

(To Resolve Conflicts)

## A-Engrossed Senate Bill 68

Ordered by the House June 6  
Including House Amendments dated June 6 to resolve conflicts

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Department of State Police)

### 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.

Updates language in statutes to reflect current organization and operation of Department of State Police.

Declares emergency, effective on passage.

### A BILL FOR AN ACT

1  
2 Relating to the Department of State Police; amending ORS 44.552, 44.554, 44.556, 44.558, 44.560,  
3 44.562, 44.564, 137.225, 144.102, 144.270, 166.291, 181.010, 181.020, 181.030, 181.066, 181.070,  
4 181.080, 181.090, 181.120, 181.130, 181.150, 181.210, 181.220, 181.240, 181.250, 181.260, 181.410,  
5 181.511, 181.521, 181.530, 181.533, 181.538, 181.595, 181.596, 181.597, 181.660, 194.024, 240.205,  
6 240.580, 250.048, 418.701, 419A.250, 426.160, 427.293 and 461.110 and section 27, chapter \_\_\_\_\_,  
7 Oregon Laws 2011 (Enrolled Senate Bill 408); repealing ORS 181.040, 181.170, 181.265, 181.290,  
8 181.300, 181.310, 181.320, 181.330, 181.340, 181.350, 181.360, 181.450, 181.455, 181.460, 181.465,  
9 181.470, 181.475, 181.480, 181.485, 181.490, 181.495, 181.496 and 181.497 and section 12, chapter  
10 \_\_\_\_\_, Oregon Laws 2011 (Enrolled Senate Bill 408); and declaring an emergency.

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

12 **SECTION 1.** ORS 181.010 is amended to read:

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

15 [(1) "Bureau" means the Department of State Police bureau of criminal identification.]

16 [(2)] (1) "Criminal justice agency" means:

17 (a) The Governor;

18 (b) Courts of criminal jurisdiction;

19 (c) The Attorney General;

20 (d) District attorneys, city attorneys with criminal [*prosecutive*] **prosecutorial** functions, attor-  
21 ney employees of the office of public defense services and nonprofit public defender organizations  
22 established under contract with the Public Defense Services Commission;

23 (e) Law enforcement agencies;

24 (f) The Department of Corrections;

25 (g) **The Oregon Youth Authority;**

**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 [(g)] (h) The State Board of Parole and Post-Prison Supervision;

2 [(h)] (i) The Department of Public Safety Standards and Training; *[and]*

3 (j) **Regional information systems that share programs to track, identify and remove**  
4 **cross-jurisdictional criminal and terrorist conspiracies; and**

5 [(i)] (k) Any other state or local agency with law enforcement authority *[designated by order of*  
6 *the Governor]*.

7 [(3)] (2) "Criminal offender information" includes records and related data as to physical de-  
8 scription and vital statistics, fingerprints received and compiled *[by the bureau]* for purposes of  
9 identifying criminal offenders and alleged offenders, records of arrests and the nature and dispo-  
10 sition of criminal charges, including sentencing, confinement, parole and release.

11 [(4)] (3) "Department" means the Department of State Police established under ORS 181.020.

12 [(5)] (4) "Deputy superintendent" means the Deputy Superintendent of State Police **appointed**  
13 **under ORS 181.220.**

14 [(6)] (5) "Designated agency" means any state, county or municipal government agency where  
15 Oregon criminal offender information is required to implement a federal or state statute, executive  
16 order or administrative rule that expressly refers to criminal conduct and contains requirements or  
17 exclusions expressly based on such conduct or for agency employment purposes, licensing purposes  
18 or other demonstrated and legitimate needs when designated by order of the Governor.

19 [(7)] (6) "Disposition report" means a form or process prescribed or furnished by the *[bureau]*  
20 **department**, containing a description of the ultimate action taken subsequent to an arrest.

21 [(8)] (7) "Law enforcement agency" means county sheriffs, municipal police departments, state  
22 police, other police officers of this state *[and other states]* **or another state** and law enforcement  
23 agencies of the federal government.

24 [(9)] (8) "State police" means the **sworn** members of the state police force appointed under ORS  
25 181.250.

26 [(10)] (9) "Superintendent" means the Superintendent of State Police **appointed under ORS**  
27 **181.200.**

28 **SECTION 2.** ORS 181.020 is amended to read:

29 181.020. (1) There is established a Department of State Police.

30 (2) The department shall consist of *[office personnel and the Oregon State Police. The Oregon*  
31 *State Police shall consist of]* **sworn** members of the state police force appointed under ORS  
32 181.250*[, state police cadets and legislative security personnel appointed under ORS 181.265]* **and**  
33 **nonsworn professional personnel necessary to carry out the department's public safety**  
34 **functions.**

35 **SECTION 3.** ORS 181.030 is amended to read:

36 181.030. (1) The Department of State Police and *[each member]* **the members** of the Oregon  
37 State Police *[shall be]* **are** charged with the enforcement of:

38 (a) All criminal laws*[.]; and*

39 (b) **All laws applicable to highways and the operation of vehicles on highways.**

40 (2) Each member of the state police is authorized and empowered to:

41 (a) Prevent crime.

42 (b) Pursue and apprehend offenders and obtain legal evidence necessary to ensure the conviction  
43 *[in the courts]* of the offenders **in the courts.**

44 (c) Institute criminal proceedings.

45 (d) Execute any lawful warrant or order of arrest issued against any person or persons for any

1 violation of the law.

2 (e) Make arrests without warrant for violations of law in the manner provided in ORS 133.310.

3 (f) Give first aid to the injured.

4 [(g) Succor the helpless.]

5 (3) Each member of the state police [*shall have in general the same*] **has the same general**  
6 powers and authority as those conferred by law upon sheriffs, police officers, constables and peace  
7 officers. A member of the state police may be appointed as a deputy medical examiner.

