

Senate Bill 238

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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**.

Prohibits district school board or superintendent from approving contract or other agreement that provides for members of law enforcement agency to be assigned to schools of school district. Prohibits district school board from establishing law enforcement agency or employing law enforcement personnel.

Limits situations for which law enforcement agency is contacted for disciplinary incidents to incidents that place school employee or another student in fear of imminent serious physical injury or to incidents that may constitute crime.

Requires certain moneys budgeted during 2021-2023 biennium for law enforcement agency, for employment of law enforcement personnel or for contracts or agreements to assign members of law enforcement agency to schools to be redistributed to community outreach and to meeting students' mental and behavioral health needs.

A BILL FOR AN ACT

1
2 Relating to law enforcement agency personnel in schools; creating new provisions; amending ORS
3 133.402, 238.005, 332.075 and 339.250; and repealing ORS 332.531.

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

5 **SECTION 1.** ORS 332.075 is amended to read:

6 332.075. (1) Any district school board may:

7 (a) Fix the days of the year and the hours of the day when schools shall be in session.

8 (b) Adopt textbooks and other instructional materials as provided in ORS 337.120 and 337.141
9 and courses of study for the use of such schools as provided in ORS 336.035.

10 (c) Authorize the use of the schools for purposes of training students of an approved educator
11 preparation provider, as defined in ORS 342.120, and for such purposes may enter into contracts
12 with the approved educator preparation provider on such terms as may be agreed upon. Such con-
13 tracts as they relate to student teachers shall have the same effect and be subject to the same
14 regulations as a contract between a licensed teacher and a district school board.

15 (d) Develop and operate with other school districts or community college districts secondary
16 career and technical education programs for pupils of more than one district and fix by agreement
17 the duration of the district's obligation to continue such activity, subject to the availability of funds
18 therefor.

19 (e) Authorize the school district to be a member of and pay fees, if any, to any voluntary or-
20 ganization that administers interscholastic activities or that facilitates the scheduling and pro-
21 gramming of interscholastic activities only if the organization:

22 (A) Implements policies that address the use of derogatory or inappropriate names, insults,
23 verbal assaults, profanity or ridicule that occurs at an interscholastic activity, including by specta-
24 tors of the interscholastic activity;

25 (B) Maintains a transparent complaint process that:

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 (i) Has a reporting system to allow participants of interscholastic activities or members of the
 2 public to make complaints about student, coach or spectator behavior;

3 (ii) Responds to a complaint made under sub-subparagraph (i) of this subparagraph within 48
 4 hours of the complaint being received; and

5 (iii) Strives to resolve a complaint received under sub-subparagraph (i) of this subparagraph
 6 within 30 days of the complaint being received;

7 (C) Develops and implements a system of sanctions against schools, students, coaches and spec-
 8 tators if a complaint made under subparagraph (B) of this paragraph is verified; and

9 (D) Performs an annual survey of students and their parents to understand and respond to po-
 10 tential violations of policies adopted under subparagraph (A) of this paragraph or violations of ORS
 11 659.850.

12 (f) Accept money or property donated for the use or benefit of the school district and, consistent
 13 with the laws of this state, use such money or property for the purpose for which it was donated.

14 (g) Enter into an approved written agreement with the governing body of a federally recognized
 15 Native American tribe in Oregon to allow the use of a mascot that represents, is associated with
 16 or is significant to the Native American tribe entering into the agreement. An agreement entered
 17 into under this paragraph must:

18 (A) Describe the acceptable uses of the mascot;

19 (B) Comply with rules adopted by the State Board of Education that:

20 (i) Are adopted after consultation with the federally recognized tribes in Oregon pursuant to
 21 ORS 182.164 (3); and

22 (ii) Prescribe the requirements for approval; and

23 (C) Be approved by the State Board of Education, which the board must provide if the agreement
 24 meets the requirements of this paragraph and the rules adopted under this paragraph.

