

HOUSE AMENDMENTS TO HOUSE BILL 2942

By COMMITTEE ON JUDICIARY

March 19

1 On page 1 of the printed bill, line 3, delete “and 342.175” and insert “, 342.175 and 670.280”.

2 Delete lines 5 through 30 and delete pages 2 through 5 and insert:

3 “**SECTION 1.** ORS 342.143 is amended to read:

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

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

12 “(3) Without limiting the powers of the Teacher Standards and Practices Commission under
13 subsection (2) of this section[.],

14 “[*(a)*] a teaching, personnel service or administrative license, or a public charter school regis-
15 tration, may not be issued to any person who:

16 “[*(A)*] **(a)** Has been convicted of a crime listed in ORS 163.095, 163.107, 163.115, 163.185, 163.235,
17 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432,
18 163.433, 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replace-
19 ment Part), 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415,
20 166.005, 166.087, [167.007,] 167.008, 167.012, 167.017, 167.057, 167.062, 167.075, 167.080, 167.090[,
21 475.808, 475.810, 475.812, 475.818, 475.820, 475.822, 475.828, 475.830, 475.832, 475.848, 475.852, 475.868,
22 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904] or 475.906.

23 “[*(B)*] **(b)** Has been convicted under ORS 161.405 of an attempt to commit any of the crimes
24 listed in [*subparagraph (A) of this*] paragraph **(a) of this subsection**.

25 “[*(C)*] **(c)** Has been convicted in another jurisdiction of a crime that is substantially equivalent,
26 as defined by rule, to any of the crimes listed in [*subparagraphs (A) and (B) of this paragraph*]
27 **paragraphs (a) and (b) of this subsection**.

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

33 “[*(b)*] *The Teacher Standards and Practices Commission may refuse to issue a license or registra-*
34 *tion to any person who has been convicted of:]*

35 “[*(A)*] *A crime involving the illegal use, sale or possession of controlled substances; or]*

1 “[*B*] A crime described in ORS 475B.010 to 475B.545.]

2 “(4) Without limiting the powers of the Teacher Standards and Practices Commission
3 under subsection (2) of this section, the commission may refuse to issue a teaching, per-
4 sonnel service or administrative license, or a public charter school registration, to a person
5 who:

6 “(a) Has been convicted of a crime listed in ORS 167.007, 475.808, 475.810, 475.812, 475.818,
7 475.820, 475.822, 475.828, 475.830, 475.832, 475.848, 475.852, 475.868, 475.872, 475.878, 475.880,
8 475.882, 475.888, 475.890, 475.892 or 475.904.

9 “(b) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes
10 listed in paragraph (a) of this subsection.

11 “(c) Has been convicted in another jurisdiction of a crime that is substantially equivalent,
12 as defined by rule, to any of the crimes listed in paragraphs (a) and (b) of this subsection.

13 “(d) Has been convicted of a crime involving the illegal use, sale or possession of con-
14 trolled substances.

15 “(e) Has been convicted of a crime described in ORS 475B.010 to 475B.545.

16 “[*4*] (5) In denying the issuance of a license or registration under this section, the commission
17 shall follow the procedure set forth in ORS 342.176 and 342.177.

18 “**SECTION 2.** ORS 181A.180 is amended to read:

19 “181A.180. Whenever any court or district attorney receives a disposition report and the court
20 or district attorney has cause to believe that the arrested person who is the subject of the report
21 is an employee of a school district or is licensed as a school teacher or administrator and that the
22 charge involves a violation of any crime listed in ORS 342.143 (3) or (4), the court or district at-
23 torney shall cause the Teacher Standards and Practices Commission and the Department of Educa-
24 tion to be sent a copy of the completed disposition report.

25 “**SECTION 3.** ORS 326.603 is amended to read:

26 “326.603. (1) For the purposes of requesting a state or nationwide criminal records check under
27 ORS 181A.195, the Department of Education may require the fingerprints of:

28 “(a) A school district or private school contractor, whether part-time or full-time, or an em-
29 ployee of a contractor, whether part-time or full-time, who has direct, unsupervised contact with
30 students as determined by the district or private school.

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

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

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

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

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

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

41 “(b) A private school may send to the Department of Education for purposes of a criminal re-
42 cords check any information, including fingerprints, for each person described in subsection (1)(a),
43 (b) or (c) of this section.

