

(Including Amendments to Resolve Conflicts)

C-Engrossed Senate Bill 412

Ordered by the House June 27
Including Senate Amendments dated April 15 and June 1 and House
Amendments dated June 27

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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.

Provides authorized tribal police officers with certain powers and protections provided to Oregon law enforcement officers. Has limited applicability for authorized tribal officers acting outside of Indian country until July 1, 2013.
Sunsets July 1, [2019] 2015.
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, 181.781, 181.783, 181.796, 348.270, 414.805, 419B.902, 420.905, 801.395,
5 810.410, 811.720 and 830.005; repealing sections 4, 14, 15, 16, 17, 23, 24 and 39, chapter 506,
6 Oregon Laws 2011 (Enrolled Senate Bill 405); and declaring an emergency.

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

8 **SECTION 1. As used in sections 1 to 4 of this 2011 Act:**

9 **(1) "Authorized tribal police officer" means a tribal police officer who is acting:**

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

11 **(b) While employed by a tribal government that is in compliance with sections 1 to 4 of**
12 **this 2011 Act.**

13 **(2) "Indian country" has the meaning given that term in 18 U.S.C. 1151.**

14 **(3) "Tribal government" means a federally recognized sovereign tribal government whose**
15 **borders lie within this state or an intertribal organization formed by two or more of those**
16 **governments.**

17 **(4) "Tribal police officer" means an employee of a tribal government whose duties include**
18 **the enforcement of criminal law.**

19 **SECTION 2. A tribal police officer is eligible to act as an authorized tribal police officer**
20 **if the officer:**

21 **(1) Is acting within the scope of employment as a tribal police officer;**

22 **(2) Is certified as a police officer under the provisions of ORS 181.610 to 181.712;**

23 **(3) Is in compliance with any rules adopted by the Department of Public Safety Standards**

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 and Training under sections 1 to 4 of this 2011 Act; and

2 (4) Is employed by a tribal government that:

3 (a) Is in compliance with the requirements of ORS 181.610 to 181.712 applicable to a law
4 enforcement unit as defined in ORS 181.610;

5 (b) Is in compliance with sections 1 to 4 of this 2011 Act and any rules adopted by the
6 department under sections 1 to 4 of this 2011 Act;

7 (c) Has submitted to the department the resolution and documents described in section
8 3 of this 2011 Act;

9 (d) Has adopted a provision of tribal law:

10 (A) That requires the tribal government to participate in, and be bound by, a deadly
11 physical force plan approved under ORS 181.781 to 181.796, to the same extent that the
12 county sheriff is required to participate in, and be bound by, the plan;

13 (B) That requires the tribal government to retain records related to the exercise of the
14 authority granted to authorized tribal police officers under sections 1 to 4 of this 2011 Act
15 in a manner substantially similar to the manner in which the provisions of ORS 192.005 to
16 192.170 require the Department of State Police to retain public records;

17 (C) That provides members of the public with the right to inspect records of the tribal
18 government related to the exercise of the authority granted to authorized tribal police offi-
19 cers under sections 1 to 4 of this 2011 Act in a manner substantially similar to the manner
20 in which the provisions of ORS 192.410 to 192.505 provide members of the public with the
21 right to inspect public records of the Department of State Police;

22 (D) That requires the tribal government to preserve biological evidence in a manner
23 substantially similar to sections 2 to 6, chapter 275, Oregon Laws 2011, when the biological
24 evidence:

25 (i) Is collected as part of a criminal investigation, conducted by an authorized tribal po-
26 lice officer, into a covered offense as defined in section 2, chapter 275, Oregon Laws 2011; or

27 (ii) Is otherwise in the possession of the tribal government and reasonably may be used
28 to incriminate or exculpate any person for a covered offense as defined in section 2, chapter
29 275, Oregon Laws 2011; and

30 (E) That waives sovereign immunity, in a manner similar to the waiver expressed in ORS
31 30.260 to 30.300, as to tort claims asserted in the tribal government's court that arise from
32 the conduct of an authorized tribal police officer. The waiver described in this subparagraph:

33 (i) Must apply to the conduct of an authorized tribal police officer that occurs while the
34 provision of tribal law is in effect;

35 (ii) Must allow for recovery against the tribal government in an amount equal to or
36 greater than the amounts described in ORS 30.260 to 30.300 that are applicable to a local
37 public body;

38 (iii) May require that the claim be asserted in accordance with any applicable tort claims
39 procedures of the tribal government; and

40 (iv) May exclude claims that could be brought in federal court under the Federal Tort
41 Claims Act; and

42 (e) Has adopted or is exempt from adopting, in accordance with this paragraph, a written
43 pretrial discovery policy that describes how a tribal government and its authorized tribal
44 police officers will assist the district attorney, in criminal prosecutions conducted in state
45 court in which an authorized tribal police officer arrested or cited the defendant, in meeting

1 the pretrial discovery obligations imposed on the state by ORS 135.805 to 135.873. The process
2 for adopting, and determining whether a tribal government is exempt from adopting, a
3 written pretrial discovery policy is as follows:

4 (A) A tribal government may request in writing that the sheriff of a county with land
5 that is contiguous to the land of the tribal government provide the tribal government with
6 a copy of any written pretrial discovery policy adopted by the sheriff that describes how the
7 sheriff's office assists the district attorney in meeting the pretrial discovery obligations im-
8 posed by ORS 135.805 to 135.873. Not later than 30 days after receiving the request, the
9 sheriff shall provide the tribal government with a copy of the policy or notify the tribal
10 government that the sheriff has not adopted the policy.

11 (B) If a tribal government fails to submit a written request to each sheriff of a county
12 that is contiguous to the land of the tribal government or if each sheriff has adopted a
13 written pretrial discovery policy described in subparagraph (A) of this paragraph, the tribal
14 government shall, not later than 90 days after the effective date of this 2011 Act, adopt a
15 written pretrial discovery policy.

16 (C) A tribal government may create and adopt a written pretrial discovery policy or may
17 adopt the written pretrial discovery policy adopted by the sheriff of a county with land that
18 is contiguous to the land of the tribal government.

19 (D) If the sheriff of any county with land that is contiguous to the land of the tribal
20 government has not, on the date the sheriff receives a request described in subparagraph (A)
21 of this paragraph, adopted a written pretrial discovery policy, the tribal government is ex-
22 empt from adopting a written pretrial discovery policy.

23 **SECTION 3.** (1) The Legislative Assembly finds and declares that the purpose of sections
24 1 to 4 of this 2011 Act is to provide authorized tribal police officers with a limited ability to
25 exercise the powers of, and to receive the same authority and protections provided to, law
26 enforcement officers under the laws of this state, without incurring any additional costs or
27 loss of revenue to the State of Oregon or a political subdivision of the State of Oregon.

28 (2) Notwithstanding section 2 of this 2011 Act, a tribal police officer may not act as an
29 authorized tribal police officer outside of Indian country, unless the officer:

30 (a) Is investigating an offense alleged to have been committed within Indian country;

31 (b) Leaves Indian country in fresh pursuit as defined in ORS 133.420;

32 (c) Is acting in response to an offense committed in the officer's presence; or

33 (d) Has received the express approval of a law enforcement agency having jurisdiction
34 over the geographic area in which the tribal police officer is acting.

35 (3) When an authorized tribal police officer issues a citation for the commission of an
36 offense for which the State of Oregon has jurisdiction and the tribal government employing
37 the officer does not have jurisdiction, the citation must:

38 (a) Summon the person cited to appear in the circuit court of the county in which the
39 offense was committed; and

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

42 (4) A tribal government that employs tribal police officers may submit to the Department
43 of Public Safety Standards and Training a resolution declaring that the tribal government is
44 self-insured or has purchased and maintains in force:

45 (a) Public liability and property damage insurance for vehicles operated by authorized

1 **tribal police officers; and**

2 **(b) Police professional liability insurance from a company licensed to sell insurance in**
3 **this state.**

4 **(5) The tribal government shall attach the following documents to the resolution sub-**
5 **mitted to the department under subsection (4) of this section:**

6 **(a) A declaration that the tribal government has complied with the requirements of**
7 **sections 1 to 4 of this 2011 Act; and**

8 **(b)(A) A full copy of the public liability and property damage insurance policy for vehicles**
9 **operated by the tribal government's authorized tribal police officers and a full copy of the**
10 **police professional liability insurance policy from a company licensed to sell insurance in this**
11 **state; or**

12 **(B) A description of the tribal government's self-insurance program.**

13 **(6) A self-insurance program or insurance policy described in subsections (4) and (5) of**
14 **this section must provide:**

15 **(a) That the self-insurance program or insurance policy is available to satisfy settlements**
16 **and judgments arising from the tortious conduct of authorized tribal police officers in an**
17 **amount equal to or greater than the amounts described in ORS 30.260 to 30.300 that are ap-**
18 **licable to a local public body; and**

19 **(b) That the tribal government and the insurance carrier will not raise the defense of**
20 **sovereign immunity for claims that are asserted in the tribal government's court and involve**
21 **the tortious conduct of an authorized tribal police officer, provided that the claims:**

22 **(A) Are asserted in accordance with any applicable tort claims procedures of the tribal**
23 **government; and**

24 **(B) Could not be brought in federal court under the Federal Tort Claims Act.**

25 **(7) If, after submitting the resolution and documents described in subsections (4) and (5)**
26 **of this section, there is a material change in the tribal government's self-insurance program**
27 **or insurance policy, the tribal government shall file with the department a written de-**
28 **scription of the change within 30 days of the effective date of the change.**

29 **(8) The department shall maintain a file of submissions made by tribal governments un-**
30 **der this section. The department shall permit inspection and copying of the submissions in**
31 **accordance with ORS 192.410 to 192.505.**

32 **(9) For purposes of ORS 30.260 to 30.300, an authorized tribal police officer is not an of-**
33 **ficer, employee or agent of the State of Oregon or of any other public body as defined in ORS**
34 **174.109. A public body or an officer, employee or agent of a public body is not liable for cer-**
35 **tifying a tribal police officer under ORS 181.610 to 181.712, for accepting for filing the resol-**
36 **ution and documents described in subsections (4) and (5) of this section or for the acts or**
37 **omissions of an authorized tribal police officer.**

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

39 **(a) Affects the authority of a county sheriff to appoint duly commissioned police officers**
40 **as deputy sheriffs authorized to enforce the criminal and traffic laws of the State of Oregon;**

41 **(b) Affects the existing status and sovereignty of tribal governments whose traditional**
42 **lands and territories lie within the borders of the State of Oregon as established under the**
43 **laws of the United States; or**

44 **(c) Authorizes a tribal government to receive funds from, or in lieu of, the State of**
45 **Oregon or a political subdivision of the State of Oregon.**

1 (11) A tribal government or tribal police department is not a seizing agency for purposes
2 of ORS 131.550 to 131.600 or ORS chapter 131A.

3 (12) The department may adopt rules to carry out the provisions of sections 1 to 4 of this
4 2011 Act and shall require tribal governments that employ authorized tribal police officers
5 to reimburse the department for any costs incurred in carrying out the provisions of sections
6 1 to 4 of this 2011 Act.

7 **SECTION 4.** (1) Not later than 90 days after the effective date of this 2011 Act, the Su-
8 perintendent of State Police, the sheriff of any county with land that is contiguous to the
9 land of a tribal government, or the chief executive officer of any other local law enforcement
10 unit whose political boundaries are contiguous to the land of a tribal government, may sub-
11 mit a written application requesting that the tribal government authorize nontribal police
12 officers employed by the applicant to exercise all or a portion of the powers of a tribal police
13 officer while on tribal land. The application shall be addressed to the tribal government and
14 shall propose terms and conditions under which the nontribal police officers employed by the
15 applicant would be eligible to exercise all or a portion of the powers of a tribal police officer
16 while on tribal lands. The application:

17 (a) Must name each proposed nontribal police officer employed by the applicant;

18 (b) Must describe how the nontribal police officers employed by the applicant will comply
19 with requirements established by the tribal government that are substantially similar to the
20 requirements necessary for a tribal police officer to act as an authorized tribal police officer
21 under sections 1 to 4 of this 2011 Act;

22 (c) Must describe how the political entity that employs the nontribal police officers will
23 comply with requirements established by the tribal government that are substantially similar
24 to the requirements necessary for a tribal government to employ authorized tribal police
25 officers under sections 1 to 4 of this 2011 Act;

26 (d) May propose that the tribal government authorize nontribal police officers employed
27 by the applicant to enforce state or tribal law while on tribal lands;

28 (e) May propose that the tribal government adopt provisions of state criminal law into
29 the tribal code; and

30 (f) Must indicate that the nontribal police officers employed by the applicant will com-
31 plete, before exercising all or a portion of the powers of a tribal police officer while on tribal
32 land, any training and educational prerequisites specified by the tribal government, including
33 instruction in the tribal government's history, culture, sovereign authority, tribal code and
34 court procedures.

35 (2) When a citation for the commission of a tribal offense is issued by a nontribal police
36 officer employed by an applicant and authorized by a tribal government to exercise all or a
37 portion of the powers of a tribal police officer as to tribal members suspected of committing
38 violations of tribal law while on tribal land, the citation must:

39 (a) Summon the person cited to appear in the tribal court of the tribal government on
40 whose lands the offense was committed; and

41 (b) Be submitted to the prosecutor of the tribal government on whose lands the tribal
42 offense was committed.