25 (2) All contracts of the school district must be approved by the district school board before an
 26 order can be drawn for payment. If a contract is made without the authority of the district school
 27 board, the individual making such contract shall be personally liable.

28 (3) Notwithstanding subsection (2) of this section, a district school board may, by resolution or
 29 policy, authorize its superintendent or the superintendent's designee to enter into and approve pay-
 30 ment on contracts for products, materials, supplies, capital outlay, equipment and services that are
 31 within appropriations made by the district school board pursuant to ORS 294.456. A district school
 32 board may not authorize its superintendent or the superintendent's designee under this subsection
 33 to enter into and approve payment on contracts that are collective bargaining agreements or service
 34 contracts that include the provision of labor performed by employees of the school district.

35 **(4) A district school board may not:**

36 **(a) Approve a contract or other agreement that provides for members of a law enforce-**
 37 **ment agency to be assigned to the schools of the school district;**

38 **(b) Authorize its superintendent or the superintendent's designee to enter into a contract**
 39 **or other agreement that provides for members of a law enforcement agency to be assigned**
 40 **to the schools of the school district; or**

41 **(c) Establish a law enforcement agency or employ law enforcement personnel.**

42 **SECTION 2.** ORS 133.402 is amended to read:

43 133.402. (1)(a) A custodial interview inside a law enforcement facility that is conducted by a
 44 peace officer[, a school resource officer] or a special campus security officer shall be electronically
 45 recorded if the custodial interview is conducted with a person under 18 years of age in connection

1 with an investigation into a misdemeanor or a felony, or an allegation that the person being inter-
 2 viewed committed an act that, if committed by an adult, would constitute a misdemeanor or a felony.

3 (b) A custodial interview anywhere outside of a law enforcement facility that is conducted by
 4 a peace officer[, *a school resource officer*] or a special campus security officer shall be electronically
 5 recorded if:

6 (A) The custodial interview is conducted with a person under 18 years of age in connection with
 7 an investigation into a misdemeanor or a felony, or an allegation that the person being interviewed
 8 committed an act that, if committed by an adult, would constitute a misdemeanor or a felony; and

9 (B) A video camera is worn upon the officer's person.

10 (2) Subsection (1) of this section does not apply to:

11 (a) A statement made before a grand jury;

12 (b) A statement made on the record in open court;

13 (c) A custodial interview conducted in another state in compliance with the laws of that state;

14 (d) A custodial interview conducted by a federal law enforcement officer in compliance with the
 15 laws of the United States;

16 (e) A statement that was spontaneously volunteered and did not result from a custodial inter-
 17 view;

18 (f) A statement made during custody processing in response to a routine question;

19 (g) A law enforcement agency that employs five or fewer peace officers;

20 (h) A custodial interview conducted in connection with an investigation carried out by a youth
 21 corrections officer or a staff member of the Oregon State Hospital in the performance of the officer's
 22 or staff member's official duties of treatment, custody, control or supervision of individuals commit-
 23 ted to or confined in a place of incarceration or detention;

24 (i) A custodial interview for which the state demonstrates good cause for the failure to elec-
 25 tronically record the custodial interview; or

26 (j) A custodial interview if the defendant's or youth's age was unknown to the officer or would
 27 not have been objectively apparent to a reasonable officer.

28 (3)(a) If the state offers an unrecorded statement made under the circumstances described in
 29 subsection (1) of this section in a criminal proceeding alleging the commission of a misdemeanor or
 30 a felony, or an allegation that a person being interviewed committed an act that, if committed by
 31 an adult, would constitute a misdemeanor or a felony, and the state is unable to demonstrate, by a
 32 preponderance of the evidence, that an exception described in subsection (2) of this section applies,
 33 upon the request of the defendant, the court shall instruct the jury regarding the legal requirement
 34 described in subsection (1) of this section and the superior reliability of electronic recordings when
 35 compared with testimony about what was said and done.

36 (b) The court may not exclude the defendant's statement or dismiss criminal charges as a result
 37 of a violation of this section.