8 (4) The members of the state police are subject to the call of the Governor[,] and are empowered  
9 to cooperate with any other instrumentality or authority of [*the*] **this** state, or any political subdivi-  
10 sion, in detecting crime, apprehending criminals and preserving law and order throughout [*the*]  
11 **this** state, but the state police may not be used as a posse except when ordered by the Governor.

12 **SECTION 4.** ORS 181.066 is amended to read:

13 181.066. [(1) *There is established in the Department of State Police a bureau of criminal identifi-*  
14 *cation which shall be operated by the department.*]

15 [(2)] The [*bureau*] **Department of State Police** shall:

16 [(a)] (1) Install and maintain systems for filing and retrieving fingerprint data and supplemental  
17 information submitted by criminal justice agencies for the identification of criminal offenders as the  
18 Superintendent of State Police deems necessary;

19 [(b)] (2) Employ its fingerprint record file as a basis for identifying individuals and provide  
20 criminal offender information to criminal justice agencies [*while acting*] in the performance of  
21 [*their*] **the agencies'** official duties;

22 [(c)] (3) Provide information to persons and agencies as provided in ORS 181.555 and 181.560;  
23 and

24 [(d)] (4) Undertake [*such*] other projects as [*are*] necessary or appropriate to the speedy col-  
25 lection and dissemination of information relating to crimes and criminals.

26 **SECTION 5.** ORS 181.070 is amended to read:

27 181.070. (1) The Superintendent of State Police may[, *with the approval of the Governor, maintain*  
28 *a state detective bureau under the immediate supervision of the superintendent.*]:

29 (a) **Maintain a criminal investigations division for the purpose of preventing, detecting**  
30 **and investigating criminal activity.**

31 (b) **Enter into partnerships with local criminal justice agencies to provide expertise in the**  
32 **investigation and resolution of crimes and criminal activity.**

33 [(2) *The detective bureau shall:*]

34 [(a) *Maintain facilities for the detection of crime by the state police.*]

35 [(b) *Supply expert information on handwriting and ballistics.*]

36 [(3)] (2) [*To accomplish the*] **For** purposes of subsection [(2)] (1) of this section, the superinten-  
37 dent may[, *with the approval of the Governor, utilize*] **use** the services of such members of the state  
38 police as [*assistant state*] detectives as the superintendent [*deems expedient*] **considers necessary.**

39 **SECTION 6.** ORS 181.080 is amended to read:

40 181.080. (1) The Department of State Police may establish forensic laboratories.

41 (2) **Subject to available funding,** the **forensic** laboratories shall furnish [*service as available to*  
42 *all district attorneys, sheriffs and other peace officers in the*] **generally accepted types of forensic**  
43 **services to criminal justice agencies in this** state. The services of the **forensic** laboratories  
44 [*shall*] **must** also be available to [*any*] a defendant in a criminal case [*on*] **upon** order of the court  
45 [*before*] **in** which the criminal case is pending.

1       **SECTION 7.** ORS 181.090 is amended to read:

2       181.090. (1) The Superintendent of State Police[, *with the approval of the Governor,*] may estab-  
3       lish headquarters and patrol stations at such places as the superintendent [*may deem most*] **consid-**  
4       **ers** advisable for the patrol and protection of [*the*] **this** state and [*for*] the enforcement of the laws.

5       (2) [*For that purpose, with the approval of the Governor,*] **For purposes of this section,** the  
6       superintendent may use lands and buildings for the accommodation of members of the state police  
7       and their vehicles and equipment.

8       **SECTION 8.** ORS 181.120 is amended to read:

9       181.120. (1) The State of Oregon shall provide the members of the state police with standard  
10       uniforms.

11       (2) [*Subject to detailed regulations and specifications prescribed by*] The Superintendent of State  
12       Police[, *the uniform to be worn by members of the state police shall be of*] **shall specify a standard**  
13       pattern and distinctive design **for the uniforms required under this section.**

14       **SECTION 9.** ORS 181.130 is amended to read:

15       181.130. The Superintendent of State Police may direct [*that*] members of the state police  
16       [*shall*] **to** serve without wearing uniform[, ] when, in the judgment of the superintendent, **servin**  
17       **g without uniform makes** law enforcement [*will thereby be made*] more efficient.

18       **SECTION 10.** ORS 181.150 is amended to read:

19       181.150. (1) The State **of Oregon** shall provide the members of the state police with emergency  
20       [*and first aid*] outfits, weapons[, ] **and** motor vehicles[, ] and all other **emergency and first-aid** sup-  
21       plies and equipment necessary to carry out the [*objects*] **public safety functions** of the Department  
22       of State Police.

23       (2)(a) [*This property shall remain*] **The property described in subsection (1) of this section**  
24       **remains** the property of [*the*] **this** state with the exception of a retiring or deceased officer's  
25       department-issued service [*revolver*] **weapon**, which may be sold by the department to the officer or,  
26       in the case of a deceased officer, to a member of the officer's family, upon the officer's retirement  
27       or death, and the officer's badge, which may be given to the officer or, in the case of a deceased  
28       officer, to a member of the deceased officer's family, upon the officer's retirement or death.

29       (b) [*When a service revolver is*] **A service weapon** sold pursuant to this [*section, it shall*] **sub-**  
30       **section must** be sold for its fair market value.

31       (c) [*The badge shall*] **A badge given to an officer or an officer's family member pursuant**  
32       **to this subsection must** be marked to indicate the officer's retirement status and [*under no cir-*  
33       *cumstance shall it*] **may not** be used for official police identification other than as a memento of  
34       service to the department.

35       [(2)] (3) [*When any of the*] **Surplus, obsolete or unused** property, supplies or equipment [*be-*  
36       *comes surplus, obsolete or unused it shall*] **must** be disposed of by the Oregon Department of Ad-  
37       ministrative Services as provided in ORS 279A.280.