43 (3)(a) A tribal government may adopt a provision of tribal law providing that, for pur-
44 poses of the Tort Claims Act of the tribal government, a nontribal police officer employed
45 by an applicant and authorized by a tribal government to exercise all or a portion of the

1 powers of a tribal police officer while on tribal land is not an officer, employee or agent of
2 the tribal government.

3 (b) Unless the law of the tribal government provides otherwise, a tribal government is
4 not liable for authorizing a nontribal police officer employed by an applicant to exercise all
5 or a portion of the powers of a tribal police officer while on tribal land or for the acts or
6 omissions of a nontribal police officer authorized under this section.

7 (4) Nothing in this section:

8 (a) Affects the authority of the tribal government to appoint any person as a tribal police
9 officer for any purpose;

10 (b) Affects the existing status and sovereignty of the State of Oregon or the tribal gov-
11 ernment; or

12 (c) Authorizes the State of Oregon or any of its political subdivisions to receive funds
13 from, or in lieu of, a tribal government.

14 (5) A tribal government that authorizes a nontribal police officer employed by an appli-
15 cant to exercise all or a portion of the powers of a tribal police officer while on tribal land
16 may require the applicant to reimburse the tribal government for any costs incurred in
17 carrying out the provisions of this section.

18 (6)(a) A tribal government that employs, or seeks to employ, authorized tribal police of-
19 ficers under sections 1 to 4 of this 2011 Act, no later than 90 days after receiving an appli-
20 cation under subsection (1) of this section, or within such additional time as the tribal
21 government determines is appropriate, shall accept, accept with modifications or reject an
22 application filed under this section.

23 (b) Before acting on an application, a tribal government that employs, or seeks to em-
24 ploy, authorized tribal police officers shall engage in good faith consultation with the appli-
25 cant concerning the terms and conditions of the proposed authorization of nontribal police
26 officers.

27 (7)(a) If the tribal government rejects the application, or accepts the application with
28 modifications that are rejected by the applicant:

29 (A) The applicant and a tribal government that employs, or seeks to employ, authorized
30 tribal police officers shall, from the date of rejection until June 1, 2012, collect individualized
31 data on the frequency of instances known to the applicant or the tribal government in which
32 nontribal police officers employed by the applicant encountered, but were forced to release
33 without further action due to a lack of legal authority, persons suspected of committing vi-
34 olations of the law while on tribal lands;

35 (B) The applicant shall promptly report any such instance to the tribal government and
36 the tribal government shall promptly report any such instance to the applicant;

37 (C) The applicant and tribal government shall classify the suspected offenses according
38 to their potential to endanger public safety; and

39 (D) The tribal government and applicant shall engage in good faith consultation con-
40 cerning the collection and classification of data; and

41 (b) No later than September 1, 2013, the tribal government shall report to the Legislative
42 Assembly, in the manner provided in ORS 192.245, on the data collected under paragraph (a)
43 of this subsection. The tribal government and the applicant shall engage in good faith con-
44 sultation concerning the contents of the report.

45 **SECTION 5.** Sections 1 to 4 of this 2011 Act become operative on the effective date of this

1 **2011 Act.**

2
3 **PROVISIONS APPLICABLE FROM**
4 **JULY 1, 2013, TO JUNE 30, 2015**

5
6 **SECTION 6.** Section 3 of this 2011 Act is amended to read:

7 **Sec. 3.** (1) The Legislative Assembly finds and declares that the purpose of sections 1 to 4 of
8 this 2011 Act is to provide authorized tribal police officers with [*a limited*] **the** ability to exercise
9 the powers of, and to receive the same authority and protections provided to, law enforcement offi-
10 cers under the laws of this state, without incurring any additional costs or loss of revenue to the
11 State of Oregon or a political subdivision of the State of Oregon.

12 [*(2) Notwithstanding section 2 of this 2011 Act, a tribal police officer may not act as an authorized*
13 *tribal police officer outside of Indian country, unless the officer:]*

14 [*(a) Is investigating an offense alleged to have been committed within Indian country;*]

15 [*(b) Leaves Indian country in fresh pursuit as defined in ORS 133.420;*]

16 [*(c) Is acting in response to an offense committed in the officer's presence; or]*

17 [*(d) Has received the express approval of a law enforcement agency having jurisdiction over the*
18 *geographic area in which the tribal police officer is acting.]*

19 [(3)] (2) When an authorized tribal police officer issues a citation for the commission of an of-
20 fense for which the State of Oregon has jurisdiction and the tribal government employing the officer
21 does not have jurisdiction, the citation must:

22 (a) Summon the person cited to appear in the circuit court of the county in which the offense
23 was committed; and

24 (b) Be submitted to the district attorney of the county in which the offense was committed.

25 [(4)] (3) A tribal government that employs tribal police officers may submit to the Department
26 of Public Safety Standards and Training a resolution declaring that the tribal government is self-
27 insured or has purchased and maintains in force:

28 (a) Public liability and property damage insurance for vehicles operated by authorized tribal
29 police officers; and

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

31 [(5)] (4) The tribal government shall attach the following documents to the resolution submitted
32 to the department under subsection [(4)] (3) of this section:

33 (a) A declaration that the tribal government has complied with the requirements of sections 1
34 to 4 of this 2011 Act; and

35 (b)(A) A full copy of the public liability and property damage insurance policy for vehicles op-
36 erated by the tribal government's authorized tribal police officers and a full copy of the police pro-
37 fessional liability insurance policy from a company licensed to sell insurance in this state; or

38 (B) A description of the tribal government's self-insurance program.

39 [(6)] (5) A self-insurance program or insurance policy described in subsections [(4) and (5)] (3)
40 **and (4)** of this section must provide:

41 (a) That the self-insurance program or insurance policy is available to satisfy settlements and
42 judgments arising from the tortious conduct of authorized tribal police officers in an amount equal
43 to or greater than the amounts described in ORS 30.260 to 30.300 that are applicable to a local
44 public body; and

45 (b) That the tribal government and the insurance carrier will not raise the defense of sovereign

1 immunity for claims that are asserted in the tribal government's court and involve the tortious
2 conduct of an authorized tribal police officer, provided that the claims:

3 (A) Are asserted in accordance with any applicable tort claims procedures of the tribal gov-
4 ernment; and

5 (B) Could not be brought in federal court under the Federal Tort Claims Act.

6 [(7)] (6) If, after submitting the resolution and documents described in subsections [(4) and (5)]
7 (3) and (4) of this section, there is a material change in the tribal government's self-insurance pro-
8 gram or insurance policy, the tribal government shall file with the department a written description
9 of the change within 30 days of the effective date of the change.

10 [(8)] (7) The department shall maintain a file of submissions made by tribal governments under
11 this section. The department shall permit inspection and copying of the submissions in accordance
12 with ORS 192.410 to 192.505.

13 [(9)] (8) For purposes of ORS 30.260 to 30.300, an authorized tribal police officer is not an officer,
14 employee or agent of the State of Oregon or of any other public body as defined in ORS 174.109. A
15 public body or an officer, employee or agent of a public body is not liable for certifying a tribal
16 police officer under ORS 181.610 to 181.712, for accepting for filing the resolution and documents
17 described in subsections [(4) and (5)] (3) and (4) of this section or for the acts or omissions of an
18 authorized tribal police officer.

19 [(10)] (9) Nothing in sections 1 to 4 of this 2011 Act:

20 (a) Affects the authority of a county sheriff to appoint duly commissioned police officers as
21 deputy sheriffs authorized to enforce the criminal and traffic laws of the State of Oregon;

22 (b) Affects the existing status and sovereignty of tribal governments whose traditional lands and
23 territories lie within the borders of the State of Oregon as established under the laws of the United
24 States; or

25 (c) Authorizes a tribal government to receive funds from, or in lieu of, the State of Oregon or
26 a political subdivision of the State of Oregon.

27 [(11)] (10) A tribal government or tribal police department is not a seizing agency for purposes
28 of ORS 131.550 to 131.600 or ORS chapter 131A.

29 [(12)] (11) The department may adopt rules to carry out the provisions of sections 1 to 4 of this
30 2011 Act and shall require tribal governments that employ authorized tribal police officers to reim-
31 burse the department for any costs incurred in carrying out the provisions of sections 1 to 4 of this
32 2011 Act.

33 **SECTION 7.** Section 1 of this 2011 Act is amended to read:

34 **Sec. 1.** As used in sections 1 to 4 of this 2011 Act:

35 (1) "Authorized tribal police officer" means a tribal police officer who is acting:

36 (a) In accordance with sections 1 to 4 of this 2011 Act; and

37 (b) While employed by a tribal government that is in compliance with sections 1 to 4 of this 2011
38 Act.

39 [(2)] "*Indian country*" has the meaning given that term in 18 U.S.C. 1151.]

40 [(3)] (2) "Tribal government" means a federally recognized sovereign tribal government whose
41 borders lie within this state or an intertribal organization formed by two or more of those govern-
42 ments.

43 [(4)] (3) "Tribal police officer" means an employee of a tribal government whose duties include
44 the enforcement of criminal law.

45 **SECTION 8.** The amendments to sections 1 and 3 of this 2011 Act by sections 6 and 7 of

1 **this 2011 Act become operative on July 1, 2013.**

2 **NOTE:** Section 9 was deleted by amendment. Subsequent sections were not renumbered.

3
4 **PROVISIONS APPLICABLE FROM**
5 **EFFECTIVE DATE TO JUNE 30, 2015**

6
7 **SECTION 10.** ORS 40.275 is amended to read:

8 40.275. (1) As used in this section, "unit of government" means:

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

10 (b) **A tribal government as defined in section 1 of this 2011 Act, if the information relates**
11 **to or assists in an investigation conducted by an authorized tribal police officer as defined**
12 **in section 1 of this 2011 Act.**

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

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

19 (4) No privilege exists under this section:

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

24 (b) If it appears from the evidence in the case or from other showing by a party that an informer
25 may be able to give testimony necessary to a fair determination of the issue of guilt or innocence
26 in a criminal case or of a material issue on the merits in a civil case to which the unit of govern-
27 ment is a party, and the unit of government invokes the privilege, and the judge gives the unit of
28 government an opportunity to show in camera facts relevant to determining whether the informer
29 can, in fact, supply that testimony. The showing will ordinarily be in the form of affidavits, but the
30 judge may direct that testimony be taken if the judge finds that the matter cannot be resolved sat-
31 isfactorily upon affidavit. If the judge finds that there is a reasonable probability that the informer
32 can give the testimony, and the unit of government elects not to disclose identity of the informer,
33 the judge on motion of the defendant in a criminal case shall dismiss the charges to which the tes-
34 timony would relate, and the judge may do so on the judge's own motion. In civil cases, the judge
35 may make any order that justice requires. Evidence submitted to the judge shall be sealed and pre-
36 served to be made available to the appellate court in the event of an appeal, and the contents shall
37 not otherwise be revealed without consent of the unit of government. All counsel and parties shall
38 be permitted to be present at every stage of proceedings under this paragraph except a showing in
39 camera, at which no counsel or party shall be permitted to be present.

40 (c) If information from an informer is relied upon to establish the legality of the means by which
41 evidence was obtained and the judge is not satisfied that the information was received from an in-
42 former reasonably believed to be reliable or credible. The judge may require the identity of the
43 informer to be disclosed. The judge shall, on request of the unit of government, direct that the dis-
44 closure be made in camera. All counsel and parties concerned with the issue of legality shall be
45 permitted to be present at every stage of proceedings under this paragraph except a disclosure in

1 camera, at which no counsel or party shall be permitted to be present. If disclosure of the identity
2 of the informer is made in camera, the record thereof shall be sealed and preserved to be made
3 available to the appellate court in the event of an appeal, and the contents shall not otherwise be
4 revealed without consent of the unit of government.

5 **SECTION 11.** ORS 90.440 is amended to read:

6 90.440. (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (4) A written notice in substantially the following form meets the requirements of subsection (3)
36 of this section:

37 _____

38
39 This notice is to inform you that you must move out of _____ (insert address of group
40 recovery home) by _____ (insert date and time that is not less than 24 hours after delivery
41 of notice).

42 The reason for this notice is _____ (specify use or possession of alcohol or illegal drugs,
43 as applicable, and dates of occurrence).

44 The proof of your use or possession is _____ (specify facts).

45 If you did not use or possess alcohol or illegal drugs within the seven days before delivery of

1 this notice, if this notice was given in bad faith or if your group recovery home has not substantially
2 complied with ORS 90.440, you may be able to get a court to order the group recovery home to let
3 you move back in. You may also be able to recover monetary damages.

4 You may be eligible for free legal services at your local legal services office _____ (in-
5 sert telephone number) or reduced fee legal services through the Oregon State Bar at 1-800-452-7636.
6 _____
7

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

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

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

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

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

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

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

33 (10) In any court action regarding the removal of a tenant under this section, a group recovery
34 home may present evidence that the tenant used or possessed alcohol or illegal drugs within seven
35 days preceding the removal, whether or not the evidence was described in the notice required by
36 subsection (3) of this section.

37 (11) This section does not prevent a group recovery home from terminating a tenancy as pro-
38 vided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to
39 105.168.

40 **SECTION 12.** ORS 131.605 is amended to read:

41 131.605. As used in ORS 131.605 to 131.625, unless the context requires otherwise:

42 (1) "Crime" has the meaning provided for that term in ORS 161.515.