38 (c) If each of the statements made by the defendant that the state offers into evidence is re-
 39 corded, the court may not give a cautionary jury instruction regarding the content of the
 40 defendant's statements.

41 (4) If the state offers an unrecorded statement made under the circumstances described in sub-
 42 section (1) of this section in a juvenile delinquency proceeding alleging the commission of an act
 43 that, if committed by an adult would constitute a misdemeanor or a felony, and the state is unable
 44 to demonstrate, by a preponderance of the evidence, that an exception described in subsection (2)
 45 of this section applies, the court shall consider the superior reliability of electronic recordings when

1 compared with testimony about what was said and done when determining the evidentiary value of
2 the statement.

3 (5) A law enforcement agency that creates an electronic recording of a custodial interview shall
4 preserve the recording until the defendant's conviction or youth's adjudication for the offense is
5 final and all direct, post-conviction relief and habeas corpus appeals are exhausted, or until the
6 prosecution of the offense is barred by law.

7 (6) The state shall provide an electronic copy of a defendant's or youth's custodial interview to
8 a defendant or youth in accordance with ORS 135.805 to 135.873. Providing an electronic copy of the
9 custodial interview to the defendant or youth constitutes compliance with ORS 135.815 (1)(b), and
10 the state is not required to provide the defendant or youth with a transcript of the contents of the
11 custodial interview. Unless the court orders otherwise, the defendant's or youth's attorney may not
12 copy, disseminate or republish the electronic copy of the custodial interview, except to provide a
13 copy to an agent of the defendant's or youth's attorney for the limited purpose of case preparation.

14 (7) An electronic recording of a custodial interview, and any transcription of the recording, that
15 is certified as containing a complete recording, or a complete transcription, of the entirety of the
16 custodial interview, from the advisement of constitutional rights to the conclusion of the custodial
17 interview, is admissible in any preadjudication or post-adjudication hearing for the purpose of es-
18 tablishing the contents of a statement made in the recording and the identity of the person who
19 made the statement, if the statement is otherwise admissible. A certification that complies with this
20 subsection satisfies the requirements of ORS 40.505 and 132.320 for the recording or transcription.
21 This subsection does not prohibit a party from calling a witness to testify regarding the custodial
22 interview.

23 (8) As used in this section:

24 (a) "Custodial interview" means an interview in which the person questioned is in custody and
25 is required to be advised of the person's constitutional rights.

26 (b) "Good cause" includes, but is not limited to, situations in which:

27 (A) The defendant or youth refused, or expressed an unwillingness, to have the custodial inter-
28 view electronically recorded;

29 (B) The failure to electronically record the custodial interview was the result of equipment
30 failure and a replacement device was not immediately available;

31 (C) The person operating the recording equipment believed, in good faith, that the equipment
32 was recording the custodial interview;

33 (D) Electronically recording the custodial interview would jeopardize the safety of any person
34 or the identity of a confidential informant;

35 (E) Exigent circumstances prevented the recording of the custodial interview; or

36 (F) The person conducting the custodial interview did not possess a wearable video camera to
37 electronically record the custodial interview outside of a law enforcement facility.

38 (c) "Law enforcement facility" means a courthouse, building or premises that is a place of op-
39 eration for a municipal police department, county sheriff's office or other law enforcement agency
40 at which persons may be detained in connection with a juvenile delinquency petition or criminal
41 charge.

42 (d) "Peace officer" has the meaning given that term in ORS 133.005.

43 [(e) "School resource officer" means a peace officer who is assigned to a school.]

44 [(f)] (e) "Special campus security officer" means a special campus security officer described in
45 ORS 352.118.

1 **SECTION 3.** ORS 238.005 is amended to read:

2 238.005. For purposes of this chapter:

3 (1) "Active member" means a member who is presently employed by a participating public em-
4 ployer in a qualifying position and who has completed the six-month period of service required by
5 ORS 238.015.

6 (2) "Annuity" means payments for life derived from contributions made by a member as provided
7 in this chapter.