38       [(3)] (4)(a) For purposes of ORS chapters 279A and 279B, the sale of a service [*revolver*] **weapon**  
39       to a retiring officer by the department is not a public contract and [*shall not be*] **is not** subject to  
40       the competitive bidding requirements of ORS chapters 279A and 279B.

41       (b) The provisions of ORS 166.412 do not apply to transfers of firearms pursuant to this section.

42       **SECTION 11.** ORS 181.210 is amended to read:

43       181.210. **Before assuming their duties,** the Superintendent of State Police and the Deputy Su-  
44       perintendent of State Police[, *before assuming their duties, each*] shall take and subscribe an oath  
45       of office as prescribed by ORS 181.390 [*and shall be covered by a fidelity or blanket bond as provided*]

1 in ORS 291.011].

2 **SECTION 12.** ORS 181.220 is amended to read:

3 181.220. (1) The Superintendent of State Police may, with the approval of the Governor as to  
4 person and salary, appoint a Deputy Superintendent of State Police.

5 (2) The deputy superintendent [shall] **must** have served as a captain or in higher rank in the  
6 Oregon State Police not less than one year prior to [the appointment of the] **appointment as** deputy  
7 superintendent. [The deputy superintendent shall be removable for the causes and in the manner pro-  
8 vided in ORS 181.290 to 181.350 for the removal of members of the state police.]

9 **SECTION 13.** ORS 181.240 is amended to read:

10 181.240. The Deputy Superintendent of State Police[, when appointed and qualified, shall possess  
11 during the term of office of deputy superintendent all the powers of the Superintendent of State Police  
12 and] shall:

13 (1) Act as the head of the Department of State Police in the absence or incapacity of the  
14 Superintendent[, and shall] **of State Police; and**

15 (2) Perform such duties as the superintendent [may prescribe] **prescribes.**

16 **SECTION 14.** ORS 181.250 is amended to read:

17 181.250. The Superintendent of State Police[, with the approval of the Governor,] shall:

18 (1) Appoint a state police force **to be known as the Oregon State Police**, consisting of [the  
19 number of] commissioned officers, noncommissioned officers and troopers [who are, in the judgment  
20 of the Governor and the superintendent, necessary in the performance of the duties of the Department  
21 of State Police. The superintendent shall, subject to the laws of the state and with the approval of the  
22 Governor,];

23 (2) Arrange for the examination and enlistment of applicants **to the state police;** and

24 (3) Establish ranks or grades **in the state police.**

25 **SECTION 15.** ORS 181.260 is amended to read:

26 181.260. (1) [No person, other than an expert in crime detection, shall be] **A person** appointed a  
27 member of the state police [unless the person is] **must be:**

28 (a) A citizen of the United States.

29 (b) Of good health and [of] good moral character.

30 (c) Over the age of 21 years.

31 (2)(a) [No person shall] **Except as provided in paragraph (b) of this subsection, a person**  
32 **may not** be appointed a member of the state police [who] **if the person** has not established satis-  
33 factory evidence of qualifications by passing a physical [and mental] examination based [upon] **on**  
34 the standard provided by the rules and regulations of the United States Army[; but] **and such psy-**  
35 **chological testing and mental examinations as the Superintendent of State Police considers**  
36 **necessary as a condition of employment.**

37 (b) **When, in the judgment of the superintendent, the good of the state police requires it,**  
38 the superintendent [of State Police, with the approval of the Governor, may, for such positions and  
39 where, in the judgment of the superintendent, the good of the service requires it,] **may** waive the  
40 physical standard [provided by such rules and regulations] **described in paragraph (a) of this**  
41 **subsection.**

42 (3) [Any] **A** member who voluntarily withdraws from the state police [force] without the consent  
43 of the superintendent[, and all persons] **and members** removed from the state police for cause [after  
44 hearing, shall be] **are** ineligible for reappointment, **except as expressly authorized by the super-**  
45 **intendent.**

1 (4) The superintendent may appoint **police officers from a neighboring state to serve as**  
2 special state police officers *[upon]* **subject to** the following conditions:

3 (a) The officers are appointed for the limited purpose of providing assistance to the **Oregon**  
4 State Police in law enforcement emergencies and major operations in Oregon in areas near the  
5 Oregon border *[and]* **with** the neighboring state.

6 (b) The officers are police officers certified by the **neighboring** state *[bordering Oregon]*.

7 (c) The officers **do not** receive *[no]* separate compensation from the State of Oregon for their  
8 services.

9 (d) There is a reciprocal agreement *[wherein]* **pursuant to which** the Superintendent of State  
10 Police authorizes a member of the Oregon State Police to assist the *[bordering]* **neighboring** state's  
11 police officers under *[identically prescribed]* **the same** criteria in the neighboring state in areas near  
12 the Oregon border with the neighboring state.

13 (5) The Superintendent of State Police is authorized to enter into reciprocal agreements with  
14 *[bordering]* state law enforcement agencies **in neighboring states** for the purpose of providing as-  
15 sistance to the Oregon State Police and the *[bordering]* state law enforcement agency **in the**  
16 **neighboring state** in carrying out major operations and responding to **law enforcement** emergen-  
17 cies in areas near the Oregon border *[and the border of the adjacent]* **with the neighboring** state.

18 **SECTION 16.** ORS 181.410 is amended to read:

19 181.410. *[(1) Under rules and regulations to be promulgated by the Superintendent of State Police,*  
20 *with the approval of the Governor, all state police shall be required to keep a record of]* **The Oregon**  
21 **State Police shall:**

22 (1) **Keep records of the activities engaged in and** the time spent in the performance of their  
23 *[various]* duties; and

24 (2) Report *[same]* **the activities and time** to the Superintendent **of State Police** at such times  
25 as the superintendent *[shall direct]* **directs**.

