the equivalent of four years of undergraduate education and four years of  
42 post-graduate education.

43 (4) If the student who is a former foster child or who is the dependent of a public safety officer  
44 with a disability continues to remain enrolled in a state institution of higher education or a com-  
45 munity college or an independent institution within the State of Oregon, the student shall be entitled

1 to renewal of the scholarship until the student has received the equivalent of four years of under-  
2 graduate education.

3 (5) The Oregon Student Assistance Commission may require proof of the student's relationship  
4 to a public safety officer described in subsection (1) of this section or proof that the student is a  
5 former foster child.

6 (6) As used in this section:

7 (a) "Former foster child" means an individual who, for a total of 12 or more months while be-  
8 tween the ages of 16 and 21, was a ward of the court pursuant to ORS 419B.100 (1)(b) to (e) and in  
9 the legal custody of the Department of Human Services for out-of-home placement.

10 (b) "Public safety officer" means:

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

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

13 **(C) A certified tribal police officer as defined in section 1 of this 2011 Act.**

14 **SECTION 27.** ORS 414.805 is amended to read:

15 414.805. (1) An individual who receives medical services while in the custody of a law enforce-  
16 ment officer is liable:

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

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

20 (2) A person providing medical services to an individual described in subsection (1)(a) of this  
21 section shall first make reasonable efforts to collect the charges and expenses thereof from the in-  
22 dividual before seeking to collect them from the authority out of the Law Enforcement Medical Li-  
23 ability Account.

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

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

29 (A) The provider has billed the individual or the individual's insurer or health care service  
30 contractor for the charges or expenses owed to the provider; and

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

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

37 (4) As used in this section:

38 (a) "Law enforcement officer" means:

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

41 **(B) A certified tribal police officer as defined in section 1 of this 2011 Act.**

42 (b) "Public agency" means the state, a city, port, school district, mass transit district or county.

43 **SECTION 28.** ORS 419B.902 is amended to read:

44 419B.902. (1) A subpoena may be served by the party or any other person 18 years of age or  
45 older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by

1 delivering a copy to the witness personally. The service must be made so as to allow the witness a  
 2 reasonable time for preparation and travel to the place of attendance. If the subpoena is not ac-  
 3 companied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the  
 4 subpoena is served personally or by mail, copies of a subpoena commanding production and in-  
 5 spection of books, papers, documents or other tangible things before trial must be served on each  
 6 party at least seven days before the subpoena is served on the person required to produce and per-  
 7 mit inspection, unless the court orders a shorter period.

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

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

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

22 (d) As used in this subsection, "law enforcement agency" means the Oregon State Police, a  
 23 county sheriff's department [*or*], a municipal police department **or a tribal government as defined**  
 24 **in section 1 of this 2011 Act, if the peace officer whose attendance at trial is required is a**  
 25 **certified tribal police officer as defined in section 1 of this 2011 Act.**

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

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

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

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

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

40 **SECTION 29.** ORS 420.905 is amended to read:

41 420.905. As used in ORS 420.905 to 420.915, "peace officer" means:

42 (1) **A** [*any*] sheriff, constable, marshal, or the deputy of any such officer[.];

43 (2) **A** [*any*] member of the state police [*or*];

44 (3) **A** [*any*] member of the police force of any city; **or**

45 (4) **A certified tribal police officer as defined in section 1 of this 2011 Act.**

1        **SECTION 30.** ORS 801.395 is amended to read:

2        801.395. "Police officer" includes a member of the Oregon State Police, a sheriff, a deputy  
3 sheriff, a city police officer, **a certified tribal police officer as defined in section 1 of this 2011**  
4 **Act**, a Port of Portland peace officer or a law enforcement officer employed by a service district  
5 established under ORS 451.410 to 451.610 for the purpose of law enforcement services.

6        **SECTION 31.** ORS 810.410 is amended to read:

7        810.410. (1) A police officer may arrest or issue a citation to a person for a traffic crime at any  
8 place within or outside the jurisdictional authority of the governmental unit by which the police  
9 officer is authorized to act as provided by ORS 133.235 and 133.310.

10        (2) A police officer may issue a citation to a person for a traffic violation at any place within  
11 or outside the jurisdictional authority of the governmental unit by which the police officer is au-  
12 thorized to act:

13        (a) When the traffic violation is committed in the police officer's presence; or

14        (b) When the police officer has probable cause to believe an offense has occurred based on a  
15 description of the vehicle or other information received from a police officer who observed the  
16 traffic violation.

17        (3) A police officer:

18        (a) Shall not arrest a person for a traffic violation.

19        (b) May stop and detain a person for a traffic violation for the purposes of investigation rea-  
20 sonably related to the traffic violation, identification and issuance of citation.

21        (c) May make an inquiry into circumstances arising during the course of a detention and in-  
22 vestigation under paragraph (b) of this subsection that give rise to a reasonable suspicion of crimi-  
23 nal activity.

24        (d) May make an inquiry to ensure the safety of the officer, the person stopped or other persons  
25 present, including an inquiry regarding the presence of weapons.

26        (e) May request consent to search in relation to the circumstances referred to in paragraph (c)  
27 of this subsection or to search for items of evidence otherwise subject to search or seizure under  
28 ORS 133.535.

29        (f) May use the degree of force reasonably necessary to make the stop and ensure the safety of  
30 the [*peace*] **police** officer, the person stopped or other persons present.

31        (g) May make an arrest of a person as authorized by ORS 133.310 (2) if the person is stopped  
32 and detained pursuant to the authority of this section.

33        (4) When a police officer at the scene of a traffic accident has reasonable grounds, based upon  
34 the police officer's personal investigation, to believe that a person involved in the accident has  
35 committed a traffic offense in connection with the accident, the police officer may issue to the per-  
36 son a citation for that offense. The authority under this subsection is in addition to any other au-  
37 thority to issue a citation for a traffic offense.