8 (3) "Board" means the Public Employees Retirement Board.

9 (4) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-
10 cember 31 following.

11 (5) "Continuous service" means service not interrupted for more than five years, except that
12 such continuous service shall be computed without regard to interruptions in the case of:

13 (a) An employee who had returned to the service of the employer as of January 1, 1945, and
14 who remained in that employment until having established membership in the Public Employees
15 Retirement System.

16 (b) An employee who was in the armed services on January 1, 1945, and returned to the service
17 of the employer within one year of the date of being otherwise than dishonorably discharged and
18 remained in that employment until having established membership in the Public Employees Retire-
19 ment System.

20 (6) "Creditable service" means any period of time during which an active member is being paid
21 a salary by a participating public employer and for which benefits under this chapter are funded by
22 employer contributions and earnings on the fund. For purposes of computing years of "creditable
23 service," full months and major fractions of a month shall be considered to be one-twelfth of a year
24 and shall be added to all full years. "Creditable service" includes all retirement credit received by
25 a member.

26 (7) "Earliest service retirement age" means the age attained by a member when the member
27 could first make application for retirement under the provisions of ORS 238.280.

28 (8) "Employee" includes, in addition to employees, public officers, but does not include:

29 (a) Persons engaged as independent contractors.

30 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
31 ployer or public employers do not total 600 hours in any calendar year.

32 (c) Persons provided sheltered employment or made-work by a public employer in an employment
33 or industries program maintained for the benefit of such persons.

34 (d) Persons employed and paid from federal funds received under a federal program intended
35 primarily to alleviate unemployment. However, any such person shall be considered an "employee"
36 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects
37 to have the person so considered by an irrevocable written notice to the board.

38 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-
39 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph
40 shall be deemed to have been in effect since the inception of the system.

41 (f) Persons employed in positions classified as post-doctoral scholar positions by a public uni-
42 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370.

43 (9) "Final average salary" means whichever of the following is greater:

44 (a) The average salary per calendar year paid by one or more participating public employers to
45 an employee who is an active member of the system in three of the calendar years of membership

1 before the effective date of retirement of the employee, in which three years the employee was paid
2 the highest salary. The three calendar years in which the employee was paid the largest total salary
3 may include calendar years in which the employee was employed for less than a full calendar year.
4 If the number of calendar years of active membership before the effective date of retirement of the
5 employee is three or fewer, the final average salary for the employee is the average salary per cal-
6 endar year paid by one or more participating public employers to the employee in all of those years,
7 without regard to whether the employee was employed for the full calendar year.

8 (b) One-third of the total salary paid by a participating public employer to an employee who is
9 an active member of the system in the last 36 calendar months of active membership before the ef-
10 fective date of retirement of the employee.

11 (10) "Firefighter" does not include a volunteer firefighter, but does include:

12 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals;

13 (b) An employee of the State Forestry Department who is certified by the State Forester as a
14 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
15 fires as described in ORS 477.064; and

16 (c) An employee of the Oregon Military Department whose primary duties include fighting
17 structural, aircraft, wildland or other fires.

18 (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-
19 lowing.

20 (12) "Fund" means the Public Employees Retirement Fund.

21 (13) "Inactive member" means a member who is not employed in a qualifying position, whose
22 membership has not been terminated in the manner described by ORS 238.095 and who is not retired
23 for service or disability.

24 (14) "Institution of higher education" means a public university listed in ORS 352.002, the
25 Oregon Health and Science University and a community college, as defined in ORS 341.005.

26 (15) "Member" means a person who has established membership in the system and whose mem-
27 bership has not been terminated as described in ORS 238.095. "Member" includes active, inactive
28 and retired members.

29 (16) "Member account" means the regular account and the variable account.

30 (17) "Normal retirement age" means:

31 (a) For a person who establishes membership in the system before January 1, 1996, as described
32 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter
33 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

34 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-
35 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or
36 firefighter or 60 years of age if the employee retires at that age as other than a police officer or
37 firefighter.