26 *[(2) The superintendent shall approve all claims.]*

27 **SECTION 17.** ORS 181.511 is amended to read:

28 181.511. (1) *[A law enforcement agency]* Immediately upon the arrest of a person for a crime for  
29 which criminal offender information must be provided under ORS 181.515, **a law enforcement**  
30 **agency shall:**

31 (a) Place the arrested person's fingerprints and identifying data on forms prescribed or furnished  
32 by the Department of State Police *[bureau of criminal identification]*, photograph the arrested person  
33 and promptly transmit the form and photograph to the *[bureau]* **department**.

34 (b) If the arrest is disposed of by the arresting agency, cause the disposition report to be com-  
35 pleted and promptly transmitted to the *[bureau]* **department**.

36 (c) If the arrest is not disposed of by the agency, cause the disposition report to be forwarded[,  
37 *except as otherwise provided in section 3, chapter 553, Oregon Laws 1987,*] to the court that will dis-  
38 pose of the charge[,] for further action in accordance with ORS 181.521.

39 (2) A law enforcement agency may record, in addition to fingerprints, the palm prints, sole  
40 prints, toe prints or other personal identifiers when, in the discretion of the agency, it is necessary  
41 to effect identification of the persons or to the investigation of the crime charged.

42 (3) A law enforcement agency, for the purpose of identification, may record and submit to the  
43 *[bureau]* **department** the fingerprints of persons arrested for crimes for which criminal offender in-  
44 formation is not required under ORS 181.515.

45 **SECTION 18.** ORS 181.521 is amended to read:

1 181.521. When a court receives a disposition report from a law enforcement agency pursuant to  
2 ORS 181.511, the court shall transmit disposition information to the Department of State Police  
3 [*bureau of criminal identification*] in a manner and format determined by the State Court Adminis-  
4 trator after consultation with the [*bureau*] **department**.

5 **SECTION 19.** ORS 181.530 is amended to read:

6 181.530. (1)(a) The superintendent of any institution of this state shall notify the Department of  
7 State Police [*bureau of criminal identification*] prior to the release or immediately after the escape  
8 from the institution of any person committed to the institution for a crime for which a report is  
9 required or under civil commitment as a sexually dangerous person.

10 (b) The notice [*shall*] **required under this subsection must** state the name of the person to  
11 be released or who has escaped, the county in which the person was convicted or from which the  
12 person was committed and, if known, the address or locality at which the person will reside.

13 (2) Promptly upon receipt of the notice required [*by*] **under** subsection (1) of this section, the  
14 [*bureau*] **department** shall notify all law enforcement agencies in the county in which the person  
15 was convicted or from which the person was committed and in the county, if known, in which the  
16 person will reside.

17 **SECTION 20.** ORS 181.533 is amended to read:

18 181.533. (1) As used in this section:

19 (a) “Authorized agency” means the Department of State Police or other governmental agency  
20 designated by the State **of Oregon** to report, receive or disseminate criminal offender information.

21 (b) “Qualified entity” means a business or organization that:

22 (A) Provides care or placement services, or licenses or certifies others to provide care or  
23 placement services, for children, elderly persons or dependent persons;

24 (B) Is not governed by a state regulatory or licensing agency; and

25 (C) Has been determined by an authorized agency to meet the criteria established by the au-  
26 thorized agency by rule under subsection (9) of this section.

27 (c) “Subject individual” means a person who is employed or seeks to be employed by a qualified  
28 entity or who is providing services or seeks to provide services to a qualified entity on a contractual  
29 or volunteer basis.

30 (2) An entity may request from an authorized agency a criminal records check for purposes of  
31 evaluating the fitness of a subject individual as an employee, contractor or volunteer. The author-  
32 ized agency may access state and federal criminal records under this subsection only through use  
33 of the subject individual’s fingerprints.

34 (3) Before an authorized agency may conduct a criminal records check under this section:

35 (a) The authorized agency [*shall*] **must** determine whether the entity requesting the criminal  
36 records check is a qualified entity;

37 (b) The qualified entity must establish criteria to be used by the authorized agency in reviewing  
38 the criminal offender information for a final record check determination;

39 (c) The qualified entity must provide the criteria established under paragraph (b) of this sub-  
40 section to the authorized agency; and

41 (d) The qualified entity must have informed the subject individual that the qualified entity might  
42 request a fingerprint-based criminal records check and that the subject individual may obtain a copy  
43 of the record check report from, or challenge the accuracy or completeness of the record check re-  
44 port through, the authorized agency or the Federal Bureau of Investigation.

45 (4)(a) Upon receipt of a subject individual’s criminal offender information, the authorized agency

1 shall make a final record check determination by comparing the criminal offender information with  
 2 the criteria provided to the authorized agency by the qualified entity under subsection (3)(c) of this  
 3 section. In making the final record check determination, the authorized agency may consider only  
 4 information that the Department of State Police may disclose under ORS 181.560.

5 (b) An authorized agency is immune from civil liability that might otherwise be incurred or im-  
 6 posed for making the final record check determination under this subsection.

7 (5) An authorized agency may not transfer a fingerprint card used to conduct the criminal re-  
 8 cords check unless the public agency or person receiving the fingerprint card agrees to destroy or  
 9 return the fingerprint card to the authorized agency.

10 (6) If the public agency or person returns a fingerprint card to the authorized agency, the au-  
 11 thorized agency shall destroy the fingerprint card. The authorized agency may not keep a record  
 12 of the fingerprints.

13 (7) The authorized agency shall permit a subject individual to inspect the individual's Oregon  
 14 and Federal Bureau of Investigation criminal offender information after positive identification has  
 15 been established based upon fingerprints.

16 (8) Challenges to the accuracy or completeness of information provided by the authorized  
 17 agency, the Federal Bureau of Investigation and agencies reporting information to the authorized  
 18 agency or **the federal** bureau must be made through the authorized agency or **the federal** bureau.