44 “(3) The Department of Education shall request that the Department of State Police conduct a
45 criminal records check as provided in ORS 181A.195 and may charge the school district or private

1 school a fee as established by rule under ORS 181A.195. The school district or private school may
2 recover its costs or a portion thereof from the person described in subsection (1) of this section. If
3 the person described in subsection (1)(b) or (d) of this section requests, the school district shall and
4 a private school may withhold the amount from amounts otherwise due the person, including a pe-
5 riodic payroll deduction rather than a lump sum payment.

6 “(4) Notwithstanding subsection (1) of this section, the Department of Education may not require
7 fingerprints of a person described in subsection (1) of this section if the person or the person’s em-
8 ployer was checked in one school district or private school and is currently seeking to work in an-
9 other district or private school unless the person lived outside this state during the interval between
10 the two periods of time of working in the district or private school.

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

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

20 “(7)(a) The [*Superintendent of Public Instruction*] **Department of Education** shall inform a
21 school district or private school if a person described in subsection (1) of this section has:

22 “(A) Been convicted of a crime listed in ORS 342.143 (3) **or (4)**; or

23 “(B) [*has*] Knowingly made a false statement on a criminal history form provided by the de-
24 partment [*of Education*] as to the conviction of any crime.

25 “(b) **Except as prohibited by state or federal law, when the department informs a school**
26 **district that a person has been convicted of a crime listed in ORS 342.143 (4), the department**
27 **shall disclose the crime for which the person was convicted.**

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

34 “(d) **If a person described in subsection (1) of this section has been convicted of a crime**
35 **listed in ORS 342.143 (4), a school district may choose to employ or contract with the person**
36 **after taking into consideration the relationship of the facts that support the conviction and**
37 **all intervening circumstances to the specific professional or occupational standards in de-**
38 **termining the fitness of the person to be employed or contracted.**

39 “[*c*] (e) If a person described in subsection (1) of this section has knowingly made a false
40 statement on a criminal history form provided by the department [*of Education*] as to the conviction
41 of a crime not listed in ORS 342.143 (3) **or (4)**, a school district or private school may choose to
42 employ or contract with the person.

43 “(8) If a person described in subsection (1) of this section refuses to consent to the criminal re-
44 cords check or refuses to be fingerprinted, the school district shall terminate the employment or
45 contract status of the person. Termination under this subsection removes the person from any school

1 district policies, collective bargaining provisions regarding dismissal procedures and appeals and the
2 provisions of ORS 342.805 to 342.937.

3 “(9) A school district may not hire or continue to employ or contract with or allow the con-
4 tractor to continue to assign a person to the school project if the person described in subsection (1)
5 of this section has been convicted of a crime according to the provisions of ORS 342.143.

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

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

8 “(A) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combi-
9 nation of those grade levels; and

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

12 “(b) ‘School district’ means:

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

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

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

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

17 “(E) An education service district.

18 “**SECTION 4.** ORS 342.175 is amended to read:

19 “342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the li-
20 cense or registration of a teacher or administrator, discipline a teacher or administrator, or suspend
21 or revoke the right of any person to apply for a license or registration, if the licensee, registrant
22 or applicant has held a license or registration at any time within five years prior to issuance of the
23 notice of charges under ORS 339.390 or 342.176 based on the following:

24 “(a) Conviction of a crime not listed in ORS 342.143 (3) **or** (4);

25 “(b) Gross neglect of duty;

26 “(c) Any gross unfitness;

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

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

30 “(f) Any false statement knowingly made in an application for issuance, renewal or rein-
31 statement of a license or registration; or

32 “(g) Failure to comply with any condition of reinstatement under subsection (4) of this section
33 or any condition of probation under ORS 342.177 (3)(b).

34 “(2) If a person is enrolled in an approved educator preparation program under ORS 342.147, the
35 commission may issue a public reprimand or may suspend or revoke the right to apply for a license
36 or registration based on the following:

37 “(a) Conviction of a crime listed in ORS 342.143 (3) **or** (4) or a crime described by the commis-
38 sion by rule;

39 “(b) Conviction of a crime for violating any law of this state or any state or of the United States
40 involving the illegal use, sale or possession of controlled substances; or

41 “(c) Any conduct that may cause the commission to issue a public reprimand for a teacher or
42 to suspend or revoke the license or registration of a teacher.