38 (18) "Pension" means annual payments for life derived from contributions by one or more public
39 employers.

40 (19) "Police officer" includes:

41 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
42 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
43 persons committed to the custody of or transferred to the Department of Corrections and employees
44 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
45 whether or not such classification was authorized by law.

1 (b) Employees of the Department of State Police who are classified as police officers by the
2 Superintendent of State Police.

3 (c) Employees of the Oregon Liquor Control Commission who are classified as regulatory spe-
4 cialists by the administrator of the commission.

5 (d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified
6 by the sheriff, are the regular duties of police officers or corrections officers.

7 (e) Police chiefs and police personnel of a city who are classified as police officers by the
8 council or other governing body of the city.

9 (f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who
10 are classified as police officers by the university.

11 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
12 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
13 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
14 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
15 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
16 ented by a labor organization, any proposal by the county to change that classification or to cease
17 to classify adult parole and probation officers as police officers for the purposes of this chapter is
18 a mandatory subject of bargaining.

19 (h) Police officers appointed under ORS 276.021 or 276.023.

20 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-
21 missioners of the Port of Portland.

22 (j) Employees of the State Department of Agriculture who are classified as livestock police of-
23 ficers by the Director of Agriculture.

24 (k) Employees of the Department of Public Safety Standards and Training who are classified by
25 the department as other than secretarial or clerical personnel.

26 (L) Investigators of the Criminal Justice Division of the Department of Justice.

27 (m) Corrections officers as defined in ORS 181A.355.

28 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the
29 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

30 (o) The Director of the Department of Corrections.

31 (p) An employee who for seven consecutive years has been classified as a police officer as de-
32 fined by this section, and who is employed or transferred by the Department of Corrections to fill
33 a position designated by the Director of the Department of Corrections as being eligible for police
34 officer status.

35 (q) An employee of the Department of Corrections classified as a police officer on or prior to
36 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
37 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
38 tem implemented pursuant to ORS 240.190 does not affect police officer status.

39 *[(r) Employees of a school district who are appointed and duly sworn members of a law enforce-*
40 *ment agency of the district as provided in ORS 332.531 or otherwise employed full-time as police offi-*
41 *cers commissioned by the district.]*

42 *[(s)]* (r) Employees at youth correction facilities and juvenile detention facilities under ORS
43 419A.050, 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses
44 and who have supervisory, control or teaching responsibilities over juveniles committed to the cus-
45 tody of the Department of Corrections or the Oregon Youth Authority.

1 [(t)] (s) Employees at youth correction facilities as defined in ORS 420.005 whose primary job
2 description involves the custody, control, treatment, investigation or supervision of juveniles placed
3 in such facilities.

4 [(u)] (t) Employees of the Oregon Youth Authority who are classified as juvenile parole and
5 probation officers.

6 [(v)] (u) Employees of the Department of Human Services who are prohibited from striking under
7 ORS 243.726 and whose duties include the care of residents of residential facilities, as defined in
8 ORS 443.400, that house individuals with intellectual or developmental disabilities.

9 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
10 to (6) (1999 Edition).

11 (21) "Public employer" means the state, one of its agencies, any city, county, or municipal or
12 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
13 created by one or more such governmental organizations to provide governmental services. For
14 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
15 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
16 sue and be sued.

17 (22) "Qualifying position" means one or more jobs with one or more participating public em-
18 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding
19 any service in a job for which a participating public employer does not provide benefits under this
20 chapter pursuant to an application made under ORS 238.035.

21 (23) "Regular account" means the account established for each active and inactive member un-
22 der ORS 238.250.

23 (24) "Retired member" means a member who is retired for service or disability.

24 (25) "Retirement credit" means a period of time that is treated as creditable service for the
25 purposes of this chapter.

26 (26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public
27 employer in return for services to the employer, plus the monetary value, as determined by the
28 Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and
29 other advantages the employer furnishes the employee in return for services.