43 (2) "Dangerous weapon," "deadly weapon" and "person" have the [meaning provided for]
44 **meanings given** those terms in ORS 161.015.

45 (3) "Frisk" is an external patting of a person's outer clothing.

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

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

4 [(5)] (6) “Reasonably suspects” means that a peace officer holds a belief that is reasonable under
5 the totality of the circumstances existing at the time and place the peace officer acts as authorized
6 in ORS 131.605 to 131.625.

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

9 **SECTION 13.** ORS 133.005 is amended to read:

10 133.005. As used in ORS 133.005 to 133.381 and 133.410 to 133.450, unless the context requires
11 otherwise:

12 (1) “Arrest” means to place a person under actual or constructive restraint or to take a person
13 into custody for the purpose of charging that person with an offense. A “stop” as authorized under
14 ORS 131.605 to 131.625 is not an arrest.

15 (2) “Federal officer” means a special agent or law enforcement officer employed by a federal
16 agency who is empowered to effect an arrest with or without a warrant for violations of the United
17 States Code and who is authorized to carry firearms in the performance of duty.

18 (3) “Peace officer” means:

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

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

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

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

25 (e) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**

26 **SECTION 14.** ORS 133.033 is amended to read:

27 133.033. (1) Except as otherwise expressly prohibited by law, any peace officer of this state[, *as*
28 *defined in ORS 133.005,*] is authorized to perform community caretaking functions.

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

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

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

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

36 (C) Locate missing persons.

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

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

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

41 (C) Locate missing persons.

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

44 **SECTION 15.** ORS 133.318 is amended to read:

45 133.318. (1) Any person who provides to a peace officer a copy of a writing purporting to be a

1 foreign restraining order as defined by ORS 24.190 knowing that no valid foreign restraining order
2 is in effect shall be guilty of a Class A misdemeanor.

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

7 **SECTION 16.** ORS 133.525 is amended to read:

8 133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

9 (1) “Judge” means any judge of the circuit court, the Court of Appeals, the Supreme Court, any
10 justice of the peace or municipal judge authorized to exercise the powers and perform the duties
11 of a justice of the peace.

12 (2) “Police officer” means:

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

14 (b) **A sheriff[,] or municipal police officer[, *member of the Oregon State Police,*] or an authorized**
15 **tribal police officer as defined in section 1 of this 2011 Act;**

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

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

19 **SECTION 17.** ORS 133.721 is amended to read:

20 133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

21 (1) “Aggrieved person” means a person who was a party to any wire, electronic or oral com-
22 munication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was
23 directed and who alleges that the interception was unlawful.

24 (2) “Contents,” when used with respect to any wire, electronic or oral communication, includes
25 any information concerning the identity of the parties to such communication or the existence,
26 substance, purport or meaning of that communication.

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

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

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

32 (4) “Electronic, mechanical or other device” means any device or apparatus that can be used
33 to intercept a wire, electronic or oral communication other than:

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

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

41 (5) “Intercept” means the acquisition, by listening or recording, of the contents of any wire,
42 electronic or oral communication through the use of any electronic, mechanical or other device.

43 [(6) “*Investigative or law enforcement officer*” means an officer or other person employed by a
44 county sheriff or municipal police department, the Oregon State Police, Attorney General, a district
45 attorney or the Department of Corrections, and officers or other persons employed by law enforcement

1 *agencies of other states or the federal government, to investigate or enforce the law.]*

2 **(6) “Investigative or law enforcement officer” means:**

3 **(a) An officer or other person employed to investigate or enforce criminal laws by:**

4 **(A) A county sheriff or municipal police department;**

5 **(B) The Oregon State Police, the Department of Corrections, the Attorney General or a**
6 **district attorney; or**

7 **(C) Law enforcement agencies of other states or the federal government; or**

8 **(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

9 **(7) “Oral communication” means:**

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

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

16 **(8) “Telecommunications carrier” means:**

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

18 **(b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications**
19 **services.**

20 **(9) “Telecommunications service” has the meaning given that term in ORS 759.005.**

21 **(10) “Wire communication” means any communication made in whole or in part through the use**
22 **of facilities for the transmission of communications by the aid of wire, cable or other like connection**
23 **between the point of origin and the point of reception, whether furnished or operated by a public**
24 **utility or privately owned or leased.**

25 **SECTION 18.** ORS 133.726 is amended to read:

26 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a
27 law enforcement officer is authorized to intercept an oral communication to which the officer or a
28 person under the direct supervision of the officer is a party, without obtaining an order for the in-
29 terception of a wire, electronic or oral communication under ORS 133.724.

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

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

38 (a) The name of the applicant and the applicant’s authority to make the application;

39 (b) A statement demonstrating that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (b) Any other crime punishable as a felony if the circumstances at the time the oral communi-

1 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order
2 under ORS 133.724 or this section.

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

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

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

14 (b) To a magistrate;

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

16 (d) In compliance with a court order.

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

19 *[(11) As used in this section, "law enforcement officer" means an officer employed by the United
20 States, this state or a municipal government within this state, or a political subdivision, agency, de-
21 partment or bureau of those governments, to enforce criminal laws.]*

22 **(11) As used in this section, "law enforcement officer" means:**

23 **(a) An officer employed to enforce criminal laws by:**

24 **(A) The United States, this state or a municipal government within this state; or**

25 **(B) A political subdivision, agency, department or bureau of the governments described
26 in subparagraph (A) of this paragraph; or**

27 **(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

29 **SECTION 19.** ORS 133.726, as amended by section 3, chapter 442, Oregon Laws 2007, is
30 amended to read:

31 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a
32 law enforcement officer is authorized to intercept an oral communication to which the officer or a
33 person under the direct supervision of the officer is a party, without obtaining an order for the in-
34 terception of a wire, electronic or oral communication under ORS 133.724.

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

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

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

44 (b) A statement demonstrating that there is probable cause to believe that a person whose oral
45 communication is to be intercepted is engaged in committing, has committed or is about to commit

1 a particular felony, or a misdemeanor under ORS 167.007, and that intercepting the oral communi-
2 cation will yield evidence thereof; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (b) To a magistrate;

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

2 (d) In compliance with a court order.

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

5 *[(11) As used in this section, "law enforcement officer" means an officer employed by the United
6 States, this state or a municipal government within this state, or a political subdivision, agency, de-
7 partment or bureau of those governments, to enforce criminal laws.]*

8 **(11) As used in this section, "law enforcement officer" means:**

9 **(a) An officer employed to enforce criminal laws by:**

10 **(A) The United States, this state or a municipal government within this state; or**

11 **(B) A political subdivision, agency, department or bureau of the governments described
12 in subparagraph (A) of this paragraph; or**

13 **(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

15 **SECTION 20.** ORS 136.595 is amended to read:

16 136.595. (1) Except as provided in ORS 136.447 and 136.583 and subsection (2) of this section, a
17 subpoena is served by delivering a copy to the witness personally. If the witness is under 14 years
18 of age, the subpoena may be served by delivering a copy to the witness or to the witness's parent,
19 guardian or guardian ad litem. Proof of the service is made in the same manner as in the service
20 of a summons.

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

26 (b) If a peace officer's attendance at trial is required as a result of employment as a peace of-
27 ficer, a subpoena may be served on such officer by delivering a copy personally to the officer or to
28 one of the individuals designated by the agency that employs the officer. A subpoena may be served
29 by delivery to one of the individuals designated by the agency that employs the officer only if the
30 subpoena is delivered at least 10 days before the date the officer's attendance is required, the officer
31 is currently employed as a peace officer by the agency, and the officer is present within the state
32 at the time of service.

33 (c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law
34 enforcement agency shall make a good faith effort to actually notify the officer whose attendance
35 is sought of the date, time and location of the court appearance. If the officer cannot be notified,
36 the law enforcement agency shall contact the court and a continuance may be granted to allow the
37 officer to be personally served.

38 (d) As used in this subsection, "law enforcement agency" means the Oregon State Police, a
39 county sheriff's department, *[or]* a municipal police department **or, if the witness whose attend-
40 ance at trial is required is an authorized tribal police officer as defined in section 1 of this
41 2011 Act, a tribal government as defined in section 1 of this 2011 Act.**

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

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

1 or

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

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

5 (B) Express mail.

6 **SECTION 21.** ORS 147.425 is amended to read:

7 147.425. (1) As used in this section:

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

9 (b) "Law enforcement agency" means:

10 (A) A city or municipal police department.

11 (B) A county sheriff's office.

12 (C) The Oregon State Police.

13 (D) A district attorney.

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

15 **(F) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

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

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

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

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

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

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

38 (6) The fact that a personal representative was allowed or was not allowed to accompany a
39 victim may not be used as a basis for excluding otherwise admissible evidence.

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

42 **SECTION 22.** ORS 153.005 is amended to read:

43 153.005. As used in this chapter:

44 (1) "Enforcement officer" means:

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

1 (b) A sheriff or deputy sheriff.

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

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

5 (e) An investigator of the Criminal Justice Division of the Department of Justice of the State
6 of Oregon.

7 (f) A Port of Portland peace officer.

8 **(g) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

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

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

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

15 **SECTION 23.** ORS 161.015 is amended to read:

16 161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires
17 otherwise:

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

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

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

25 (4) "Peace officer" means:

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

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

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

31 **(d) An authorized tribal police officer as defined in section 1 of this 2011 Act;** and

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

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

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

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

38 (8) "Serious physical injury" means physical injury which creates a substantial risk of death or
39 which causes serious and protracted disfigurement, protracted impairment of health or protracted
40 loss or impairment of the function of any bodily organ.

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

43 (10) "Public place" means a place to which the general public has access and includes, but is
44 not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting
45 rooms or apartments designed for actual residence, and highways, streets, schools, places of

1 amusement, parks, playgrounds and premises used in connection with public passenger transporta-
2 tion.

3 **SECTION 24.** ORS 163.730 is amended to read:

4 163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

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

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

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

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

9 (b) Following the other person;

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

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

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

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

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

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

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

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

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

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

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

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

28 [(6) "Law enforcement officer" means any person employed in this state as a police officer by a
29 county sheriff, constable, marshal or municipal or state police agency.]

30 **(6) "Law enforcement officer" means:**

31 **(a) A person employed in this state as a police officer by a county sheriff, constable or**
32 **marshal or a municipal or state police agency; or**

33 **(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

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

36 **SECTION 25.** ORS 165.535 is amended to read:

37 165.535. As used in ORS 41.910, 133.723, 133.724, 165.540 and 165.545:

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

40 [(2) "Person" means any person as defined in ORS 174.100 and includes public officials and law
41 enforcement officers of the state, county, municipal corporation or any other political subdivision of the
42 state.]

43 **(2) "Person" has the meaning given that term in ORS 174.100 and includes:**

44 **(a) Public officials and law enforcement officers of the state and of a county, municipal**
45 **corporation or any other political subdivision of the state; and**

1 **(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

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

11 **SECTION 26.** ORS 181.010 is amended to read:

12 181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires
13 otherwise:

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

15 (2) "Criminal justice agency" means:

16 (a) The Governor;

17 (b) Courts of criminal jurisdiction;

18 (c) The Attorney General;

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

22 (e) Law enforcement agencies;

23 (f) The Department of Corrections;

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

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

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

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

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

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

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

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

41 (8) "Law enforcement agency" means:

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

43 (b) Other police officers of this state and other states;

44 (c) **A tribal government as defined in section 1 of this 2011 Act that employs authorized**
45 **tribal police officers as defined in section 1 of this 2011 Act;** and

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

2 (9) "State Police" means the members of the state police force appointed under ORS 181.250.

3 (10) "Superintendent" means the Superintendent of State Police.

4 **SECTION 27.** ORS 181.610 is amended to read:

5 181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

6 (1) "Abuse" has the meaning given the term in ORS 107.705.

7 (2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to
8 ORS 181.620.

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

12 (4) "Commissioned" means an authorization granting the power to perform various acts or duties
13 of a police officer or certified reserve officer and acting under the supervision and responsibility of
14 a county sheriff or as otherwise provided by law.

15 (5) "Corrections officer" means an officer or member of a law enforcement unit who is employed
16 full-time thereby and is charged with and primarily performs the duty of custody, control or super-
17 vision of individuals convicted of or arrested for a criminal offense and confined in a place of
18 incarceration or detention other than a place used exclusively for incarceration or detention of ju-
19 veniles.

20 (6) "Department" means the Department of Public Safety Standards and Training.

21 (7) "Director" means the Director of the Department of Public Safety Standards and Training.

22 (8) "Domestic violence" means abuse between family or household members.

23 (9) "Emergency medical dispatcher" means a person who has responsibility to process requests
24 for medical assistance from the public or to dispatch medical care providers.

25 (10) "Family or household members" has the meaning given that term in ORS 107.705.

26 (11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member
27 of a public or private fire protection agency that is engaged primarily in fire investigation, fire
28 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light
29 and heavy rescue services, search and rescue services or hazardous materials incident response.
30 "Fire service professional" does not include forest fire protection agency personnel.

