

Enrolled
Senate Bill 554

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Newspaper Publishers Association)

CHAPTER

AN ACT

Relating to public records; amending ORS 147.421, 192.440 and 802.183.

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

SECTION 1. ORS 192.440 is amended to read:

192.440. (1) The custodian of any public record that a person has a right to inspect shall give the person, *[on demand]* **upon request:**

(a) A *[certified]* copy of the public record if the public record is of a nature permitting copying; or

(b) A reasonable opportunity to inspect or copy the public record.

(2) If a person makes a written request to inspect a public record or to receive a copy of a public record, the public body receiving the request shall respond as soon as practicable and without unreasonable delay. The public body may request additional information or clarification from the requester for the purpose of expediting the public body's response to the request. The response of the public body must acknowledge receipt of the request and must include one of the following:

(a) A statement that the public body does not possess, or is not the custodian of, the public record.

(b) Copies of all requested public records for which the public body does not claim an exemption from disclosure under ORS 192.410 to 192.505.

(c) A statement that the public body is the custodian of at least some of the requested public records, an estimate of the time the public body requires before the public records may be inspected or copies of the records will be provided and an estimate of the fees that the requester must pay under subsection (4) of this section as a condition of receiving the public records.

(d) A statement that the public body is the custodian of at least some of the requested public records and that an estimate of the time and fees for disclosure of the public records will be provided by the public body within a reasonable time.

(e) A statement that the public body is uncertain whether the public body possesses the public record and that the public body will search for the record and make an appropriate response as soon as practicable.

(f) A statement that state or federal law prohibits the public body from acknowledging whether the record exists or that acknowledging whether the record exists would result in the loss of federal benefits or other sanction. A statement under this paragraph must include a citation to the state or federal law relied upon by the public body.

[2] (3) If the public record is maintained in a machine readable or electronic form, the custodian shall provide a copy of the public record in the form requested, if available. If the public record is not available in the form requested, the custodian shall make the public record available in the form in which the custodian maintains the public record.

[3(a)] (4)(a) The public body may establish fees reasonably calculated to reimburse the public body for the public body's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the person's request.

(b) The public body may include in a fee established under paragraph (a) of this subsection the cost of time spent by an attorney for the public body in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records. The public body may not include in a fee established under paragraph (a) of this subsection the cost of time spent by an attorney for the public body in determining the application of the provisions of ORS 192.410 to 192.505.

(c) The public body may not establish a fee greater than \$25 under this section unless the public body first provides the requestor with a written notification of the estimated amount of the fee and the requestor confirms that the requestor wants the public body to proceed with making the public record available.

(d) Notwithstanding paragraphs (a) to (c) of this subsection, when the public records are those filed with the Secretary of State under ORS chapter 79 or ORS 80.100 to 80.130, the fees for furnishing copies, summaries or compilations of the public records are those established by the Secretary of State by rule, under ORS chapter 79 or ORS 80.100 to 80.130.

[4] (5) The custodian of any public record may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public.

[5] (6) A person who believes that there has been an unreasonable denial of a fee waiver or fee reduction may petition the Attorney General or the district attorney in the same manner as a person petitions when inspection of a public record is denied under ORS 192.410 to 192.505. The Attorney General, the district attorney and the court have the same authority in instances when a fee waiver or reduction is denied as it has when inspection of a public record is denied.

(7) A public body shall make available to the public a written procedure for making public record requests that includes:

(a) The name of one or more persons to whom public record requests may be sent, with addresses; and

(b) The amounts of and the manner of calculating fees that the public body charges for responding to requests for public records.

[6] (8) This section does not apply to signatures of individuals submitted under ORS chapter 247 for purposes of registering to vote as provided in ORS 247.973.

SECTION 2. ORS 147.421 is amended to read:

147.421. (1) If a public body is the custodian of any of the following information, upon the request of the victim, the public body shall provide to the victim any of the following information of which it is the custodian and that is about the defendant or convicted criminal:

- (a) The conviction and sentence;
- (b) Criminal history;
- (c) Imprisonment; and
- (d) Future release from physical custody.

(2) A public body, in its discretion, may provide the requested information by furnishing the victim with copies of public records. The public body may charge the victim its actual cost for making public records available as provided in ORS 192.440 [(3)] (4).

(3) As used in this section:

(a) "Criminal history" means a description of the prior arrests, convictions and sentences of the person.

(b) "Future release" means the projected or scheduled date of release of the person from confinement, the name and location of the correctional facility from which the person is to be released and the community where the person is scheduled to reside upon release.

(c) "Imprisonment" means the name and location of the correctional facility in which the person is confined.

(d) "Public body" has the meaning given that term in ORS 192.410.

SECTION 3. ORS 802.183 is amended to read:

802.183. (1) The Department of Transportation may establish fees reasonably calculated to reimburse it for its actual cost in making personal information available to a person or government agency authorized under ORS 802.179 to obtain the information. Fees established under this subsection are subject to the provisions of ORS 192.440 [(3) to (5)] **(4) to (6)**.

(2) The department may adopt rules specifying conditions that must be met by a person or government agency requesting personal information under ORS 802.179. Such conditions may include but need not be limited to:

(a) Providing reasonable assurance of the identity of the requester;

(b) Providing reasonable assurance of the uses to which the personal information will be put, if applicable;

(c) Showing that the individual whose personal information is to be disclosed has given permission for the disclosure, if permission is required; and

(d) Submitting a written request for the personal information in a form prescribed by the department.

Passed by Senate April 17, 2007

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Secretary of Senate

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President of Senate

Passed by House June 4, 2007

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Speaker of House

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State