30 (b) "Salary" includes but is not limited to:

31 (A) Payments of employee and employer money into a deferred compensation plan, which are
32 deemed salary paid in each month of deferral;

33 (B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary
34 paid in each month of participation;

35 (C) Retroactive payments described in ORS 238.008; and

36 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
37 652.190.

38 (c) "Salary" or "other advantages" does not include:

39 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
40 employer;

41 (B) Payments for insurance coverage by an employer on behalf of employee or employee and
42 dependents, for which the employee has no cash option;

43 (C) Payments made on account of an employee's death;

44 (D) Any lump sum payment for accumulated unused sick leave;

45 (E) Any accelerated payment of an employment contract for a future period or an advance

1 against future wages;

2 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
3 gratuitous payment;

4 (G) Payments for periods of leave of absence after the date the employer and employee have
5 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
6 sick leave and vacation;

7 (H) Payments for instructional services rendered to public universities listed in ORS 352.002 or
8 the Oregon Health and Science University when such services are in excess of full-time employment
9 subject to this chapter. A person employed under a contract for less than 12 months is subject to
10 this subparagraph only for the months to which the contract pertains;

11 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an
12 employee;

13 (J) Compensation described and authorized under ORS 341.556 that is not paid by the community
14 college employing the faculty member;

15 (K) Compensation described and authorized under ORS 352.232 that is not paid by the public
16 university employing the officer or employee;

17 (L) Compensation described and authorized under ORS 353.270 that is not paid by Oregon Health
18 and Science University; or

19 (M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a
20 calendar year. If any period over which salary is determined is less than 12 months, the \$195,000
21 limitation for that period shall be multiplied by a fraction, the numerator of which is the number
22 of months in the determination period and the denominator of which is 12. On January 1 of each
23 year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage
24 changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as pub-
25 lished by the Bureau of Labor Statistics of the United States Department of Labor.

26 (27) "School year" means the period beginning July 1 and ending June 30 next following.

27 (28) "System" means the Public Employees Retirement System.

28 (29) "Variable account" means the account established for a member who participates in the
29 Variable Annuity Account under ORS 238.260.

30 (30) "Vested" means being an active member of the system in each of five calendar years.

31 (31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600
32 hours of service per year.

33 **SECTION 4.** ORS 339.250 is amended to read:

34 339.250. (1) Public school students shall comply with rules for the government of such schools,
35 pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' au-
36 thority.

37 (2) Each district school board shall adopt written policies for the discipline, suspension or ex-
38 pulsion of any refractory student. The policies:

39 (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited
40 to:

41 (A) Willful disobedience;

42 (B) Open defiance of the authority of a school employee;

43 (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;

44 (D) Use or display of profane or obscene language;

45 (E) Willful damage or injury to school property;

