

Senate Bill 708

Sponsored by Senator STARR (at the request of Dennis Griffiths)

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**.

Provides that if person applies for employment with law enforcement agency all former and current employers of person, and all employers to which employee has made application for employment, upon request must provide to law enforcement agency all information available to employers relating to person. Limits use of information received by law enforcement agency under Act.

Allows employee to inspect information received by law enforcement agency under Act.

A BILL FOR AN ACT

1
2 Relating to employment by law enforcement agency; creating new provisions; and amending ORS
3 652.750.

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

5 **SECTION 1. (1) For the purposes of this section, "law enforcement agency" means a**
6 **public body, as defined in ORS 174.109, that employs peace officers as defined in ORS 161.015.**

7 **(2) Except as provided in subsection (3) of this section, if a person applies for employment**
8 **with a law enforcement agency, all former and current employers of the person, and all**
9 **employers to which the person has made an application for employment, upon request must**
10 **provide to the law enforcement agency all information available to the employers relating to**
11 **the person, including but not limited to:**

12 **(a) The date the person began employment with a former or current employer;**

13 **(b) The person's termination date with a former employer;**

14 **(c) Salary or wage rates for the person during the person's employment with a former**
15 **or current employer;**

16 **(d) The person's application for employment;**

17 **(e) Background investigation reports and other records relating to investigations of the**
18 **person;**

19 **(f) Performance evaluations and other evaluations of the person;**

20 **(g) The person's attendance records;**

21 **(h) All records and reports relating to discipline of the person;**

22 **(i) If the person was terminated by a former employer, a statement of why the person**
23 **was terminated, a statement of whether the termination was voluntary or involuntary, and**
24 **all written records and reports relating to the termination; and**

25 **(j) A statement as to whether the person would be rehired by the former employer, and**
26 **if the employer would not rehire the person, a statement of the reasons.**

27 **(3) An employer may not provide any information to a law enforcement agency under this**
28 **section if release of the information is prohibited by other state law or by federal law.**

29 **(4) A request under this section must:**

30 **(a) Be in writing;**

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 **(b) Be accompanied by a notarized authorization consenting to release of the information**
 2 **that is signed by the person applying for employment; and**

3 **(c) Be presented to the employer by an authorized representative of the law enforcement**
 4 **agency.**

5 **(5) Information received by a law enforcement agency pursuant to a request made under**
 6 **this section may be used only to determine whether to employ the person who is applying for**
 7 **employment and may not be disclosed to any other person except another law enforcement**
 8 **agency who requests the information under this section.**

9 **(6) Any provision of an employment termination agreement or severance agreement that**
 10 **conflicts with the requirements of this section is void.**

11 **SECTION 2.** ORS 652.750 is amended to read:

12 652.750. (1) As used in this section,[:]

13 [(a)] “employer” has the meaning given that term in ORS 656.005.

14 [(b)] *“Personnel records” does not include records of an individual relating to the conviction, arrest*
 15 *or investigation of conduct constituting a violation of the criminal laws of this state or another state*
 16 *or the United States, confidential reports from previous employers or records maintained in compliance*
 17 *with ORS 351.065.]*

18 (2) Within 45 days after receipt of the request of an employee, the employer shall provide rea-
 19 sonable opportunity for the employee to inspect, at the place of employment or place of work as-
 20 signment, the personnel records of the employee that are used or have been used to determine the
 21 employee’s qualification for employment, promotion, additional compensation or employment termi-
 22 nation or other disciplinary action. Within 45 days after receipt of the request of the employee, the
 23 employer shall furnish a certified copy of the records.

24 (3) Upon termination of employment, the employer shall keep the terminated employee’s per-
 25 sonnel records for not less than 60 days. The terminated employee may request a certified copy of
 26 the records within the 60-day period or at any time thereafter if the employer has the records at the
 27 time of the request. Within 45 days after receipt of the request, the employer shall furnish a certified
 28 copy of the records.

29 (4) Notwithstanding the time periods described in subsections (2) and (3) of this section, if the
 30 employee’s personnel records are not readily available, the employer and the employee may agree
 31 to extend the time within which the employer must provide the employee reasonable opportunity to
 32 inspect the records or furnish the employee a certified copy of the records.

33 (5) An employer may charge an employee for the services referred to in subsections (2) and (3)
 34 of this section only an amount that is reasonably calculated to recover the actual cost of providing
 35 the services.

36 **(6) The requirements of this section do not apply to records of an individual relating to**
 37 **the conviction, arrest or investigation of conduct constituting a violation of the criminal laws**
 38 **of this state or another state or the United States.**

39 **(7)(a) Except as provided in paragraph (b) of this subsection, the requirements of this**
 40 **section do not apply to confidential reports from previous employers.**

41 **(b) The requirements of this section apply to any information provided to a law enforce-**
 42 **ment agency under the provisions of section 1 of this 2009 Act.**

43 **(8) The requirements of this section do not apply to records maintained in compliance**
 44 **with ORS 351.065.**