38        **SECTION 32.** ORS 811.720 is amended to read:

39        811.720. (1) Except as provided in subsection (4) of this section, any accident occurring on a  
40 highway or upon premises open to the public resulting in injury or death to any person is subject  
41 to the reporting requirements under the following sections:

42        (a) The reporting requirements for drivers under ORS 811.725.

43        (b) The reporting requirements for occupants of vehicles in accidents under ORS 811.735.

44        (c) The reporting requirements for owners of vehicles under ORS 811.730.

45        (2) Except as provided in subsection (4) of this section, an accident occurring on a highway or

1 upon premises open to the public resulting in damage to the property of any person in excess of  
2 \$1,500 is subject to the following reporting requirements:

3 (a) The driver of a vehicle that has more than \$1,500 damage must report the accident in the  
4 manner specified under ORS 811.725.

5 (b) The owner of a vehicle that has more than \$1,500 damage must report the accident in the  
6 manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.

7 (c) If the property damage is to property other than a vehicle involved in the accident, each  
8 driver involved in the accident must report the accident in the manner specified under ORS 811.725  
9 and each owner of a vehicle involved in the accident must report the accident in the manner spec-  
10 ified in ORS 811.730 and under the circumstances specified in ORS 811.730.

11 (d) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed  
12 from the scene of the accident, each driver involved in the accident must report the accident in the  
13 manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must re-  
14 port the accident in the manner specified in ORS 811.730 and under the circumstances specified in  
15 ORS 811.730.

16 (3) The dollar amount specified in subsection (2) of this section may be increased every five  
17 years by the Department of Transportation based upon any increase in the Portland-Salem Consumer  
18 Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics  
19 of the United States Department of Labor or its successor during the preceding 12-month period.  
20 The amount determined under this subsection shall be rounded to the nearest \$100.

21 (4) The following are exempt from the reporting requirements of this section:

22 (a) Operators of snowmobiles, Class I all-terrain vehicles or Class III all-terrain vehicles.

23 (b) A law enforcement official acting in the course of official duty if the accident involved a law  
24 enforcement official performing a lawful intervention technique or a law enforcement official and a  
25 person acting during the commission of a criminal offense. As used in this paragraph:

26 (A) "Law enforcement official" means a person who is responsible for enforcing the criminal  
27 laws of this state or a political subdivision of this state and who is employed or volunteers:

28 (i) As a peace officer commissioned by a city, port, school district, mass transit district, county  
29 or county service district authorized to provide law enforcement services under ORS 451.010;

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

32 (iii) As an investigator of a district attorney's office, if the investigator is certified as a peace  
33 officer in this state; **or**

34 **(iv) As a certified tribal police officer as defined in section 1 of this 2011 Act.**

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

37 **SECTION 33.** ORS 830.005 is amended to read:

38 830.005. As used in this chapter, unless the context requires otherwise:

39 (1) "Board" means the State Marine Board.

40 (2) "Boat" means every description of watercraft, including a seaplane on the water and not in  
41 flight, used or capable of being used as a means of transportation on the water, but does not include  
42 boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.

43 (3) "Boating offense" means violation of any provision of law that is made a crime or violation  
44 under the provisions of this chapter.

45 (4) "In flight" means from the moment a seaplane starts its takeoff run until the end of a normal

1 power-off landing run.

2 (5) "Length" means the length of a boat measured from end to end over the deck excluding  
3 sheer.

4 (6) "Motorboat" means any boat propelled in whole or in part by machinery, including boats  
5 temporarily equipped with detachable motors.

6 (7) "Navigable waters of the United States" means those waters of the United States, including  
7 the territorial seas adjacent thereto, the general character of which is navigable, and that, either  
8 by themselves or by uniting with other waters, form a continuous waterway on which boats or ves-  
9 sels may navigate or travel between two or more states, or to and from foreign nations.

10 (8) "Operate" means to navigate or otherwise use a boat.

11 (9) "Operator of a boat livery" means any person who is engaged wholly or in part in the busi-  
12 ness of chartering or renting boats to other persons.

13 (10) "Passenger" means every person on board a boat who is not the master, operator, crew  
14 member or other person engaged in any capacity in the business of the boat.

15 (11) "Peace officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff  
16 [and], a city police officer **and a certified tribal police officer**.

17 (12) "State waters" means those waters entirely within the confines of this state that have not  
18 been declared navigable waters of the United States.

19 (13) "Waters of this state" means all waters within the territorial limits of this state, the mar-  
20 ginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to  
21 or from the shore of this state.

22 **SECTION 34. (1) Sections 1 to 4, 9, 11 and 13 of this 2011 Act and the amendments to ORS**  
23 **40.275, 90.440, 131.605, 133.005, 133.033, 133.318, 133.525, 133.721, 133.726, 136.595, 147.425,**  
24 **153.005, 161.015, 163.730, 165.535, 181.010, 181.610, 348.270, 414.805, 419B.902, 420.905, 801.395,**  
25 **810.410, 811.720 and 830.005 by sections 5 to 7, 10, 12 and 14 to 33 of this 2011 Act become**  
26 **operative on January 1, 2012.**

27 **(2) The Department of Public Safety Standards and Training may adopt rules or take any**  
28 **other action before the operative date specified in subsection (1) of this section that is nec-**  
29 **essary to enable the department to exercise, on or after the effective date of this 2011 Act,**  
30 **all the duties, functions and powers conferred on the department by this 2011 Act.**

31 **SECTION 35. This 2011 Act being necessary for the immediate preservation of the public**  
32 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
33 **on its passage.**

34