31 (12)(a) "Law enforcement unit" means a police force or organization of the state, a city, port,
32 school district, mass transit district, county, county service district authorized to provide law
33 enforcement services under ORS 451.010, [*Indian reservation,*] **tribal government as defined in**
34 **section 1 of this 2011 Act that employs authorized tribal police officers as defined in section**
35 **1 of this 2011 Act, the** Criminal Justice Division of the Department of Justice, the Department of
36 Corrections, the Oregon State Lottery Commission or common carrier railroad whose primary duty,
37 as prescribed by law, ordinance or directive, is any one or more of the following:

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

40 (B) The custody, control or supervision of individuals convicted of or arrested for a criminal
41 offense and confined to a place of incarceration or detention other than a place used exclusively for
42 incarceration or detention of juveniles; or

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

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

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

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

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

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

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

11 (A) Community protection by controlling, investigating, supervising and providing or making
12 referrals to reformative services for adult parolees or probationers or offenders on post-prison
13 supervision; or

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

16 (b) Any officer who:

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

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

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

21 (i) Community protection by controlling, investigating, supervising and providing or making re-
22 ferrals to reformative services for adult parolees or probationers or offenders on post-prison super-
23 vision; or

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

26 (14) "Police officer" means an officer, member or employee of a law enforcement unit who is
27 employed full-time as a peace officer commissioned by a city, port, school district, mass transit dis-
28 trict, county, county service district authorized to provide law enforcement services under ORS
29 451.010, [*Indian reservation*,] **tribal government as defined in section 1 of this 2011 Act**, the
30 Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the
31 Governor or who is a member of the Department of State Police and who is responsible for enforcing
32 the criminal laws of this state or laws or ordinances relating to airport security or is an investigator
33 of a district attorney's office if the investigator is or has been certified as a peace officer in this
34 or any other state **or is an authorized tribal police officer as defined in section 1 of this 2011**
35 **Act**.

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

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

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

43 (a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned
44 by a city, port, school district, mass transit district, county, county service district authorized to
45 provide law enforcement services under ORS 451.010, [*Indian reservation*,] **tribal government as**

1 **defined in section 1 of this 2011 Act**, the Criminal Justice Division of the Department of Justice,
2 the Oregon State Lottery Commission or the Governor or who is a member of the Department of
3 State Police;

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

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

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

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

14 **SECTION 27a.** ORS 181.781 is amended to read:

15 181.781. As used in ORS 181.781 to 181.796:

16 (1) "Employ," when used in the context of the relationship between a law enforcement agency
17 and a police officer, includes the assignment of law enforcement duties on a volunteer basis to a
18 reserve officer.

19 (2) "Law enforcement agency" means the Department of State Police, the Department of Justice,
20 a district attorney, a political subdivision of the State of Oregon, [and] a municipal corporation of
21 the State of Oregon **and a tribal government**, that maintains a law enforcement unit as defined in
22 ORS 181.610 (12)(a)(A).

23 (3) "Police officer" means a person who is:

24 (a) A police officer or reserve officer as defined in ORS 181.610; and

25 (b) Employed by a law enforcement agency to enforce the criminal laws of this state.

26 (4) **"Tribal government" means a tribal government as defined in section 1 of this 2011**
27 **Act:**

28 (a) **With land that is contiguous to the county in which the deadly physical force planning**
29 **authority is created; and**

30 (b) **That has adopted the provision of tribal law described in section 2 (4)(d)(A) of this**
31 **2011 Act.**

32 **SECTION 27b.** ORS 181.783 is amended to read:

33 181.783. (1) There is created in each county a deadly physical force planning authority consist-
34 ing of the following members:

35 (a) The district attorney and sheriff of the county.

36 (b) A nonmanagement police officer selected by the district attorney and sheriff. If there are
37 unions representing police officers within the county, the district attorney and sheriff shall select
38 the police officer from among candidates nominated by any union representing police officers within
39 the county.

40 (c) If at least one city within the county employs a police chief, a police chief selected by the
41 police chiefs within the county.

42 (d) A representative of the public selected by the district attorney and sheriff. The person se-
43 lected under this paragraph may not be employed by a law enforcement agency.

44 (e) A representative of the Oregon State Police selected by the Superintendent of State Police.

45 (f) **A tribal police officer as defined in section 1 of this 2011 Act, when requested by a**

1 **tribal government.**

2 (2) The district attorney and sheriff are cochairpersons of the planning authority.

3 (3) The law enforcement agency that employs the police officer selected under subsection (1)(b)
4 of this section shall release the officer from other duties for at least 16 hours per year to enable the
5 officer to serve on the planning authority. The agency shall compensate the officer at the officer's
6 regular hourly wage while the officer is engaged in planning authority activities.

7 (4) The planning authority shall develop a plan consisting of the following:

8 (a) An element dealing with education, outreach and training regarding the use of deadly phys-
9 ical force for police officers, attorneys employed by state or local government within the county and
10 members of the community.

11 (b) An element dealing with the immediate aftermath of an incident in which a police officer
12 used deadly physical force.

13 (c) An element dealing with the investigation of an incident in which a police officer used deadly
14 physical force.

15 (d) An element dealing with the exercise of district attorney discretion to resolve issues of po-
16 tential criminal responsibility resulting from a police officer's use of deadly physical force.

17 (e) An element dealing with collecting information regarding a police officer's use of deadly
18 physical force, debriefing after an incident in which a police officer used deadly physical force and
19 revising a plan developed under this subsection based on experience.

20 (f) An estimate of the fiscal impact on the law enforcement agencies to which the plan applies
21 of each element described in paragraphs (a) to (e) of this subsection.

22 (5) The planning authority shall conduct at least one public hearing in the county before sub-
23 mitting a plan, or a revision of a plan, to the governing bodies in the county under subsection (7)
24 of this section.

25 (6) The planning authority may consult with anyone the planning authority determines may be
26 helpful in carrying out its responsibilities.

27 (7) The planning authority shall submit the plan developed under subsection (4) of this section,
28 and revisions of the plan, to the governing body of each law enforcement agency within the county
29 except for the Department of State Police and the Department of Justice.

30 (8) A governing body shall approve or disapprove the plan submitted to it under subsection (7)
31 of this section within 60 days after receiving the plan. The governing body may not amend the plan.

32 (9) If the plan is not approved by at least two-thirds of the governing bodies to which the plan
33 is submitted, the planning authority shall develop and submit a revised plan.

34 (10) If the plan is approved by at least two-thirds of the governing bodies to which the plan is
35 submitted, the planning authority shall submit the approved plan to the Attorney General. No later
36 than 30 days after receiving the plan, the Attorney General shall review the plan for compliance
37 with the minimum requirements described in ORS 181.786. If the Attorney General determines that
38 the plan complies with the minimum requirements, the Attorney General shall approve the plan.

39 Upon approval of the plan:

40 (a) Each law enforcement agency within the county to which the plan applies is subject to the
41 provisions of the plan; and

42 (b) Each law enforcement agency subject to the plan is entitled to grants as provided in ORS
43 181.796.

44 (11) If the plan is not approved by the Attorney General, the planning authority shall develop
45 and submit a revised plan.

1 (12) Notwithstanding subsection (10)(a) of this section, a law enforcement agency is not subject
2 to a provision of a plan approved under subsection (10) of this section that:

3 (a) Conflicts with a provision of a city or county charter or a general ordinance that applies to
4 the law enforcement agency; or

5 (b) Imposes an obligation not required by ORS 181.789 if complying with the provision would
6 require the law enforcement agency to budget moneys, or submit a revenue measure for a vote of
7 the people, in order to comply with the provision.

8 (13) The Attorney General shall periodically publish all approved plans.

9 (14) A law enforcement agency within a county has a duty to participate in good faith in the
10 planning process of the planning authority for the county.

11 (15) A person bringing an action challenging the validity or enforceability of a plan approved
12 under subsection (10) of this section shall serve the Attorney General with a copy of the complaint.
13 If the Attorney General is not a party to the action, the Attorney General may intervene in the
14 action.

15 **SECTION 27c.** ORS 181.796 is amended to read:

16 181.796. (1) As used in this section, “expenses” does not include personnel costs.

17 (2) To the extent that funds are appropriated to it for such purposes, the Department of Justice
18 shall make grants to law enforcement agencies to reimburse the law enforcement agencies for ex-
19 penses incurred in implementing and revising the plans required by ORS 181.783. A grant under this
20 section may not exceed 75 percent of the expenses incurred by the law enforcement agency.

21 (3) The department may not make a grant under this section to a law enforcement agency unless
22 the law enforcement agency is subject to a plan that has been approved by the Attorney General
23 under ORS 181.783 (10).

24 **(4) The department may not make a grant under this section to a tribal government.**

25 [(4)] (5) The department shall adopt rules necessary for the administration of this section.

26 **SECTION 28.** ORS 348.270 is amended to read:

27 348.270. (1) In addition to any other scholarships provided by law, the Oregon Student Assist-
28 ance Commission shall award scholarships in any state institution under the State Board of Higher
29 Education, in the Oregon Health and Science University, in any community college operated under
30 ORS chapter 341, or in any Oregon-based regionally accredited independent institution, to any stu-
31 dent applying for enrollment or who is enrolled therein, who is:

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

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

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

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

6 (4) If the student who is a former foster child or who is the dependent of a public safety officer
7 with a disability continues to remain enrolled in a state institution of higher education or a com-
8 munity college or an independent institution within the State of Oregon, the student shall be entitled
9 to renewal of the scholarship until the student has received the equivalent of four years of under-
10 graduate education.

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

14 (6) As used in this section:

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

18 (b) "Public safety officer" means:

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

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

21 **(C) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

22 **SECTION 29.** ORS 414.805 is amended to read:

23 414.805. (1) An individual who receives medical services while in the custody of a law enforce-
24 ment officer is liable:

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

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

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

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

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

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

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

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

45 (4) As used in this section:

1 (a) "Law enforcement officer" means:

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

4 **(B) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

6 **SECTION 30.** ORS 419B.902 is amended to read:

7 419B.902. (1) A subpoena may be served by the party or any other person 18 years of age or
8 older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by
9 delivering a copy to the witness personally. The service must be made so as to allow the witness a
10 reasonable time for preparation and travel to the place of attendance. If the subpoena is not ac-
11 companied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the
12 subpoena is served personally or by mail, copies of a subpoena commanding production and in-
13 spection of books, papers, documents or other tangible things before trial must be served on each
14 party at least seven days before the subpoena is served on the person required to produce and per-
15 mit inspection, unless the court orders a shorter period.

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

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

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

30 (d) As used in this subsection, "law enforcement agency" means the Oregon State Police, a
31 county sheriff's department [or], a municipal police department **or, if the witness whose attend-**
32 **ance at trial is required is an authorized tribal police officer as defined in section 1 of this**
33 **2011 Act, a tribal government as defined in section 1 of this 2011 Act.**

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

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

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

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

45 (5) Proof of service of a subpoena is made in the same manner as proof of service of a summons

1 except that the server is not required to certify that the server is not a party in the action or an
2 attorney for a party in the action.

3 **SECTION 31.** ORS 420.905 is amended to read:

4 420.905. As used in ORS 420.905 to 420.915, “peace officer” means:

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

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

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

8 (4) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**

9 **SECTION 32.** ORS 801.395 is amended to read:

10 801.395. “Police officer” includes a member of the Oregon State Police, a sheriff, a deputy
11 sheriff, a city police officer, **an authorized tribal police officer as defined in section 1 of this**
12 **2011 Act**, a Port of Portland peace officer or a law enforcement officer employed by a service dis-
13 trict established under ORS 451.410 to 451.610 for the purpose of law enforcement services.

14 **SECTION 33.** ORS 810.410 is amended to read:

15 810.410. (1) A police officer may arrest or issue a citation to a person for a traffic crime at any
16 place within or outside the jurisdictional authority of the governmental unit by which the police
17 officer is authorized to act as provided by ORS 133.235 and 133.310.

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

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

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

25 (3) A police officer:

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

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

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

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

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

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

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

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

1 **SECTION 34.** ORS 811.720 is amended to read:

2 811.720. (1) Except as provided in subsection (4) of this section, any accident occurring on a
3 highway or upon premises open to the public resulting in injury or death to any person is subject
4 to the reporting requirements under the following sections:

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

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

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

8 (2) Except as provided in subsection (4) of this section, an accident occurring on a highway or
9 upon premises open to the public resulting in damage to the property of any person in excess of
10 \$1,500 is subject to the following reporting requirements:

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

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

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

19 (d) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed
20 from the scene of the accident, each driver involved in the accident must report the accident in the
21 manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must re-
22 port the accident in the manner specified in ORS 811.730 and under the circumstances specified in
23 ORS 811.730.

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

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

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

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

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

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

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

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

42 (iv) **As an authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

45 **SECTION 35.** ORS 830.005 is amended to read:

1 830.005. As used in this chapter, unless the context requires otherwise:

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

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

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

8 (4) "In flight" means from the moment a seaplane starts its takeoff run until the end of a normal
9 power-off landing run.

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

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

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

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

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

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

23 (11) "Peace officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff
24 [and], a city police officer **and an authorized tribal police officer as defined in section 1 of this**
25 **2011 Act.**

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

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

31 **SECTION 36. The amendments to ORS 40.275, 90.440, 131.605, 133.005, 133.033, 133.318,**
32 **133.525, 133.721, 133.726, 136.595, 147.425, 153.005, 161.015, 163.730, 165.535, 181.010, 181.610,**
33 **181.781, 181.783, 181.796, 348.270, 414.805, 419B.902, 420.905, 801.395, 810.410, 811.720 and 830.005**
34 **by sections 10 to 35 of this 2011 Act become operative on the effective date of this 2011 Act.**

35
36 **PROVISIONS APPLICABLE**
37 **ON AND AFTER JULY 1, 2015**
38

39 **SECTION 37.** ORS 40.275, as amended by section 10 of this 2011 Act, is amended to read:

40 40.275. (1) As used in this section, "unit of government" means[:]

41 [(a)] the federal government or any state or political subdivision thereof.[: or]

42 [(b) *A tribal government as defined in section 1 of this 2011 Act, if the information relates to or*
43 *assists in an investigation conducted by an authorized tribal police officer as defined in section 1 of this*
44 *2011 Act.*]

45 (2) A unit of government has a privilege to refuse to disclose the identity of a person who has

1 furnished information relating to or assisting in an investigation of a possible violation of law to a
 2 law enforcement officer or member of a legislative committee or its staff conducting an investi-
 3 gation.