19 (9) The authorized agency shall adopt rules to implement this section. The rules may include but  
 20 are not limited to:

21 (a) Criteria to be used by the authorized agency to determine whether an entity is a qualified  
 22 entity; and

23 (b) Fees to be charged for conducting criminal records checks under this section in amounts not  
 24 to exceed the actual costs of acquiring and furnishing criminal offender information.

25 **SECTION 21.** ORS 181.538 is amended to read:

26 181.538. (1) Upon the request of a Native American tribe, and in compliance with procedures  
 27 adopted by the Department of State Police under ORS 181.555, the Department of State Police shall  
 28 furnish to the authorized staff of the Native American tribe such information on a subject individual  
 29 or contractor as the Department of State Police may have in its possession [*from its central bureau*  
 30 *of criminal identification*], including but not limited to manual or computerized criminal offender in-  
 31 formation. With the approval of the Department of State Police, a local law enforcement agency  
 32 may furnish the information described in this subsection to a Native American tribe.

33 (2)(a) Subsequent to furnishing the information required under subsection (1) of this section, the  
 34 Department of State Police shall conduct nationwide criminal records checks of the subject indi-  
 35 vidual or contractor through the Federal Bureau of Investigation by use of the subject individual's  
 36 or contractor's fingerprints and shall report the results to the staff of the Native American tribe,  
 37 who must be specifically authorized to receive the information. In accordance with the procedures  
 38 of the Department of State Police, a local law enforcement agency may conduct the criminal records  
 39 check described in this paragraph if the local law enforcement agency has received approval under  
 40 subsection (1) of this section.

41 (b) The Department of State Police shall return the fingerprint cards to the Native American  
 42 tribe.

43 (3) For purposes of requesting and receiving the information and data described in subsections  
 44 (1) and (2) of this section, Native American tribes are designated agencies for purposes of ORS  
 45 181.010 to 181.560 and 181.715 to 181.730.



1 (4) As used in this section:

2 (a) "Contractor" means *[any natural person or corporation, trust, association, partnership, joint*  
3 *venture, subsidiary or other business entity with whom]* **an individual or entity with which** a Native  
4 American tribe intends to contract for the purpose of providing supplies or services related to tribal  
5 gaming, or *[any]* a control person of a contractor.

6 (b) "Control person" means:

7 (A) In a privately owned corporation, the officers, directors and stockholders of the parent  
8 company and, if applicable, each of its subsidiaries.

9 (B) In a publicly owned corporation, the officers and directors of the parent company, each of  
10 its subsidiaries and stockholders owning at least 15 percent of the company's stock.

11 (C) In a trust, the trustee and all persons entitled to receive income or benefit from the trust.

12 (D) In an association, the members, officers and directors.

13 (E) In a partnership or joint venture, the general partners, limited partners or joint venturers.

14 (F) A member of the immediate family of any of the persons listed in subparagraphs (A) to (E)  
15 of this paragraph if the person is involved in the business.

16 (G) A subcontractor of a contractor, if the subcontractor performs more than 50 percent of the  
17 contractor's contract with the Native American tribe.

18 (c) "Native American tribe" means *[any]* a recognized Native American tribe or band of tribes:

19 (A) Authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497),  
20 25 U.S.C. 2701 et seq., and the State of Oregon to conduct gambling operations on tribal land; or

21 (B) Eligible for special programs and services provided by the United States to Indians because  
22 of their status as Indians.

23 (d) "Subject individual" means *[a person]* **an individual** who is:

24 (A) Applying for employment at a tribal gaming facility as a key employee, high security em-  
25 ployee, low security employee or management employee; or

26 (B) Employed or applying for employment with a tribal government or agency responsible for  
27 child care, child welfare, law enforcement, education, health care, housing or social services.

28 **SECTION 22.** ORS 44.552 is amended to read:

29 44.552. (1) Whenever a police officer **or an employee of the Department of State Police** is  
30 called as an expert witness in a civil case by a party by whom the officer **or employee** is not em-  
31 ployed, a subpoena requiring attendance may be served by delivering a copy either to the officer  
32 **or employee** personally or to the officer's **or employee's** immediate superior.

33 (2)(a) *[Any]* A person causing a subpoena to be issued to compel the attendance of a police of-  
34 ficer **or an employee of the Department of State Police** before a tribunal shall indicate on the  
35 face of *[that]* **the** subpoena whether the person or the person's representative intends to ask the  
36 expert opinion of the officer **or employee** as to any aspect of the proceedings.

37 (b) A police officer *[shall]* **or an employee of the Department of State Police** may not be  
38 required by a tribunal to give the officer's **or employee's** expert opinion on any matter before the  
39 tribunal unless the subpoena compelling the officer's **or employee's** presence indicates that the  
40 officer's **or employee's** expert opinion will be asked.

41 **SECTION 23.** ORS 44.554 is amended to read:

42 44.554. (1) *[Any]* A police officer **or an employee of the Department of State Police** who is  
43 obliged by a subpoena issued pursuant to ORS 44.552 (2) to attend as an expert witness shall receive  
44 **from the law enforcement unit by which the officer is employed or the Department of State**  
45 **Police, respectively:**

1       **(a)** The salary or other compensation to which the officer **or employee** is normally entitled  
 2 [from the law enforcement unit by which the officer is employed] during the time that the officer **or**  
 3 **employee** travels to and from the place where the court or other tribunal is located and while the  
 4 officer **or employee** is required to remain at that place pursuant to [such] the subpoena[.]; **and**

5       **(b)** [The officer shall also receive from the law enforcement unit by which the officer is employed]  
 6 The actual necessary and reasonable traveling expenses incurred in complying with the subpoena.