- 1 (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
- 2 (G) Assault of a school employee or another student; or
- 3 (H) Intentional attempts, by word or conduct, to place a school employee or another student in
- 4 fear of imminent serious physical injury.
- 5 (b) Must require consideration of the age of a student and the past pattern of behavior of a
- 6 student prior to imposing the suspension or expulsion of a student.
- 7 (c) Must limit the use of expulsion to the following circumstances:
- 8 (A) For conduct that poses a threat to the health or safety of students or school employees;
- 9 (B) When other strategies to change student conduct have been ineffective, except that expul-
- 10 sion may not be used to address truancy; or
- 11 (C) When the expulsion is required by law.
- 12 (d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who
- 13 is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the fol-
- 14 lowing circumstances:
- 15 (A) For nonaccidental conduct causing serious physical harm to a student or school employee;
- 16 (B) When a school administrator determines, based upon the administrator's observation or upon
- 17 a report from a school employee, that the student's conduct poses a direct threat to the health or
- 18 safety of students or school employees; or
- 19 (C) When the suspension or expulsion is required by law.
- 20 (e) When an out-of-school suspension is imposed as provided under paragraph (d) of this sub-
- 21 section, must require the school district to take steps to prevent the recurrence of the behavior that
- 22 led to the out-of-school suspension and return the student to a classroom setting so that the dis-
- 23 ruption of the student's academic instruction is minimized.
- 24 (f) Must be limited so that:
- 25 (A) The duration of an expulsion may not be more than one calendar year.
- 26 (B) The duration of a suspension may not be more than 10 school days.
- 27 **(g) Must limit the situations for which a law enforcement agency is contacted to inci-**
- 28 **idents that place a school employee or another student in fear of imminent serious physical**
- 29 **injury or to incidents that may constitute a crime.**
- 30 [(g)] (h) Notwithstanding ORS 336.010, may require a student to attend school during nonschool
- 31 hours as an alternative to suspension if the total number of hours does not exceed the equivalent
- 32 of 10 school days.
- 33 (3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school
- 34 district shall develop a student handbook, code of conduct or other document that:
- 35 (a) Defines and helps create a learning environment that students respect;
- 36 (b) Defines acceptable norms of behavior for students and the types of behavior that are subject
- 37 to discipline;
- 38 (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety
- 39 of students or employees of the school;
- 40 (d) Establishes a system of consequences that are designed to correct student misconduct and
- 41 promote behavior within acceptable norms; and
- 42 (e) Makes the system of consequences known to the school community through the dissemination
- 43 of information to students, parents, legal guardians and school district employees.
- 44 (4) Each district school board shall adopt written policies on managing students who threaten
- 45 violence or harm in public schools. The policies adopted by a district school board under this section

1 shall include all of the following:

2 (a) Staff reporting methods.

3 (b) Provisions that allow an administrator to consider and implement any of the following
4 options:

5 (A) Immediately removing from the classroom setting any student who has threatened to injure
6 another person or to severely damage school property.

7 (B) Placing the student in a setting where the behavior will receive immediate attention, in-
8 cluding, but not limited to, the office of the school principal, vice principal, assistant principal,
9 counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or
10 the office of any licensed mental health professional.

11 (C) Requiring that a school obtain an evaluation of a student by a licensed mental health pro-
12 fessional before allowing the student to return to the classroom setting. A student who is removed
13 from the classroom setting for an evaluation may not be removed for more than 10 school days un-
14 less the administrator is able to show good cause that an evaluation could not be completed in that
15 time period. The policy must describe the circumstances under which the district school board may
16 enter into contracts with licensed mental health professionals to perform any evaluations required
17 under this subparagraph.

18 (c) The requirement that an administrator provide to the parent or legal guardian of the student
19 notification that describes the student's behavior and the school's response.

20 (d) A provision for the allocation of any funds necessary for the school district to implement the
21 policies described in this subsection.

22 (5) In establishing and enforcing discipline, suspension and expulsion policies, a district school
23 board shall ensure that the policy is designed to:

24 (a) Protect students and school employees from harm;

25 (b) Provide opportunities for students to learn from their mistakes;

26 (c) Foster positive learning communities;

27 (d) Keep students in school and attending class;

28 (e) Impose disciplinary sanctions without bias against students from a protected class, as defined
29 in ORS 339.351;

30 (f) Implement a graduated set of age-appropriate responses to misconduct that are fair,
31 nondiscriminatory and proportionate in relation to each student's individual conduct;

32 (g) Employ a range of strategies for prevention, intervention and discipline that take into ac-
33 count a student's developmental capacities and that are proportionate to the degree and severity
34 of the student's misbehavior;

35 (h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction
36 or instruction combined with counseling for the student that are appropriate and accessible to the
37 student in the following circumstances:

38 (A) Following a second or subsequent occurrence within any three-year period of a severe dis-
39 ciplinary problem with the student; or

40 (B) When a parent or legal guardian applies for the student's exemption from compulsory at-
41 tendance on a semiannual basis as provided in ORS 339.030 (2);

42 (i) To the extent practicable, use approaches that are shown through research to be effective in
43 reducing student misbehavior and promoting safe and productive social behavior; and

44 (j) Ensure that school conduct and discipline codes comply with all state and federal laws con-
45 cerning the education of students with disabilities.