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

6 (4) No privilege exists under this section:

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

11 (b) If it appears from the evidence in the case or from other showing by a party that an informer
 12 may be able to give testimony necessary to a fair determination of the issue of guilt or innocence
 13 in a criminal case or of a material issue on the merits in a civil case to which the unit of govern-
 14 ment is a party, and the unit of government invokes the privilege, and the judge gives the unit of
 15 government an opportunity to show in camera facts relevant to determining whether the informer
 16 can, in fact, supply that testimony. The showing will ordinarily be in the form of affidavits, but the
 17 judge may direct that testimony be taken if the judge finds that the matter cannot be resolved sat-
 18 isfactorily upon affidavit. If the judge finds that there is a reasonable probability that the informer
 19 can give the testimony, and the unit of government elects not to disclose identity of the informer,
 20 the judge on motion of the defendant in a criminal case shall dismiss the charges to which the tes-
 21 timony would relate, and the judge may do so on the judge's own motion. In civil cases, the judge
 22 may make any order that justice requires. Evidence submitted to the judge shall be sealed and pre-
 23 served to be made available to the appellate court in the event of an appeal, and the contents shall
 24 not otherwise be revealed without consent of the unit of government. All counsel and parties shall
 25 be permitted to be present at every stage of proceedings under this paragraph except a showing in
 26 camera, at which no counsel or party shall be permitted to be present.

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

37 **SECTION 38.** ORS 90.440, as amended by section 11 of this 2011 Act, is amended to read:

38 90.440. (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (4) A written notice in substantially the following form meets the requirements of subsection (3)
23 of this section:

24 _____
25
26 This notice is to inform you that you must move out of _____ (insert address of group
27 recovery home) by _____ (insert date and time that is not less than 24 hours after delivery
28 of notice).

29 The reason for this notice is _____ (specify use or possession of alcohol or illegal drugs,
30 as applicable, and dates of occurrence).

31 The proof of your use or possession is _____ (specify facts).

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

36 You may be eligible for free legal services at your local legal services office _____ (in-
37 sert telephone number) or reduced fee legal services through the Oregon State Bar at 1-800-452-7636.
38 _____

39
40 (5) Within the notice period, a group recovery home shall allow a tenant removed under this
41 section to follow any emergency departure plan that was prepared by the tenant and approved by
42 the group recovery home at the time the tenancy began. If the removed tenant does not have an
43 emergency departure plan, a representative of the group recovery home shall offer to take the re-
44 moved tenant to a public shelter, detoxification center or similar location if existing in the commu-
45 nity.

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

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

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

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

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

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

20 (10) In any court action regarding the removal of a tenant under this section, a group recovery
21 home may present evidence that the tenant used or possessed alcohol or illegal drugs within seven
22 days preceding the removal, whether or not the evidence was described in the notice required by
23 subsection (3) of this section.

24 (11) This section does not prevent a group recovery home from terminating a tenancy as pro-
25 vided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to
26 105.168.

27 **SECTION 39.** ORS 133.005, as amended by section 13 of this 2011 Act, is amended to read:

28 133.005. As used in ORS 133.005 to 133.381 and 133.410 to 133.450, unless the context requires
29 otherwise:

30 (1) "Arrest" means to place a person under actual or constructive restraint or to take a person
31 into custody for the purpose of charging that person with an offense. A "stop" as authorized under
32 ORS 131.605 to 131.625 is not an arrest.

33 (2) "Federal officer" means a special agent or law enforcement officer employed by a federal
34 agency who is empowered to effect an arrest with or without a warrant for violations of the United
35 States Code and who is authorized to carry firearms in the performance of duty.

36 (3) "Peace officer" means:

37 (a) A member of the Oregon State Police;

38 (b) A sheriff, constable, marshal or municipal police officer;

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

41 (d) An investigator of the Criminal Justice Division of the Department of Justice of the State
42 of Oregon.[: *or*]

43 [*e*] *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

44 **SECTION 40.** ORS 133.525, as amended by section 16 of this 2011 Act, is amended to read:

45 133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

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

4 (2) "Police officer" means:

5 (a) A member of the Oregon State Police;

6 (b) A sheriff or municipal police officer [*or an authorized tribal police officer as defined in section*
7 *1 of this 2011 Act*];

8 (c) An investigator of a district attorney's office if the investigator is or has been certified as
9 a peace officer in this or any other state; or

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

11 **SECTION 41.** ORS 133.721, as amended by section 17 of this 2011 Act, is amended to read:

12 133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

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

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

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

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

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

24 (4) "Electronic, mechanical or other device" means any device or apparatus that can be used
25 to intercept a wire, electronic or oral communication other than:

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

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

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

35 (6) "Investigative or law enforcement officer" means[:]

36 [(a)] an officer or other person employed to investigate or enforce criminal laws by:

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

38 [(B)] (b) The Oregon State Police, the Department of Corrections, the Attorney General or a
39 district attorney; or

40 [(C)] (c) Law enforcement agencies of other states or the federal government.[: or]

41 [(b) *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

42 (7) "Oral communication" means:

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

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

4 (8) "Telecommunications carrier" means:

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

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

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

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

13 **SECTION 42.** ORS 133.726, as amended by section 3, chapter 442, Oregon Laws 2007, and sec-
14 tion 19 of this 2011 Act, is amended to read:

15 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a
16 law enforcement officer is authorized to intercept an oral communication to which the officer or a
17 person under the direct supervision of the officer is a party, without obtaining an order for the in-
18 terception of a wire, electronic or oral communication under ORS 133.724.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (b) To a magistrate;

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

31 (d) In compliance with a court order.

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

34 (11) As used in this section, "law enforcement officer" means[:]

35 [(a)] an officer employed to enforce criminal laws by:

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

37 [(B)] (b) A political subdivision, agency, department or bureau of the governments described in
38 **paragraph (a) of this subsection.** [*subparagraph (A) of this paragraph; or*]

39 [(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

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

41 **SECTION 43.** ORS 136.595, as amended by section 20 of this 2011 Act, is amended to read:

42 136.595. (1) Except as provided in ORS 136.447 and 136.583 and subsection (2) of this section, a
43 subpoena is served by delivering a copy to the witness personally. If the witness is under 14 years
44 of age, the subpoena may be served by delivering a copy to the witness or to the witness's parent,
45 guardian or guardian ad litem. Proof of the service is made in the same manner as in the service

1 of a summons.

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

7 (b) If a peace officer's attendance at trial is required as a result of employment as a peace of-
8 ficer, a subpoena may be served on such officer by delivering a copy personally to the officer or to
9 one of the individuals designated by the agency that employs the officer. A subpoena may be served
10 by delivery to one of the individuals designated by the agency that employs the officer only if the
11 subpoena is delivered at least 10 days before the date the officer's attendance is required, the officer
12 is currently employed as a peace officer by the agency, and the officer is present within the state
13 at the time of service.

14 (c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law
15 enforcement agency shall make a good faith effort to actually notify the officer whose attendance
16 is sought of the date, time and location of the court appearance. If the officer cannot be notified,
17 the law enforcement agency shall contact the court and a continuance may be granted to allow the
18 officer to be personally served.

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

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

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

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

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

31 (B) Express mail.

32 **SECTION 44.** ORS 147.425, as amended by section 21 of this 2011 Act, is amended to read:

33 147.425. (1) As used in this section:

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

35 (b) "Law enforcement agency" means:

36 (A) A city or municipal police department.

37 (B) A county sheriff's office.

38 (C) The Oregon State Police.

39 (D) A district attorney.

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

41 *[(F) An authorized tribal police officer as defined in section 1 of this 2011 Act.]*

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

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

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

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

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

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

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

19 (6) The fact that a personal representative was allowed or was not allowed to accompany a
20 victim may not be used as a basis for excluding otherwise admissible evidence.

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

23 **SECTION 45.** ORS 153.005, as amended by section 22 of this 2011 Act, is amended to read:
24 153.005. As used in this chapter:

25 (1) "Enforcement officer" means:

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

27 (b) A sheriff or deputy sheriff.

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

29 (d) 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.

31 (e) An investigator of the Criminal Justice Division of the Department of Justice of the State
32 of Oregon.

33 (f) A Port of Portland peace officer.

34 [(g) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

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

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

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

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

41 **SECTION 46.** ORS 161.015, as amended by section 23 of this 2011 Act, is amended to read:

42 161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires
43 otherwise:

44 (1) "Dangerous weapon" means any weapon, device, instrument, material or substance which
45 under the circumstances in which it is used, attempted to be used or threatened to be used, is

1 readily capable of causing death or serious physical injury.

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

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

6 (4) "Peace officer" means:

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

8 (b) A sheriff, constable, marshal or municipal police officer;

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

11 [(d) *An authorized tribal police officer as defined in section 1 of this 2011 Act; and*]

12 [(e)] (d) Any other person designated by law as a peace officer.

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

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

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

18 (8) "Serious physical injury" means physical injury which creates a substantial risk of death or
19 which causes serious and protracted disfigurement, protracted impairment of health or protracted
20 loss or impairment of the function of any bodily organ.

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

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

28 **SECTION 47.** ORS 163.730, as amended by section 24 of this 2011 Act, is amended to read:

29 163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

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

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

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

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

34 (b) Following the other person;

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

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

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

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

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

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

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

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

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

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

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

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

8 (6) "Law enforcement officer" means[:]

9 [(a)] a person employed in this state as a police officer by a county sheriff, constable or marshal
10 or a municipal or state police agency.[: or]

11 [(b) *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

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

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

14 **SECTION 48.** ORS 165.535, as amended by section 25 of this 2011 Act, is amended to read:

15 165.535. As used in ORS 41.910, 133.723, 133.724, 165.540 and 165.545:

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

18 (2) "Person" has the meaning given that term in ORS 174.100 and includes[:]

19 [(a)] public officials and law enforcement officers of the state and of a county, municipal corpo-
20 ration or any other political subdivision of the state.[: and]

21 [(b) *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

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

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

31 **SECTION 49.** ORS 181.010, as amended by section 26 of this 2011 Act, is amended to read:

32 181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires
33 otherwise:

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

35 (2) "Criminal justice agency" means:

36 (a) The Governor;

37 (b) Courts of criminal jurisdiction;

38 (c) The Attorney General;

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

42 (e) Law enforcement agencies;

43 (f) The Department of Corrections;

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

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

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

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

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

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

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

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

16 (8) "Law enforcement agency" means:

17 (a) County sheriffs, municipal police departments and State Police;

18 (b) Other police officers of this state and other states; **and**

19 *[(c) A tribal government as defined in section 1 of this 2011 Act that employs authorized tribal*
20 *police officers as defined in section 1 of this 2011 Act; and]*

21 *[(d)]* (c) Law enforcement agencies of the federal government.

22 (9) "State Police" means the members of the state police force appointed under ORS 181.250.

23 (10) "Superintendent" means the Superintendent of State Police.

24 **SECTION 50.** ORS 181.610, as amended by section 27 of this 2011 Act, is amended to read:

25 181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

26 (1) "Abuse" has the meaning given the term in ORS 107.705.

27 (2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to
28 ORS 181.620.

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

32 (4) "Commissioned" means an authorization granting the power to perform various acts or duties
33 of a police officer or certified reserve officer and acting under the supervision and responsibility of
34 a county sheriff or as otherwise provided by law.

35 (5) "Corrections officer" means an officer or member of a law enforcement unit who is employed
36 full-time thereby and is charged with and primarily performs the duty of custody, control or super-
37 vision of individuals convicted of or arrested for a criminal offense and confined in a place of
38 incarceration or detention other than a place used exclusively for incarceration or detention of ju-
39 veniles.

40 (6) "Department" means the Department of Public Safety Standards and Training.

41 (7) "Director" means the Director of the Department of Public Safety Standards and Training.

42 (8) "Domestic violence" means abuse between family or household members.

43 (9) "Emergency medical dispatcher" means a person who has responsibility to process requests
44 for medical assistance from the public or to dispatch medical care providers.

45 (10) "Family or household members" has the meaning given that term in ORS 107.705.

1 (11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member
2 of a public or private fire protection agency that is engaged primarily in fire investigation, fire
3 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light
4 and heavy rescue services, search and rescue services or hazardous materials incident response.
5 "Fire service professional" does not include forest fire protection agency personnel.

