

# Senate Bill 250

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## SUMMARY

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

Requires Department of State Police to provide defendant's computerized criminal history to district attorney. Requires district attorney to disclose criminal history to defendant in discovery.

## A BILL FOR AN ACT

1  
2 Relating to computerized criminal history; creating new provisions; and amending ORS 135.815,  
3 181.555 and 419C.270.

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

5 **SECTION 1.** ORS 135.815 is amended to read:

6 135.815. (1) Except as otherwise provided in ORS 135.855 and 135.873, the district attorney shall  
7 disclose to a represented defendant the following material and information within the possession or  
8 control of the district attorney:

9 (a) The names and addresses of persons whom the district attorney intends to call as witnesses  
10 at any stage of the trial, together with their relevant written or recorded statements or memoranda  
11 of any oral statements of such persons.

12 (b) Any written or recorded statements or memoranda of any oral statements made by the de-  
13 fendant, or made by a codefendant if the trial is to be a joint one.

14 (c) Any reports or statements of experts, made in connection with the particular case, including  
15 results of physical or mental examinations and of scientific tests, experiments or comparisons which  
16 the district attorney intends to offer in evidence at the trial.

17 (d) Any books, papers, documents, photographs or tangible objects:

18 (A) Which the district attorney intends to offer in evidence at the trial; or

19 (B) Which were obtained from or belong to the defendant.

20 (e) If actually known to the district attorney, any record of prior criminal convictions of persons  
21 whom the district attorney intends to call as witnesses at the trial; and the district attorney shall  
22 make a good faith effort to determine if such convictions have occurred.

23 ~~[(f)]~~ **(2) The Department of State Police shall provide the district attorney with comput-**  
24 **erized criminal offender information that describes** all prior convictions of the defendant known  
25 to the state that would affect the determination of the defendant's criminal history for sentencing  
26 under rules of the Oregon Criminal Justice Commission. **The district attorney shall disclose the**  
27 **computerized criminal offender information to a represented defendant.**

28 ~~[(2)]~~ **(3)** Except as otherwise provided in ORS 135.855 and 135.873, in prosecutions for violation  
29 of ORS 813.010 in which an instrument was used to test a person's breath, blood or urine to deter-  
30 mine the alcoholic content of the person's blood the district attorney shall disclose to a represented

**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 defendant at least the following material and information within the possession or control of the  
 2 district attorney:

- 3 (a) Any report prepared by a police officer relating to field tests, interviews, observations and  
 4 other information relating to the charged offense;
- 5 (b) Any report relating to the test results;
- 6 (c) A copy of the form provided to the defendant under ORS 813.100 (3)(b); and
- 7 (d) Any checklist prepared by the operator of the instrument for the test.

8 [(3)(a)] **(4)(a)** If a defendant is not represented by a lawyer, the district attorney shall disclose  
 9 to the defendant all of the information described in subsections (1) [and (2)] **to (3)** of this section  
 10 except for the personal identifiers of the victim and any witnesses.

11 (b) Notwithstanding paragraph (a) of this subsection, the district attorney shall disclose the  
 12 personal identifiers of the victim and any witnesses if the trial court orders the disclosure. A trial  
 13 court shall order the district attorney to disclose the personal identifiers of the victim and any  
 14 witnesses if the trial court finds that:

15 (A) The defendant has requested the information; and

16 (B)(i) The victim or witness is a business or institution and disclosure of the information would  
 17 not represent a risk of harm to the victim or witness; or

18 (ii) The need for the information cannot reasonably be met by other means.

19 [(4)(a)] **(5)(a)** Unless authorized by the trial court to disclose the information, a lawyer repre-  
 20 senting a defendant, or a representative of the lawyer, may not disclose to the defendant personal  
 21 identifiers of a victim or witness obtained under subsections (1) [and (2)] **to (3)** of this section.

22 (b) The trial court shall order the lawyer, or representative of the lawyer, to disclose to the  
 23 defendant the personal identifiers of a victim or witness if the court finds that:

24 (A) The defendant’s lawyer has requested the district attorney to disclose the information to the  
 25 defendant;

26 (B) The district attorney has refused to disclose the information to the defendant; and

27 (C) The need for the information cannot reasonably be met by other means.

28 [(5)] **(6)** As used in this section:

29 (a) “Personal identifiers” means a person’s address, telephone number, Social Security number  
 30 and date of birth and the identifying number of a person’s depository account at a financial insti-  
 31 tution, as defined in ORS 706.008, or credit card account.

32 (b) “Representative of the lawyer” has the meaning given that term in ORS 40.225.

33 (c) “Represented defendant” means a defendant who is represented by a lawyer in a criminal  
 34 action.

35 **SECTION 2.** ORS 181.555 is amended to read:

36 181.555. The Department of State Police shall adopt rules under ORS chapter 183 establishing  
 37 procedures:

38 (1) To provide access to criminal offender information by criminal justice agencies and by other  
 39 state and local agencies. **Rules adopted under this subsection must include procedures that**  
 40 **comply with ORS 135.815.**

41 (2)(a) To permit a person or agency not included in subsection (1) of this section to inquire as  
 42 to whether the department has compiled criminal offender information on an individual.

43 (b) To provide that any person making an inquiry under paragraph (a) of this subsection furnish  
 44 the department with such information known to the inquirer as will assist the department in iden-  
 45 tifying and notifying the individual about whom the information is sought. If the information is

1 sought by an employer for employment purposes, the employer first shall have advised the employee  
2 or prospective employee that such information might be sought and shall state upon making the  
3 request that the individual has been so advised and the manner in which the individual was so ad-  
4 vised.

5 (3) To provide each individual about whom criminal offender information has been compiled the  
6 right to inspect and challenge that criminal offender information.

7 (4) Providing for purging or updating of inaccurate or incomplete information.

8 **SECTION 3.** ORS 419C.270 is amended to read:

9 419C.270. In all proceedings brought under ORS 419C.005, the following rules of criminal pro-  
10 cedure apply:

11 (1) ORS 133.673, 133.693 and 133.703;

12 (2) ORS 135.455, 135.465 and 135.470;

13 (3) ORS 135.610, 135.630 (3) to (6), 135.640 and 135.670;

14 (4) ORS 135.711, 135.713, 135.715, 135.717, 135.720, 135.725, 135.727, 135.730, 135.733, 135.735,  
15 135.737, 135.740 and 135.743;

16 (5) ORS 135.805 and 135.815 (1)(a) to (e) and [(2)] (3);

17 (6) ORS 135.825, 135.835, 135.845 and 135.855 to 135.873; and

18 (7) ORS 136.432.

19 **SECTION 4. The amendments to ORS 135.815, 181.555 and 419C.270 by sections 1 to 3 of**  
20 **this 2009 Act apply to prosecutions commenced on or after the effective date of this 2009 Act.**

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