

# House Bill 2179

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Enables Department of Human Services to obtain criminal offender information about alleged perpetrators of child abuse or neglect, and about household members of alleged victims of child abuse or neglect, without providing prior notice to or obtaining consent from subject of criminal offender record check. Requires department to notify subject of criminal offender record check when investigation continues after receipt of criminal offender information.

Adopts federal criminal records checks criteria for disqualification of prospective child caregivers. Specifies operative date.

## A BILL FOR AN ACT

1  
2 Relating to criminal records checks; creating new provisions; and amending ORS 181.557 and  
3 418.016.

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

5 **SECTION 1.** ORS 181.557 is amended to read:

6 181.557. (1) When a designated agency requests criminal offender information about an individ-  
7 ual from the Department of State Police under ORS 181.555 (1) for agency employment, licensing or  
8 other permissible purposes, the agency shall provide documentation that the individual:

9 [(1)] (a) Gave prior written consent for the agency to make a criminal offender record check  
10 through the department; or

11 [(2)] (b) Has received written notice from the agency that a criminal offender record check may  
12 be made through the department. Notice shall be provided prior to the time the request is made  
13 and shall include:

14 [(a)] (A) **A statement that the individual may challenge the accuracy of criminal offender**  
15 **information and** notice of the manner in which the individual may be informed of the procedures  
16 adopted under ORS 181.555 (3) for challenging inaccurate criminal offender information; and

17 [(b)] (B) **A statement that Title VII of the Civil Rights Act of 1964 may apply to some**  
18 **individuals affected by this subsection,** notice of the manner in which the individual may become  
19 informed of rights, if any, under Title VII of the Civil Rights Act of 1964, and notice that discrimi-  
20 nation by an employer on the basis of arrest records alone may violate federal civil rights law and  
21 that the individual may obtain further information by contacting the Bureau of Labor and Industries.

22 **(2) Notwithstanding subsection (1) of this section, the Department of Human Services**  
23 **may obtain criminal offender information from the Department of State Police about an in-**  
24 **dividual without first obtaining the individual's written consent or giving written notice to**  
25 **the individual when:**

26 (a) **The criminal offender record check is requested for the purpose of investigating a**  
27 **report of child abuse or neglect; and**

28 (b) **The individual is either an alleged perpetrator of the reported child abuse or neglect**

**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 or is an individual who resides in or frequents the alleged victim's residence.

2 (3)(a) The Department of Human Services shall provide written notice to the individual  
3 of the criminal offender record check when:

4 (A) The Department of Human Services obtains criminal offender information under  
5 subsection (2) of this section; and

6 (B) The investigation of the reported child abuse or neglect continues after the depart-  
7 ment obtains the criminal offender information.

8 (b) Notice provided under this subsection shall include:

9 (A) A statement that the individual may challenge the accuracy of criminal offender in-  
10 formation and notice of the manner in which the individual may be informed of the proce-  
11 dures adopted under ORS 181.555 (3) for challenging inaccurate criminal offender  
12 information; and

13 (B) A statement that Title VII of the Civil Rights Act of 1964 may apply to some indi-  
14 viduals affected by this subsection and notice of the manner in which the individual may  
15 become informed of rights, if any, under Title VII of the Civil Rights Act of 1964.

16 **SECTION 2.** ORS 418.016 is amended to read:

17 418.016. (1) To protect the health and safety of children who are in the custody of the Depart-  
18 ment of Human Services and who may be placed in a foster home or adoptive home or with a rela-  
19 tive caregiver, the department shall adopt rules pursuant to ORS 181.534 and ORS chapter 418 to  
20 require that criminal records checks be conducted under ORS 181.534 on:

21 (a) All persons who seek to be foster parents, adoptive parents or relative caregivers; and

22 (b) Other individuals over 18 years of age who will be in the household of the foster parent,  
23 adoptive parent or relative caregiver.

24 (2) Rules adopted under subsection (1) of this section shall include:

25 (a) A list of crimes for which a conviction disqualifies a person from becoming a foster parent,  
26 adoptive parent or relative caregiver;

27 (b) A requirement that persons who have been convicted of crimes listed in the rules are dis-  
28 qualified from becoming a foster parent, adoptive parent or relative caregiver; and

29 (c) A provision that the department may approve a person who has been convicted of certain  
30 crimes listed in the rules if the person demonstrates to the department that:

31 (A) The person possesses the qualifications to be a foster parent or adoptive parent regardless  
32 of having been convicted of a listed crime; or

33 (B) The disqualification would create emotional harm to the child for whom the person is seek-  
34 ing to become a foster parent, adoptive parent or relative caregiver and placement of the child with  
35 the person would be a safe placement that is in the best interests of the child.

36 [(3) In accordance with 42 U.S.C. 671(a)(20)(B), the Legislative Assembly elects to make the pro-  
37 visions related to criminal records checks set forth in 42 U.S.C. 671(a)(20)(A) inapplicable to this  
38 state.]

39 **SECTION 3.** The amendments to ORS 418.016 by section 2 of this 2007 Act become oper-  
40 ative on October 1, 2008.