7       **(2)(a)** The party at whose request a subpoena is issued pursuant to ORS 44.552 (2) compelling  
 8 the attendance of a police officer **or employee of the Department of State Police** as an expert  
 9 witness shall reimburse the law enforcement unit by which the officer is employed **or the Depart-**  
 10 **ment of State Police, respectively**, for the full cost to the law enforcement unit **or the depart-**  
 11 **ment** incurred in reimbursing the officer **or employee** as provided in subsection (1) of this section  
 12 for each day that the officer **or employee** is required to remain in attendance pursuant to the  
 13 subpoena.

14       **(b)** The amount of \$160 [shall] **must** be tendered with any subpoena issued under ORS 44.552  
 15 (2) to compel the attendance of a police officer **or an employee of the Department of State Police**  
 16 as an expert witness for each day that the officer **or employee** is required to remain in attendance  
 17 pursuant to the subpoena.

18       **(c) Notwithstanding paragraph (b) of this subsection**, if the person causing the issuance of  
 19 a subpoena requiring the expert opinion of a police officer **or an employee of the Department of**  
 20 **State Police** makes arrangements with the officer **or the employee** and with the tribunal prior to  
 21 the issuance of the subpoena to take the testimony of the officer **or employee** by telephone, and  
 22 testimony by telephone is otherwise allowed by the Oregon Rules of Civil Procedure, the amount  
 23 of \$80 shall be tendered with the subpoena for each day that the officer **or employee** is required  
 24 to testify pursuant to the subpoena.

25       **(3)** If the actual expenses [should later prove to be] **are** less than the amount tendered, the excess  
 26 of the amount tendered shall be refunded.

27       **(4)(a)** If the actual expenses [should later prove to be more] **are greater** than the amount  
 28 tendered, the difference shall be paid to the law enforcement unit by which the officer is employed  
 29 **or the Department of State Police, as appropriate**, by the party at whose request the subpoena  
 30 is issued.

31       **(b)** [However, no] **Notwithstanding paragraph (a) of this subsection**, additional amounts  
 32 [shall be due] **are not payable** unless, within seven days after the final day on which the officer  
 33 **or employee** appears in the proceedings, the law enforcement unit **or the Department of State**  
 34 **Police, respectively**, mails a statement to the party or to the party's attorney reflecting the addi-  
 35 tional amounts due.

36       **(5)** If a court or tribunal continues a proceeding on its own motion, no additional expert witness  
 37 fee may be required prior to the issuance of a subpoena or the making of an order directing the  
 38 officer **or employee** to appear on the date to which the proceeding is continued.

39       **SECTION 24.** ORS 44.556 is amended to read:

40       44.556. A police officer **or an employee of the Department of State Police** who is called as  
 41 an expert witness in a civil case may demand the payment specified in ORS 44.554 (2) for one day,  
 42 in advance, and when so demanded [shall] **may** not be compelled to attend until the payment is  
 43 tendered.

44       **SECTION 25.** ORS 44.558 is amended to read:

45       44.558. A police officer [shall] **or an employee of the Department of State Police may** not

1 be ordered to return by the court or tribunal for subsequent proceedings beyond the day stated in  
 2 the subpoena requiring the officer **or employee** to give the officer's **or employee's** expert opinion  
 3 referred to in ORS 44.552 (2) or the day upon which the officer **or employee** appeared under ORS  
 4 44.562 (2), unless the party at whose request the subpoena was issued, or the party at whose request  
 5 the officer **or employee** is ordered to return, shall first tender to the officer **or employee** the same  
 6 sum required to be tendered with a subpoena in the first instance.

7 **SECTION 26.** ORS 44.560 is amended to read:

8 44.560. ORS 44.552, 44.554 and 44.558 apply to subpoenas issued for the taking of depositions of  
 9 police officers **and employees of the Department of State Police**.

10 **SECTION 27.** ORS 44.562 is amended to read:

11 44.562. A police officer **or an employee of the Department of State Police** who has been  
 12 subpoenaed under ORS 44.552 and 44.560 for the purpose of giving the officer's **or employee's** ex-  
 13 pert opinion, in lieu of attendance at the time specified in the subpoena, may agree with the party  
 14 at whose request the subpoena was issued to appear at another time or pursuant to such notice as  
 15 may be agreed upon.

16 **SECTION 28.** ORS 44.564 is amended to read:

17 44.564. Whenever a police officer **or an employee of the Department of State Police** appears  
 18 as an expert witness under ORS 44.550 to 44.566 and reimbursement is not made as provided for in  
 19 ORS 44.550 to 44.566, the law enforcement unit by which the officer is employed [*shall have*] **or the**  
 20 **Department of State Police, respectively, has** standing to bring an action in order to recover  
 21 [*such*] **the** funds.

22 **SECTION 29.** ORS 137.225 is amended to read:

23 137.225. (1)(a) At any time after the lapse of three years from the date of pronouncement of  
 24 judgment, any defendant who has fully complied with and performed the sentence of the court and  
 25 whose conviction is described in subsection (5) of this section by motion may apply to the court  
 26 where the conviction was entered for entry of an order setting aside the conviction; or

27 (b) At any time after the lapse of one year from the date of any arrest, if no accusatory in-  
 28 strument was filed, or at any time after an acquittal or a dismissal of the charge, the arrested per-  
 29 son may apply to the court that would have jurisdiction over the crime for which the person was  
 30 arrested, for entry of an order setting aside the record of the arrest. For the purpose of computing  
 31 the one-year period, time during which the arrested person has secreted himself or herself within  
 32 or without [*the*] **this** state is not included.

33 (2)(a) A copy of the motion and a full set of the defendant's fingerprints shall be served upon  
 34 the office of the prosecuting attorney who prosecuted the crime or violation, or who had authority  
 35 to prosecute the charge if there was no accusatory instrument filed, and opportunity shall be given  
 36 to contest the motion. The fingerprint card with the notation "motion for setting aside conviction,"  
 37 or "motion for setting aside arrest record" as the case may be, shall be forwarded to the Department  
 38 of State Police [*bureau of criminal identification*]. Information resulting from the fingerprint search  
 39 along with the fingerprint card shall be returned to the prosecuting attorney.