6 (12)(a) "Law enforcement unit" means a police force or organization of the state, a city, port,
7 school district, mass transit district, county, county service district authorized to provide law
8 enforcement services under ORS 451.010, tribal government [*as defined in section 1 of this 2011 Act*], the Criminal
9 Justice Division of the Department of Justice, the Department of Corrections, the Oregon State
10 Lottery Commission or common carrier railroad whose primary duty, as prescribed by law, ordi-
11 nance or directive, is any one or more of the following:
12

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

15 (B) The custody, control or supervision of individuals convicted of or arrested for a criminal
16 offense and confined to a place of incarceration or detention other than a place used exclusively for
17 incarceration or detention of juveniles; or

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

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

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

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

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

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

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

31 (A) Community protection by controlling, investigating, supervising and providing or making
32 referrals to reformative services for adult parolees or probationers or offenders on post-prison
33 supervision; or

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

36 (b) Any officer who:

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

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

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

41 (i) Community protection by controlling, investigating, supervising and providing or making re-
42 ferrals to reformative services for adult parolees or probationers or offenders on post-prison super-
43 vision; or

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

1 (14) "Police officer" means an officer, member or employee of a law enforcement unit who is
2 employed full-time as a peace officer commissioned by a city, port, school district, mass transit dis-
3 trict, county, county service district authorized to provide law enforcement services under ORS
4 451.010, tribal government [*as defined in section 1 of this 2011 Act*], the Criminal Justice Division
5 of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a
6 member of the Department of State Police and who is responsible for enforcing the criminal laws
7 of this state or laws or ordinances relating to airport security or is an investigator of a district
8 attorney's office if the investigator is or has been certified as a peace officer in this or any other
9 state [*or is an authorized tribal police officer as defined in section 1 of this 2011 Act*].

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

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

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

17 (a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned
18 by a city, port, school district, mass transit district, county, county service district authorized to
19 provide law enforcement services under ORS 451.010, tribal government [*as defined in section 1 of*
20 *this 2011 Act*], the Criminal Justice Division of the Department of Justice, the Oregon State Lottery
21 Commission or the Governor or who is a member of the Department of State Police;

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

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

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

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

32 **SECTION 50a.** ORS 181.781, as amended by section 27a of this 2011 Act, is amended to read:

33 181.781. As used in ORS 181.781 to 181.796:

34 (1) "Employ," when used in the context of the relationship between a law enforcement agency
35 and a police officer, includes the assignment of law enforcement duties on a volunteer basis to a
36 reserve officer.

37 (2) "Law enforcement agency" means the Department of State Police, the Department of Justice,
38 a district attorney, a political subdivision of the State of Oregon[,] **and** a municipal corporation of
39 the State of Oregon [*and a tribal government*], that maintains a law enforcement unit as defined in
40 ORS 181.610 (12)(a)(A).

41 (3) "Police officer" means a person who is:

42 (a) A police officer or reserve officer as defined in ORS 181.610; and

43 (b) Employed by a law enforcement agency to enforce the criminal laws of this state.

44 [(4) "Tribal government" means a tribal government as defined in section 1 of this 2011 Act:]

45 [(a) With land that is contiguous to the county in which the deadly physical force planning au-

1 *thority is created; and]*

2 *[(b) That has adopted the provision of tribal law described in section 2 (4)(d)(A) of this 2011*
3 *Act.]*

4 **SECTION 50b.** ORS 181.783, as amended by section 27b of this 2011 Act, is amended to read:

5 181.783. (1) There is created in each county a deadly physical force planning authority consist-
6 ing of the following members:

7 (a) The district attorney and sheriff of the county.

8 (b) A nonmanagement police officer selected by the district attorney and sheriff. If there are
9 unions representing police officers within the county, the district attorney and sheriff shall select
10 the police officer from among candidates nominated by any union representing police officers within
11 the county.

12 (c) If at least one city within the county employs a police chief, a police chief selected by the
13 police chiefs within the county.

14 (d) A representative of the public selected by the district attorney and sheriff. The person se-
15 lected under this paragraph may not be employed by a law enforcement agency.

16 (e) A representative of the Oregon State Police selected by the Superintendent of State Police.

17 *[(f) A tribal police officer as defined in section 1 of this 2011 Act, when requested by a tribal*
18 *government.]*

19 (2) The district attorney and sheriff are cochairpersons of the planning authority.

20 (3) The law enforcement agency that employs the police officer selected under subsection (1)(b)
21 of this section shall release the officer from other duties for at least 16 hours per year to enable the
22 officer to serve on the planning authority. The agency shall compensate the officer at the officer's
23 regular hourly wage while the officer is engaged in planning authority activities.

24 (4) The planning authority shall develop a plan consisting of the following:

25 (a) An element dealing with education, outreach and training regarding the use of deadly phys-
26 ical force for police officers, attorneys employed by state or local government within the county and
27 members of the community.

28 (b) An element dealing with the immediate aftermath of an incident in which a police officer
29 used deadly physical force.

30 (c) An element dealing with the investigation of an incident in which a police officer used deadly
31 physical force.

32 (d) An element dealing with the exercise of district attorney discretion to resolve issues of po-
33 tential criminal responsibility resulting from a police officer's use of deadly physical force.

34 (e) An element dealing with collecting information regarding a police officer's use of deadly
35 physical force, debriefing after an incident in which a police officer used deadly physical force and
36 revising a plan developed under this subsection based on experience.

37 (f) An estimate of the fiscal impact on the law enforcement agencies to which the plan applies
38 of each element described in paragraphs (a) to (e) of this subsection.

39 (5) The planning authority shall conduct at least one public hearing in the county before sub-
40 mitting a plan, or a revision of a plan, to the governing bodies in the county under subsection (7)
41 of this section.

42 (6) The planning authority may consult with anyone the planning authority determines may be
43 helpful in carrying out its responsibilities.

44 (7) The planning authority shall submit the plan developed under subsection (4) of this section,
45 and revisions of the plan, to the governing body of each law enforcement agency within the county

1 except for the Department of State Police and the Department of Justice.

2 (8) A governing body shall approve or disapprove the plan submitted to it under subsection (7)
3 of this section within 60 days after receiving the plan. The governing body may not amend the plan.

4 (9) If the plan is not approved by at least two-thirds of the governing bodies to which the plan
5 is submitted, the planning authority shall develop and submit a revised plan.

6 (10) If the plan is approved by at least two-thirds of the governing bodies to which the plan is
7 submitted, the planning authority shall submit the approved plan to the Attorney General. No later
8 than 30 days after receiving the plan, the Attorney General shall review the plan for compliance
9 with the minimum requirements described in ORS 181.786. If the Attorney General determines that
10 the plan complies with the minimum requirements, the Attorney General shall approve the plan.

11 Upon approval of the plan:

12 (a) Each law enforcement agency within the county to which the plan applies is subject to the
13 provisions of the plan; and

14 (b) Each law enforcement agency subject to the plan is entitled to grants as provided in ORS
15 181.796.

16 (11) If the plan is not approved by the Attorney General, the planning authority shall develop
17 and submit a revised plan.

18 (12) Notwithstanding subsection (10)(a) of this section, a law enforcement agency is not subject
19 to a provision of a plan approved under subsection (10) of this section that:

20 (a) Conflicts with a provision of a city or county charter or a general ordinance that applies to
21 the law enforcement agency; or

22 (b) Imposes an obligation not required by ORS 181.789 if complying with the provision would
23 require the law enforcement agency to budget moneys, or submit a revenue measure for a vote of
24 the people, in order to comply with the provision.

25 (13) The Attorney General shall periodically publish all approved plans.

26 (14) A law enforcement agency within a county has a duty to participate in good faith in the
27 planning process of the planning authority for the county.

28 (15) A person bringing an action challenging the validity or enforceability of a plan approved
29 under subsection (10) of this section shall serve the Attorney General with a copy of the complaint.
30 If the Attorney General is not a party to the action, the Attorney General may intervene in the
31 action.

32 **SECTION 50c.** ORS 181.796, as amended by section 27c of this 2011 Act, is amended to read:

33 181.796. (1) As used in this section, "expenses" does not include personnel costs.

34 (2) To the extent that funds are appropriated to it for such purposes, the Department of Justice
35 shall make grants to law enforcement agencies to reimburse the law enforcement agencies for ex-
36 penses incurred in implementing and revising the plans required by ORS 181.783. A grant under this
37 section may not exceed 75 percent of the expenses incurred by the law enforcement agency.

38 (3) The department may not make a grant under this section to a law enforcement agency unless
39 the law enforcement agency is subject to a plan that has been approved by the Attorney General
40 under ORS 181.783 (10).

41 *[(4) The department may not make a grant under this section to a tribal government.]*

42 *[(5)]* (4) The department shall adopt rules necessary for the administration of this section.

43 **SECTION 51.** ORS 348.270, as amended by section 28 of this 2011 Act, is amended to read:

44 348.270. (1) In addition to any other scholarships provided by law, the Oregon Student Assist-
45 ance Commission shall award scholarships in any state institution under the State Board of Higher

1 Education, in the Oregon Health and Science University, in any community college operated under
2 ORS chapter 341, or in any Oregon-based regionally accredited independent institution, to any stu-
3 dent applying for enrollment or who is enrolled therein, who is:

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

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

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

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

23 (4) If the student who is a former foster child or who is the dependent of a public safety officer
24 with a disability continues to remain enrolled in a state institution of higher education or a com-
25 munity college or an independent institution within the State of Oregon, the student shall be entitled
26 to renewal of the scholarship until the student has received the equivalent of four years of under-
27 graduate education.

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

31 (6) As used in this section:

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

35 (b) "Public safety officer" means:

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

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

38 *[(C) An authorized tribal police officer as defined in section 1 of this 2011 Act.]*

39 **SECTION 52.** ORS 414.805, as amended by section 29 of this 2011 Act, is amended to read:

40 414.805. (1) An individual who receives medical services while in the custody of a law enforce-
41 ment officer is liable:

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

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

45 (2) A person providing medical services to an individual described in subsection (1)(a) of this

1 section shall first make reasonable efforts to collect the charges and expenses thereof from the in-
 2 dividual before seeking to collect them from the authority out of the Law Enforcement Medical Li-
 3 ability Account.

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

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

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

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

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

17 (4) As used in this section:

18 (a) "Law enforcement officer" means[.]

19 [(A)] an officer who is commissioned and employed by a public agency as a peace officer to en-
 20 force the criminal laws of this state or laws or ordinances of a public agency.[; or]

21 [(B) *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

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

23 **SECTION 53.** ORS 419B.902, as amended by section 30 of this 2011 Act, is amended to read:

24 419B.902. (1) A subpoena may be served by the party or any other person 18 years of age or
 25 older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by
 26 delivering a copy to the witness personally. The service must be made so as to allow the witness a
 27 reasonable time for preparation and travel to the place of attendance. If the subpoena is not ac-
 28 companied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the
 29 subpoena is served personally or by mail, copies of a subpoena commanding production and in-
 30 spection of books, papers, documents or other tangible things before trial must be served on each
 31 party at least seven days before the subpoena is served on the person required to produce and per-
 32 mit inspection, unless the court orders a shorter period.

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

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

42 (c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law
 43 enforcement agency shall make a good faith effort to give actual notice to the officer whose at-
 44 tendance is sought of the date, time and location of the court appearance. If the officer cannot be
 45 notified, the law enforcement agency shall promptly notify the court and a postponement or contin-

1 uance may be granted to allow the officer to be personally served.

2 (d) As used in this subsection, “law enforcement agency” means the Oregon State Police, a
3 county sheriff’s department[,] **or** a municipal police department [*or, if the witness whose attendance*
4 *at trial is required is an authorized tribal police officer as defined in section 1 of this 2011 Act, a tribal*
5 *government as defined in section 1 of this 2011 Act*].

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

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

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

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

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

20 **SECTION 54.** ORS 420.905, as amended by section 31 of this 2011 Act, is amended to read:

21 420.905. As used in ORS 420.905 to 420.915, “peace officer” means:

22 (1) A sheriff, constable or marshal, or the deputy of any such officer;

23 (2) A member of the state police; **or**

24 (3) A member of the police force of any city.[: *or*]

25 [*(4) An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

26 **SECTION 55.** ORS 801.395, as amended by section 32 of this 2011 Act, is amended to read:

27 801.395. “Police officer” includes a member of the Oregon State Police, a sheriff, a deputy
28 sheriff, a city police officer, [*an authorized tribal police officer as defined in section 1 of this 2011*
29 *Act,*] a Port of Portland peace officer or a law enforcement officer employed by a service district
30 established under ORS 451.410 to 451.610 for the purpose of law enforcement services.

31 **SECTION 56.** ORS 811.720, as amended by section 34 of this 2011 Act, is amended to read:

32 811.720. (1) Except as provided in subsection (4) of this section, any accident occurring on a
33 highway or upon premises open to the public resulting in injury or death to any person is subject
34 to the reporting requirements under the following sections:

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

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

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

38 (2) Except as provided in subsection (4) of this section, an accident occurring on a highway or
39 upon premises open to the public resulting in damage to the property of any person in excess of
40 \$1,500 is subject to the following reporting requirements:

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

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

45 (c) If the property damage is to property other than a vehicle involved in the accident, each

1 driver involved in the accident must report the accident in the manner specified under ORS 811.725
2 and each owner of a vehicle involved in the accident must report the accident in the manner spec-
3 ified in ORS 811.730 and under the circumstances specified in ORS 811.730.

4 (d) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed
5 from the scene of the accident, each driver involved in the accident must report the accident in the
6 manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must re-
7 port the accident in the manner specified in ORS 811.730 and under the circumstances specified in
8 ORS 811.730.