1 (6) Except for policies adopted under subsection (7) of this section, any policies adopted under
2 this section must provide for the dissemination of information about alternative programs of in-
3 struction or instruction combined with counseling, as described in subsection (5)(h) of this section,
4 in writing to the student and the parent, legal guardian or person in parental relationship with the
5 student at least once every six months, unless the information has changed because of the avail-
6 ability of new programs.

7 (7) Each district school board shall adopt a written policy involving firearms, as defined in 18
8 U.S.C. 921. The policy shall:

9 (a) Require expulsion from school for a period of not less than one year of any student who is
10 determined to have:

11 (A) Brought a firearm to a school, to school property under the jurisdiction of the school district
12 or to an activity under the jurisdiction of the school district;

13 (B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction
14 of the school district or at an activity under the jurisdiction of the school district; or

15 (C) Brought to or possessed, concealed or used a firearm at an interscholastic activity adminis-
16 tered by a voluntary organization.

17 (b) Allow exceptions:

18 (A) For courses, programs and activities approved by the school district that are conducted on
19 school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps
20 programs, firearm-related sports or firearm-related vocational courses; and

21 (B) Identified by and adopted by the State Board of Education by rule.

22 (c) Allow a superintendent of a school district to:

23 (A) Modify the expulsion requirement for a student on a case-by-case basis.

24 (B) Propose alternative programs of instruction or instruction combined with counseling for a
25 student that are appropriate and accessible to the student. If alternative programs are appropriate
26 for a student, the superintendent shall ensure that information about programs of instruction or in-
27 struction combined with counseling is provided in writing to the student and the parent, legal
28 guardian or person in parental relationship with the student at least once every six months, or at
29 any time the information changes because of the availability of new programs.

30 (d) Require a referral to the appropriate law enforcement agency of any student who is expelled
31 under this subsection.

32 (e) Require an annual reporting to the Department of Education of the name of each school that
33 had an expulsion under this subsection and the number of students expelled from each school.

34 (8) Each district school board shall adopt and disseminate written policies for the use of physical
35 force upon a student. The policies must allow an individual who is a teacher, administrator, school
36 employee or school volunteer to use reasonable physical force upon a student when and to the ex-
37 tent the application of force is consistent with ORS 339.285 to 339.303.

38 (9)(a) The authority to discipline a student does not authorize the infliction of corporal punish-
39 ment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public
40 charter school or the Department of Education that permits or authorizes the infliction of corporal
41 punishment upon a student is void and unenforceable.

42 (b) As used in this subsection:

43 (A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of,
44 physical pain on a student.

45 (B) "Corporal punishment" does not include:

1 (i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

2 (ii) Physical pain or discomfort resulting from or caused by participation in athletic competition
3 or other such recreational activity, voluntarily engaged in by a student.

4 (10) For purposes of this section, calculations of the number of school days that a student is
5 removed from a classroom setting shall be as follows:

6 (a) As a half day if the student is out of school for half, or less than half, of the scheduled school
7 day; and

8 (b) As a full day if the student is out of school for more than half of the scheduled school day.

9 **SECTION 5. Any school district that, on the effective date of this 2021 Act, has a law
10 enforcement agency or employs law enforcement personnel, as authorized by ORS 332.531,
11 must dissolve the law enforcement agency and cease to employ law enforcement agency
12 personnel.**

13 **SECTION 6. (1) Any school district that, on the effective date of this 2021 Act, had a law
14 enforcement agency, employed law enforcement personnel or otherwise had a contract or
15 other agreement with a law enforcement agency to assign members of a law enforcement
16 agency to the schools of the school district must redistribute moneys that had been budgeted
17 for those purposes to community outreach and to meeting students' mental and behavioral
18 health needs.**

19 **(2) This section is repealed on June 30, 2023.**

20 **SECTION 7. ORS 332.531 is repealed.**

21