40 (b) When a prosecuting attorney is served with a copy of a motion to set aside a conviction  
 41 under this section, the prosecuting attorney shall provide a copy of the motion and notice of the  
 42 hearing date to the victim, if any, of the crime by mailing a copy of the motion and notice to the  
 43 victim's last-known address.

44 (c) When a person makes a motion under subsection (1)(a) of this section, the person must pay  
 45 a fee of \$80. The person shall attach a certified check payable to the Department of State Police in

1 the amount of \$80 to the fingerprint card that is served upon the prosecuting attorney. The office  
 2 of the prosecuting attorney shall forward the check with the fingerprint card to the Department of  
 3 State Police [*bureau of criminal identification*].

4 (3) Upon hearing the motion, the court may require the filing of such affidavits and may require  
 5 the taking of such proofs as it deems proper. The court shall allow the victim to make a statement  
 6 at the hearing. Except as otherwise provided in subsection (12) of this section, if the court deter-  
 7 mines that the circumstances and behavior of the applicant from the date of conviction, or from the  
 8 date of arrest as the case may be, to the date of the hearing on the motion warrant setting aside  
 9 the conviction, or the arrest record as the case may be, it shall enter an appropriate order that shall  
 10 state the original arrest charge and the conviction charge, if any and if different from the original,  
 11 date of charge, submitting agency and disposition. The order shall further state that positive iden-  
 12 tification has been established by the [*bureau*] **Department of State Police** and further identified  
 13 as to [*state bureau*] **Department of State Police** number or submitting agency number. Upon the  
 14 entry of the order, the applicant for purposes of the law shall be deemed not to have been previously  
 15 convicted, or arrested as the case may be, and the court shall issue an order sealing the record of  
 16 conviction and other official records in the case, including the records of arrest whether or not the  
 17 arrest resulted in a further criminal proceeding.

18 (4) The clerk of the court shall forward a certified copy of the order to such agencies as directed  
 19 by the court. A certified copy must be sent to the Department of Corrections when the person has  
 20 been in the custody of the Department of Corrections. Upon entry of the order, the conviction, ar-  
 21 rest or other proceeding shall be deemed not to have occurred, and the applicant may answer ac-  
 22 cordingly any questions relating to its occurrence.

23 (5) The provisions of subsection (1)(a) of this section apply to a conviction of:

24 (a) A Class C felony, except for criminal mistreatment in the first degree under ORS 163.205  
 25 when it would constitute child abuse, as defined in ORS 419B.005, or any sex crime.

26 (b) The crime of possession of the narcotic drug marijuana when that crime was punishable as  
 27 a felony only.

28 (c) A crime punishable as either a felony or a misdemeanor, in the discretion of the court, except  
 29 for:

30 (A) Any sex crime; and

31 (B) The following crimes when they would constitute child abuse as defined in ORS 419B.005:

32 (i) Criminal mistreatment in the first degree under ORS 163.205; and

33 (ii) Endangering the welfare of a minor under ORS 163.575 (1)(a).

34 (d) A misdemeanor, including a violation of a municipal ordinance, for which a jail sentence may  
 35 be imposed, except for endangering the welfare of a minor under ORS 163.575 (1)(a) when it would  
 36 constitute child abuse, as defined in ORS 419B.005, or any sex crime.

37 (e) A violation, whether under state law or local ordinance.

38 (f) An offense committed before January 1, 1972, that if committed after that date would be:

39 (A) A Class C felony, except for any sex crime or for the following crimes when they would  
 40 constitute child abuse as defined in ORS 419B.005:

41 (i) Criminal mistreatment in the first degree under ORS 163.205; and

42 (ii) Endangering the welfare of a minor under ORS 163.575 (1)(a).

43 (B) A crime punishable as either a felony or a misdemeanor, in the discretion of the court, ex-  
 44 cept for any sex crime or for the following crimes when they would constitute child abuse as defined  
 45 in ORS 419B.005:

1 (i) Criminal mistreatment in the first degree under ORS 163.205; and

2 (ii) Endangering the welfare of a minor under ORS 163.575 (1)(a).

3 (C) A misdemeanor, except for endangering the welfare of a minor under ORS 163.575 (1)(a)  
4 when it would constitute child abuse, as defined in ORS 419B.005, or any sex crime.

5 (D) A violation.

6 (6) Notwithstanding subsection (5) of this section, the provisions of subsection (1) of this section  
7 do not apply to:

8 (a) A conviction for a state or municipal traffic offense.

9 (b) A person convicted, within the 10-year period immediately preceding the filing of the motion  
10 pursuant to subsection (1) of this section, of any other offense, excluding motor vehicle violations,  
11 whether or not the other conviction is for conduct associated with the same criminal episode that  
12 caused the arrest or conviction that is sought to be set aside. Notwithstanding subsection (1) of this  
13 section, a conviction that has been set aside under this section shall be considered for the purpose  
14 of determining whether this paragraph is applicable.

15 (c) A person who at the time the motion authorized by subsection (1) of this section is pending  
16 before the court is under charge of commission of any crime.

17 (7) Notwithstanding subsection (5) of this section, the provisions of subsection (1)(a) of this sec-  
18 tion do not apply to criminally negligent homicide under ORS 163.145, when that offense was  
19 punishable as a Class C felony.

20 (8) The provisions of subsection (1)(b) of this section do not apply to:

21 (a) A person arrested within the three-year period immediately preceding the filing of the motion  
22 for any offense, excluding motor vehicle violations, and excluding arrests for conduct associated  
23 with the same criminal episode that caused the arrest that is sought to be set aside.

24 (b) An arrest for driving while under the influence of intoxicants if the charge is dismissed as  
25 a result of the person's successful completion of a diversion agreement described in ORS 813.200.