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

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

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

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

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

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

23 (ii) With the Department of State Police or the Criminal Justice Division of the Department of
24 Justice; **or**

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

27 *[(iv) As an authorized tribal police officer as defined in section 1 of this 2011 Act.]*

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

30 **SECTION 57.** ORS 830.005, as amended by section 35 of this 2011 Act, is amended to read:

31 830.005. As used in this chapter, unless the context requires otherwise:

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

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

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

38 (4) "In flight" means from the moment a seaplane starts its takeoff run until the end of a normal
39 power-off landing run.

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

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

44 (7) "Navigable waters of the United States" means those waters of the United States, including
45 the territorial seas adjacent thereto, the general character of which is navigable, and that, either

1 by themselves or by uniting with other waters, form a continuous waterway on which boats or ves-
2 sels may navigate or travel between two or more states, or to and from foreign nations.

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

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

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

8 (11) "Peace officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff[,]
9 **and** a city police officer [*and an authorized tribal police officer as defined in section 1 of this 2011*
10 *Act*].

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

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

16 **SECTION 58. (1) Sections 1 to 4 of this 2011 Act are repealed on July 1, 2015.**

17 **(2) The amendments to ORS 40.275, 90.440, 133.005, 133.525, 133.721, 133.726e 136.595,**
18 **147.425, 153.005, 161.015, 163.730, 165.535, 181.010, 181.610, 181.781, 181.783, 181.796, 348.270,**
19 **414.805, 419B.902, 420.905, 801.395, 811.720 and 830.005 by sections 37 to 57 of this 2011 Act**
20 **become operative on July 1, 2015.**

21 **(3) The repeal of sections 1 to 4 of this 2011 Act by subsection (1) of this section and the**
22 **amendments to ORS 40.275, 90.440, 133.005, 133.525, 133.721, 133.726, 136.595, 147.425, 153.005,**
23 **161.015, 163.730, 165.535, 181.010, 181.610, 181.781, 181.783, 181.796, 348.270, 414.805, 419B.902,**
24 **420.905, 801.395, 811.720 and 830.005 by sections 37 to 57 of this 2011 Act:**

25 **(a) Return the law applicable to tribal police officers to the state in which the law existed**
26 **on the date immediately before the effective date of this 2011 Act; and**

27 **(b) Do not deprive tribal police officers of any power, authority or protection provided to**
28 **tribal police officers by law on the date immediately before the effective date of this 2011 Act.**

29
30 **MISCELLANEOUS PROVISIONS**

31
32 **SECTION 59. ORS 133.033, 133.318 and 133.400 are added to and made a part of ORS**
33 **133.005 to 133.381.**

34 **SECTION 60. The unit captions used in this 2011 Act are provided only for the conven-**
35 **ience of the reader and do not become part of the statutory law of this state or express any**
36 **legislative intent in the enactment of this 2011 Act.**

37
38 **CONFLICT AMENDMENTS**

39
40 **SECTION 61. If Senate Bill 405 becomes law, section 4, chapter 506, Oregon Laws 2011**
41 **(Enrolled Senate Bill 405) (amending ORS 90.440), is repealed and ORS 90.440, as amended by**
42 **section 11 of this 2011 Act, is amended to read:**

43 90.440. (1) As used in this section:

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

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

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

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

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

6 (c) **"Peace officer" means:**

7 (A) **A sheriff, constable, marshal or deputy;**

8 (B) **A member of a state or city police force;**

9 (C) **A police officer commissioned by a university under section 1, chapter 506, Oregon
10 Laws 2011 (Enrolled Senate Bill 405); or**

11 (D) **An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

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

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

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

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

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

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

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

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

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

33 (4) A written notice in substantially the following form meets the requirements of subsection (3)
34 of this section:

35 _____

36 _____

37 This notice is to inform you that you must move out of _____ (insert address of group
38 recovery home) by _____ (insert date and time that is not less than 24 hours after delivery
39 of notice).

40 The reason for this notice is _____ (specify use or possession of alcohol or illegal drugs,
41 as applicable, and dates of occurrence).

42 The proof of your use or possession is _____ (specify facts).

43 If you did not use or possess alcohol or illegal drugs within the seven days before delivery of
44 this notice, if this notice was given in bad faith or if your group recovery home has not substantially
45 complied with ORS 90.440, you may be able to get a court to order the group recovery home to let

1 you move back in. You may also be able to recover monetary damages.

2 You may be eligible for free legal services at your local legal services office _____ (in-
3 sert telephone number) or reduced fee legal services through the Oregon State Bar at 1-800-452-7636.
4 _____

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

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

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

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

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

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

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

31 (10) In any court action regarding the removal of a tenant under this section, a group recovery
32 home may present evidence that the tenant used or possessed alcohol or illegal drugs within seven
33 days preceding the removal, whether or not the evidence was described in the notice required by
34 subsection (3) of this section.

35 (11) This section does not prevent a group recovery home from terminating a tenancy as pro-
36 vided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to
37 105.168.

38 **SECTION 62. If Senate Bill 405 becomes law, section 14, chapter 506, Oregon Laws 2011**
39 **(Enrolled Senate Bill 405) (amending ORS 133.721), is repealed and ORS 133.721, as amended**
40 **by section 17 of this 2011 Act, is amended to read:**

41 133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

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

45 (2) "Contents," when used with respect to any wire, electronic or oral communication, includes

1 any information concerning the identity of the parties to such communication or the existence,
2 substance, purport or meaning of that communication.

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

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

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

8 (4) "Electronic, mechanical or other device" means any device or apparatus that can be used
9 to intercept a wire, electronic or oral communication other than:

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

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

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

19 [(6) "Investigative or law enforcement officer" means:]

20 [(a) An officer or other person employed to investigate or enforce criminal laws by:]

21 [(A) A county sheriff or municipal police department;]

22 [(B) The Oregon State Police, the Department of Corrections, the Attorney General or a district
23 attorney; or]

24 [(C) Law enforcement agencies of other states or the federal government; or]

25 [(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

26 (6) "Investigative or law enforcement officer" means:

27 (a) An officer or other person employed to investigate or enforce the law by:

28 (A) A county sheriff or municipal police department, or a police department established
29 by a university under section 1, chapter 506, Oregon Laws 2011 (Enrolled Senate Bill 405);

30 (B) The Oregon State Police, the Department of Corrections, the Attorney General or a
31 district attorney; or

32 (C) Law enforcement agencies of other states or the federal government; or

33 (b) An authorized tribal police officer as defined in section 1 of this 2011 Act.

34 (7) "Oral communication" means:

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

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

41 (8) "Telecommunications carrier" means:

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

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

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

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

5 **SECTION 63. If Senate Bill 405 becomes law, section 15, chapter 506, Oregon Laws 2011**
6 **(Enrolled Senate Bill 405) (amending ORS 133.726), is repealed and ORS 133.726, as amended**
7 **by section 18 of this 2011 Act, is amended to read:**

8 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a
9 law enforcement officer is authorized to intercept an oral communication to which the officer or a
10 person under the direct supervision of the officer is a party, without obtaining an order for the in-
11 terception of a wire, electronic or oral communication under ORS 133.724.

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

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

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

21 (b) A statement demonstrating that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (b) To a magistrate;

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

43 (d) In compliance with a court order.

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

1 [(11) As used in this section, "law enforcement officer" means:]

2 [(a) An officer employed to enforce criminal laws by:]

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

4 [(B) A political subdivision, agency, department or bureau of the governments described in sub-
5 paragraph (A) of this paragraph; or]

6 [(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

7 **(11) As used in this section, "law enforcement officer" means:**

8 **(a) An officer employed to enforce criminal laws by:**

9 **(A) The United States, this state or a municipal government within this state;**

10 **(B) A political subdivision, agency, department or bureau of the governments described
11 in subparagraph (A) of this paragraph; or**

12 **(C) A police department established by a university under section 1, chapter 506, Oregon
13 Laws 2011 (Enrolled Senate Bill 405); or**

14 **(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

16 **SECTION 64. If Senate Bill 405 becomes law, section 16, chapter 506, Oregon Laws 2011
17 (Enrolled Senate Bill 405) (amending ORS 133.726), is repealed and ORS 133.726, as amended
18 by section 3, chapter 442, Oregon Laws 2007, and section 19 of this 2011 Act, is amended to
19 read:**

20 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a
21 law enforcement officer is authorized to intercept an oral communication to which the officer or a
22 person under the direct supervision of the officer is a party, without obtaining an order for the in-
23 terception of a wire, electronic or oral communication under ORS 133.724.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (b) To a magistrate;

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

36 (d) In compliance with a court order.

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

39 [(11) As used in this section, "law enforcement officer" means:]

40 [(a) An officer employed to enforce criminal laws by:]

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

42 [(B) A political subdivision, agency, department or bureau of the governments described in sub-
43 paragraph (A) of this paragraph; or]

44 [(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

45 **(11) As used in this section, "law enforcement officer" means:**

1 (a) An officer employed to enforce criminal laws by:

2 (A) The United States, this state or a municipal government within this state;

3 (B) A political subdivision, agency, department or bureau of the governments described
4 in subparagraph (A) of this paragraph; or

5 (C) A police department established by a university under section 1, chapter 506, Oregon
6 Laws 2011 (Enrolled Senate Bill 405); or

7 (b) An authorized tribal police officer as defined in section 1 of this 2011 Act.

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

9 **SECTION 65. If Senate Bill 405 becomes law, section 17, chapter 506, Oregon Laws 2011**
10 **(Enrolled Senate Bill 405) (amending ORS 136.595), is repealed and ORS 136.595, as amended**
11 **by section 20 of this 2011 Act, is amended to read:**

12 136.595. (1) Except as provided in ORS 136.447 and 136.583 and subsection (2) of this section, a
13 subpoena is served by delivering a copy to the witness personally. If the witness is under 14 years
14 of age, the subpoena may be served by delivering a copy to the witness or to the witness's parent,
15 guardian or guardian ad litem. Proof of the service is made in the same manner as in the service
16 of a summons.

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

22 (b) If a peace officer's attendance at trial is required as a result of employment as a peace of-
23 ficer, a subpoena may be served on such officer by delivering a copy personally to the officer or to
24 one of the individuals designated by the agency that employs the officer. A subpoena may be served
25 by delivery to one of the individuals designated by the agency that employs the officer only if the
26 subpoena is delivered at least 10 days before the date the officer's attendance is required, the officer
27 is currently employed as a peace officer by the agency, and the officer is present within the state
28 at the time of service.

29 (c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law
30 enforcement agency shall make a good faith effort to actually notify the officer whose attendance
31 is sought of the date, time and location of the court appearance. If the officer cannot be notified,
32 the law enforcement agency shall contact the court and a continuance may be granted to allow the
33 officer to be personally served.

34 [(d) As used in this subsection, "law enforcement agency" means the Oregon State Police, a county
35 sheriff's department, a municipal police department or, if the witness whose attendance at trial is re-
36 quired is an authorized tribal police officer as defined in section 1 of this 2011 Act, a tribal government
37 as defined in section 1 of this 2011 Act.]

38 (d) As used in this subsection, "law enforcement agency" means the Oregon State Police,
39 a county sheriff's department, a municipal police department, a police department estab-
40 lished by a university under section 1, chapter 506, Oregon Laws 2011 (Enrolled Senate Bill
41 405), or, if the witness whose attendance at trial is required is an authorized tribal police
42 officer as defined in section 1 of this 2011 Act, a tribal government as defined in section 1
43 of this 2011 Act.

44 (3) When a subpoena has been served as provided in ORS 136.583 or subsection (1) or (2) of this
45 section and, subsequent to service, the date on, or the time at, which the person subpoenaed is to

1 appear has changed, a new subpoena is not required to be served if:

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

3 or

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

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

7 (B) Express mail.

8 **SECTION 66. If Senate Bill 405 becomes law, section 23, chapter 506, Oregon Laws 2011**
9 **(Enrolled Senate Bill 405) (amending ORS 163.730), is repealed and ORS 163.730, as amended**
10 **by section 24 of this 2011 Act, 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:]

36 [(a) A person employed in this state as a police officer by a county sheriff, constable or marshal
37 or a municipal or state police agency; or]

38 [(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

39 **(6) "Law enforcement officer" means:**

40 **(a) A person employed in this state as a police officer by:**

41 **(A) A county sheriff, constable or marshal;**

42 **(B) A police department established by a university under section 1, chapter 506, Oregon**
43 **Laws 2011 (Enrolled Senate Bill 405); or**

44 **(C) A municipal or state police agency; or**

45 **(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

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

3 **SECTION 67. If Senate Bill 405 becomes law, section 24, chapter 506, Oregon Laws 2011**
4 **(Enrolled Senate Bill 405) (amending ORS 165.535), is repealed and ORS 165.535, as amended**
5 **by section 25 of this 2011 Act, is amended to read:**

6 165.535. As used in ORS 41.910, 133.723, 133.724, 165.540 and 165.545:

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

9 [(2) "Person" has the meaning given that term in ORS 174.100 and includes:]

10 [(a) Public officials and law enforcement officers of the state and of a county, municipal corporation
11 or any other political subdivision of the state; and]

12 [(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

13 **(2) "Person" has the meaning given that term in ORS 174.100 and includes:**

14 **(a) Public officials and law enforcement officers of:**

15 **(A) The state and of a county, municipal corporation or any other political subdivision**
16 **of the state; and**

17 **(B) A police department established by a university under section 1, chapter 506, Oregon**
18 **Laws 2011 (Enrolled Senate Bill 405); and**

19 **(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.**

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

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

29 **SECTION 68. If Senate Bill 405 becomes law, section 39, chapter 506, Oregon Laws 2011**
30 **(Enrolled Senate Bill 405) (amending ORS 419B.902), is repealed and ORS 419B.902, as**
31 **amended by section 30 of this 2011 Act, is amended to read:**

32 419B.902. (1) A subpoena may be served by the party or any other person 18 years of age or
33 older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by
34 delivering a copy to the witness personally. The service must be made so as to allow the witness a
35 reasonable time for preparation and travel to the place of attendance. If the subpoena is not ac-
36 companied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the
37 subpoena is served personally or by mail, copies of a subpoena commanding production and in-
38 spection of books, papers, documents or other tangible things before trial must be served on each
39 party at least seven days before the subpoena is served on the person required to produce and per-
40 mit inspection, unless the court orders a shorter period.