43 “(3)(a) The commission shall revoke any license or registration and shall revoke the right of any
44 person to apply for a license or registration if the person has been convicted of any crime listed in
45 ORS 342.143 (3).

1 **“(b) The commission may revoke any license or registration or may revoke the right of**
2 **any person to apply for a license or registration if the person has been convicted of any**
3 **crime listed in ORS 342.143 (4).**

4 “(4)(a) Except for convictions for crimes listed in ORS 342.143 (3) **or (4)** and subject to sub-
5 section (5) of this section, any person whose license or registration has been revoked, or whose right
6 to apply for a license or registration has been revoked, may apply to the commission for rein-
7 statement of the license or registration after one year from the date of the revocation.

8 “(b) Any person whose license or registration has been suspended, or whose right to apply for
9 a license or registration has been suspended, may apply to the commission for reinstatement of the
10 license or registration.

11 “(c) The commission may require an applicant for reinstatement to furnish evidence satisfactory
12 to the commission of good moral character, mental and physical health and such other evidence as
13 the commission may consider necessary to establish the applicant’s fitness. The commission may
14 impose a probationary period and such conditions as the commission considers necessary upon ap-
15 proving an application for reinstatement.

16 “(5) The commission shall reconsider immediately a license or registration suspension or revo-
17 cation or the situation of a person whose right to apply for a license or registration has been re-
18 voked, upon application therefor, when the license or registration suspension or revocation or the
19 right revocation is based on a criminal conviction that is reversed on appeal.

20 “(6) Violation of rules adopted by the commission relating to competent and ethical performance
21 of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

22 “(7) A copy of the record of conviction, certified to by the clerk of the court entering the con-
23 viction, shall be conclusive evidence of a conviction described in this section.

24 **“SECTION 5.** ORS 670.280, as amended by section 21, chapter 2, Oregon Laws 2021 (Ballot
25 Measure 110 (2020)), is amended to read:

26 “670.280. (1) As used in this section:

27 “(a) ‘License’ includes a registration, certification or permit.

28 “(b) ‘Licensee’ includes a registrant or a holder of a certification or permit.

29 “(2) Except as provided in ORS 342.143 (3) **or (4)** or 342.175 (3), a licensing board, commission
30 or agency may not deny, suspend or revoke an occupational or professional license solely for the
31 reason that the applicant or licensee has been convicted of a crime, but it may consider the re-
32 lationship of the facts [*which*] **that** support the conviction and all intervening circumstances to the
33 specific occupational or professional standards in determining the fitness of the person to receive
34 or hold the license. There is a rebuttable presumption as to each individual applicant or licensee
35 that an existing or prior conviction for conduct that has been classified or reclassified as a Class
36 E violation pursuant to [*section 11 to section 19*] **the amendments to ORS 153.012, 153.018, 475.752,**
37 **475.824, 475.834, 475.854, 475.874, 475.884 and 475.894 by sections 11 to 19, chapter 2, Oregon**
38 **Laws 2021 (Ballot Measure 110 (2020))**, does not make an applicant for an occupational or pro-
39 fessional license or a licensee with an occupational or professional license unfit to receive or hold
40 the license.

41 “(3) Except as provided in ORS 342.143 (3) **or (4)** and 342.175 (3), a licensing board, commission
42 or agency may deny an occupational or professional license or impose discipline on a licensee based
43 on conduct that is not undertaken directly in the course of the licensed activity, but that is sub-
44 stantially related to the fitness and ability of the applicant or licensee to engage in the activity for
45 which the license is required. In determining whether the conduct is substantially related to the

1 fitness and ability of the applicant or licensee to engage in the activity for which the license is re-
2 quired, the licensing board, commission or agency shall consider the relationship of the facts with
3 respect to the conduct and all intervening circumstances to the specific occupational or professional
4 standards. There is a rebuttable presumption as to each individual applicant or licensee that an
5 existing or prior conviction for conduct that has been classified or reclassified as a Class E violation
6 pursuant to [section 11 to section 19] **the amendments to ORS 153.012, 153.018, 475.752, 475.824,**
7 **475.834, 475.854, 475.874, 475.884 and 475.894 by sections 11 to 19, chapter 2, Oregon Laws 2021**
8 **(Ballot Measure 110 (2020)),** is not related to the fitness and ability of the applicant or licensee to
9 engage in the activity for which the license is required.”
10 _____