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

45 (b) If a peace officer's attendance at trial is required as a result of employment as a peace of-

1 ficer, a subpoena may be served on the officer by delivering a copy personally to the officer or to
2 an individual designated by the agency that employs the officer no later than 10 days prior to the
3 date attendance is sought. A subpoena may be served in this manner only if the officer is currently
4 employed as a peace officer and is present within the state at the time of service.

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

10 [(d) As used in this subsection, "law enforcement agency" means the Oregon State Police, a county
11 sheriff's department, a municipal police department or, if the witness whose attendance at trial is re-
12 quired is an authorized tribal police officer as defined in section 1 of this 2011 Act, a tribal government
13 as defined in section 1 of this 2011 Act.]

14 (d) As used in this subsection, "law enforcement agency" means the Oregon State Police,
15 a county sheriff's department, a municipal police department, a police department estab-
16 lished by a university under section 1, chapter 506, Oregon Laws 2011 (Enrolled Senate Bill
17 405), or, if the witness whose attendance at trial is required is an authorized tribal police
18 officer as defined in section 1 of this 2011 Act, a tribal government as defined in section 1
19 of this 2011 Act.

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

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

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

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

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

34 **SECTION 69. If Senate Bill 405 becomes law, section 38 of this 2011 Act (amending ORS**
35 **90.440) is repealed and ORS 90.440, as amended by sections 11 and 61 of this 2011 Act, is**
36 **amended to read:**

37 90.440. (1) As used in this section:

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

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

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

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

43 (c) "Peace officer" means:

44 (A) A sheriff, constable, marshal or deputy;

45 (B) A member of a state or city police force; **or**

1 (C) A police officer commissioned by a university under section 1, chapter 506, Oregon Laws
2 2011 (Enrolled Senate Bill 405); or]

3 [(D) An authorized tribal police officer as defined in section 1 of this 2011 Act].

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

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

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

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

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

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

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

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

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

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

25 (4) A written notice in substantially the following form meets the requirements of subsection (3)
26 of this section:

27 _____
28
29 This notice is to inform you that you must move out of _____ (insert address of group
30 recovery home) by _____ (insert date and time that is not less than 24 hours after delivery
31 of notice).

32 The reason for this notice is _____ (specify use or possession of alcohol or illegal drugs,
33 as applicable, and dates of occurrence).

34 The proof of your use or possession is _____ (specify facts).

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

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

41 _____
42
43 (5) Within the notice period, a group recovery home shall allow a tenant removed under this
44 section to follow any emergency departure plan that was prepared by the tenant and approved by
45 the group recovery home at the time the tenancy began. If the removed tenant does not have an

1 emergency departure plan, a representative of the group recovery home shall offer to take the re-
2 moved tenant to a public shelter, detoxification center or similar location if existing in the commu-
3 nity.

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

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

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

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

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

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

23 (10) In any court action regarding the removal of a tenant under this section, a group recovery
24 home may present evidence that the tenant used or possessed alcohol or illegal drugs within seven
25 days preceding the removal, whether or not the evidence was described in the notice required by
26 subsection (3) of this section.

27 (11) This section does not prevent a group recovery home from terminating a tenancy as pro-
28 vided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to
29 105.168.

30 **SECTION 70. If Senate Bill 405 becomes law, section 41 of this 2011 Act (amending ORS**
31 **133.721) is repealed and ORS 133.721, as amended by sections 17 and 62 of this 2011 Act, is**
32 **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[:]

12 [(a)] an officer or other person employed to investigate or enforce the law by:

13 [(A)] (a) A county sheriff or municipal police department, or a police department established by
14 a university under section 1, chapter 506, Oregon Laws 2011 (Enrolled Senate Bill 405);

15 [(B)] (b) The Oregon State Police, the Department of Corrections, the Attorney General or a
16 district attorney; or

17 [(C)] (c) Law enforcement agencies of other states or the federal government.[: or]

18 [(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

19 (7) "Oral communication" means:

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

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

26 (8) "Telecommunications carrier" means:

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

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

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

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

35 **SECTION 71. If Senate Bill 405 becomes law, section 42 of this 2011 Act (amending ORS**
36 **133.726) is repealed and ORS 133.726, as amended by section 3, chapter 442, Oregon Laws 2007,**
37 **and sections 19 and 64 of this 2011 Act, is amended to read:**

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

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

45 (3) An ex parte order for intercepting an oral communication in any county of this state under

1 this section may be issued by any judge as defined in ORS 133.525 upon written application made
2 upon oath or affirmation of the district attorney or a deputy district attorney authorized by the
3 district attorney for the county in which the order is sought or upon the oath or affirmation of any
4 peace officer as defined in ORS 133.005. The application shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (8) A law enforcement officer who intercepts an oral communication pursuant to this section
42 may not intentionally fail to record and preserve the oral communication in its entirety. A law
43 enforcement officer, or a person under the direct supervision of the officer, who is authorized under
44 this section to intercept an oral communication is not required to exclude from the interception an
45 oral communication made by a person for whom probable cause does not exist if the officer or the

1 person under the officer's direct supervision is a party to the oral communication.

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

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

7 (b) To a magistrate;

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

9 (d) In compliance with a court order.

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

12 (11) As used in this section, "law enforcement officer" means[:]

13 [(a)] an officer employed to enforce criminal laws by:

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

15 [(B)] (b) A political subdivision, agency, department or bureau of the governments described in
16 [subparagraph (A) of this paragraph] **paragraph (a) of this subsection**; or

17 [(C)] (c) A police department established by a university under section 1, chapter 506, Oregon
18 Laws 2011 (Enrolled Senate Bill 405).[: or]

19 [(b) *An authorized tribal police officer as defined in section 1 of this 2011 Act.*]

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

21 **SECTION 72. If Senate Bill 405 becomes law, section 43 of this 2011 Act (amending ORS**
22 **136.595) is repealed and ORS 136.595, as amended by sections 20 and 65 of this 2011 Act, is**
23 **amended to read:**

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

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

34 (b) If a peace officer's attendance at trial is required as a result of employment as a peace of-
35 ficer, a subpoena may be served on such officer by delivering a copy personally to the officer or to
36 one of the individuals designated by the agency that employs the officer. A subpoena may be served
37 by delivery to one of the individuals designated by the agency that employs the officer only if the
38 subpoena is delivered at least 10 days before the date the officer's attendance is required, the officer
39 is currently employed as a peace officer by the agency, and the officer is present within the state
40 at the time of service.

41 (c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law
42 enforcement agency shall make a good faith effort to actually notify the officer whose attendance
43 is sought of the date, time and location of the court appearance. If the officer cannot be notified,
44 the law enforcement agency shall contact the court and a continuance may be granted to allow the
45 officer to be personally served.

1 (d) As used in this subsection, “law enforcement agency” means the Oregon State Police, a
2 county sheriff’s department, a municipal police department[,] **or** a police department established by
3 a university under section 1, chapter 506, Oregon Laws 2011 (Enrolled Senate Bill 405)[, *or, if the*
4 *witness whose attendance at trial is required is an authorized tribal police officer as defined in section*
5 *1 of this 2011 Act, a tribal government as defined in section 1 of this 2011 Act].*

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

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

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

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

14 (B) Express mail.

15 **SECTION 73. If Senate Bill 405 becomes law, section 47 of this 2011 Act (amending ORS**
16 **163.730) is repealed and ORS 163.730, as amended by sections 24 and 66 of this 2011 Act, is**
17 **amended to read:**

18 163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

19 (1) “Alarm” means to cause apprehension or fear resulting from the perception of danger.

20 (2) “Coerce” means to restrain, compel or dominate by force or threat.

21 (3) “Contact” includes but is not limited to:

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

23 (b) Following the other person;

24 (c) Waiting outside the home, property, place of work or school of the other person or of a
25 member of that person’s family or household;

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

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

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

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

30 (h) Communicating with a third person who has some relationship to the other person with the
31 intent of affecting the third person’s relationship with the other person;

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

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

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

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

39 (4) “Household member” means any person residing in the same residence as the victim.

40 (5) “Immediate family” means father, mother, child, sibling, spouse, grandparent, stepparent and
41 stepchild.

42 (6) “Law enforcement officer” means[:]

43 [(a)] a person employed in this state as a police officer by:

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

45 [(B)] (b) A police department established by a university under section 1, chapter 506, Oregon

1 Laws 2011 (Enrolled Senate Bill 405); or

2 [(C)] (c) A municipal or state police agency.[: or]

3 [(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

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

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

6 **SECTION 74. If Senate Bill 405 becomes law, section 48 of this 2011 Act (amending ORS**
7 **165.535) is repealed and ORS 165.535, as amended by sections 25 and 67 of this 2011 Act, is**
8 **amended to read:**

9 165.535. As used in ORS 41.910, 133.723, 133.724, 165.540 and 165.545:

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

12 (2) "Person" has the meaning given that term in ORS 174.100 and includes[:]

13 [(a)] public officials and law enforcement officers of:

14 [(A)] (a) The state and of a county, municipal corporation or any other political subdivision of
15 the state; and

16 [(B)] (b) A police department established by a university under section 1, chapter 506, Oregon
17 Laws 2011 (Enrolled Senate Bill 405).[: and]

18 [(b) An authorized tribal police officer as defined in section 1 of this 2011 Act.]

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

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

28 **SECTION 75. If Senate Bill 405 becomes law, section 53 of this 2011 Act (amending ORS**
29 **419B.902) is repealed and ORS 419B.902, as amended by sections 30 and 68 of this 2011 Act,**
30 **is amended to read:**

31 419B.902. (1) A subpoena may be served by the party or any other person 18 years of age or
32 older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by
33 delivering a copy to the witness personally. The service must be made so as to allow the witness a
34 reasonable time for preparation and travel to the place of attendance. If the subpoena is not ac-
35 companied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the
36 subpoena is served personally or by mail, copies of a subpoena commanding production and in-
37 spection of books, papers, documents or other tangible things before trial must be served on each
38 party at least seven days before the subpoena is served on the person required to produce and per-
39 mit inspection, unless the court orders a shorter period.

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

44 (b) If a peace officer's attendance at trial is required as a result of employment as a peace of-
45 ficer, a subpoena may be served on the officer by delivering a copy personally to the officer or to

1 an individual designated by the agency that employs the officer no later than 10 days prior to the
2 date attendance is sought. A subpoena may be served in this manner only if the officer is currently
3 employed as a peace officer and is present within the state at the time of service.

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

9 (d) As used in this subsection, "law enforcement agency" means the Oregon State Police, a
10 county sheriff's department, a municipal police department[,] **or** a police department established by
11 a university under section 1, chapter 506, Oregon Laws 2011 (Enrolled Senate Bill 405)[, *or, if the*
12 *witness whose attendance at trial is required is an authorized tribal police officer as defined in section*
13 *1 of this 2011 Act, a tribal government as defined in section 1 of this 2011 Act*].

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

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

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

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

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

28 **SECTION 76. If Senate Bill 405 becomes law, the amendments to ORS 90.440, 133.721,**
29 **133.726, 136.595, 163.730, 165.535 and 419B.902 by sections 61 to 68 of this 2011 Act become**
30 **operative on January 1, 2012.**

31 **SECTION 77.** If Senate Bill 405 becomes law, section 58 of this 2011 Act is amended to read:

32 **Sec. 58.** (1) Sections 1 to 4 of this 2011 Act are repealed on July 1, 2015.

33 (2) The amendments to ORS 40.275, 90.440, 133.005, 133.525, 133.721, 133.726, 136.595, 147.425,
34 153.005, 161.015, 163.730, 165.535, 181.010, 181.610, 181.781, 181.783, 181.796, 348.270, 414.805,
35 419B.902, 420.905, 801.395, 811.720 and 830.005 by sections 37 to 57 **and 69 to 75** of this 2011 Act
36 become operative on July 1, 2015.

37 (3) The repeal of sections 1 to 4 of this 2011 Act by subsection (1) of this section and the
38 amendments to ORS 40.275, 90.440, 133.005, 133.525, 133.721, 133.726, 136.595, 147.425, 153.005,
39 161.015, 163.730, 165.535, 181.010, 181.610, 181.781, 181.783, 181.796, 348.270, 414.805, 419B.902,
40 420.905, 801.395, 811.720 and 830.005 by sections 37 to 57 **and 69 to 75** of this 2011 Act:

41 (a) Return the law applicable to tribal police officers to the state in which the law existed on
42 the date immediately before the effective date of this 2011 Act; and

43 (b) Do not deprive tribal police officers of any power, authority or protection provided to tribal
44 police officers by law on the date immediately before the effective date of this 2011 Act.

45

EMERGENCY CLAUSE

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SECTION 78. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.