26 (9) The provisions of subsection (1) of this section apply to convictions and arrests that occurred  
27 before, as well as those that occurred after, September 9, 1971. There is no time limit for making  
28 an application.

29 (10) For purposes of any civil action in which truth is an element of a claim for relief or affir-  
30 mative defense, the provisions of subsection (3) of this section providing that the conviction, arrest  
31 or other proceeding be deemed not to have occurred do not apply and a party may apply to the  
32 court for an order requiring disclosure of the official records in the case as may be necessary in the  
33 interest of justice.

34 (11) Upon motion of any prosecutor or defendant in a case involving records sealed under this  
35 section, supported by affidavit showing good cause, the court with jurisdiction may order the reo-  
36 pening and disclosure of any records sealed under this section for the limited purpose of assisting  
37 the investigation of the movant. However, such an order has no other effect on the orders setting  
38 aside the conviction or the arrest record.

39 (12) Unless the court makes written findings by clear and convincing evidence that granting the  
40 motion would not be in the best interests of justice, the court shall grant the motion and enter an  
41 order as provided in subsection (3) of this section if the defendant has been convicted of one of the  
42 following crimes and is otherwise eligible for relief under this section:

43 (a) Abandonment of a child, ORS 163.535.

44 (b) Attempted assault in the second degree, ORS 163.175.

45 (c) Assault in the third degree, ORS 163.165.

- 1 (d) Coercion, ORS 163.275.
- 2 (e) Criminal mistreatment in the first degree, ORS 163.205.
- 3 (f) Attempted escape in the first degree, ORS 162.165.
- 4 (g) Incest, ORS 163.525, if the victim was at least 18 years of age.
- 5 (h) Intimidation in the first degree, ORS 166.165.
- 6 (i) Attempted kidnapping in the second degree, ORS 163.225.
- 7 (j) Attempted robbery in the second degree, ORS 164.405.
- 8 (k) Robbery in the third degree, ORS 164.395.
- 9 (L) Supplying contraband, ORS 162.185.
- 10 (m) Unlawful use of a weapon, ORS 166.220.

11 (13) As used in this section, "sex crime" has the meaning given that term in ORS 181.594.

12 **SECTION 30.** ORS 144.102 is amended to read:

13 144.102. (1) The State Board of Parole and Post-Prison Supervision or local supervisory authority  
14 responsible for correctional services for a person shall specify in writing the conditions of post-  
15 prison supervision imposed under ORS 144.096. A copy of the conditions shall be given to the person  
16 upon release from prison or jail.

17 (2) The board or the supervisory authority shall determine, and may at any time modify, the  
18 conditions of post-prison supervision, which may include, among other conditions, that the person  
19 shall:

20 (a) Comply with the conditions of post-prison supervision as specified by the board or supervi-  
21 sory authority.

22 (b) Be under the supervision of the Department of Corrections and its representatives or other  
23 supervisory authority and abide by their direction and counsel.

24 (c) Answer all reasonable inquiries of the board, the department or the supervisory authority.

25 (d) Report to the parole officer as directed by the board, the department or the supervisory au-  
26 thority.

27 (e) Not own, possess or be in control of any weapon.

28 (f) Respect and obey all municipal, county, state and federal laws.

29 (g) Understand that the board or supervisory authority may, at its discretion, punish violations  
30 of post-prison supervision.

31 (h) Attend a victim impact treatment session in a county that has a victim impact program. If  
32 the board or supervisory authority requires attendance under this paragraph, the board or supervi-  
33 sory authority may require the person, as an additional condition of post-prison supervision, to pay  
34 a reasonable fee to the victim impact program to offset the cost of the person's participation. The  
35 board or supervisory authority may not order a person to pay a fee in excess of \$5 under this par-  
36 agraph.

37 (i) If required to report as a sex offender under ORS 181.595, report with the Department of  
38 State Police, a city police department, a county sheriff's office or the supervising agency:

39 (A) When supervision begins;

40 (B) Within 10 days of a change in residence;

41 (C) Once each year within 10 days of the person's date of birth;

42 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
43 institution of higher education; and

44 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
45 education.

1 (3)(a) The board or supervisory authority may establish special conditions as the board or su-  
2 pervisory authority determines necessary because of the individual circumstances of the person on  
3 post-prison supervision.

4 (b) If the person is on post-prison supervision following conviction of a sex crime, as defined in  
5 ORS 181.594, the board or supervisory authority shall include all of the following as special condi-  
6 tions of the person's post-prison supervision:

7 (A) Agreement to comply with any curfew set by the board, the supervisory authority or the  
8 supervising officer.

9 (B) A prohibition against contacting a person under 18 years of age without the prior written  
10 approval of the board, supervisory authority or supervising officer.

11 (C) A prohibition against being present more than one time, without the prior written approval  
12 of the board, supervisory authority or supervising officer, at a place where persons under 18 years  
13 of age regularly congregate.

14 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition  
15 against being present, without the prior written approval of the board, supervisory authority or  
16 supervising officer, at, or on property adjacent to, a school, child care center, playground or other  
17 place intended for use primarily by persons under 18 years of age.

18 (E) A prohibition against working or volunteering at a school, child care center, park, play-  
19 ground or other place where persons under 18 years of age regularly congregate.

20 (F) Entry into and completion of or successful discharge from a sex offender treatment program  
21 approved by the board, supervisory authority or supervising officer. The program may include  
22 polygraph and plethysmograph testing. The person is responsible for paying for the treatment pro-  
23 gram.

24 (G) A prohibition against any contact with the victim, directly or indirectly, unless approved  
25 by the victim, the person's treatment provider and the board, supervisory authority or supervising  
26 officer.

27 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-  
28 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating  
29 visual or auditory materials that are relevant to the person's deviant behavior.

30 (I) Agreement to consent to a search of the person or the vehicle or residence of the person  
31 upon the request of a representative of the board or supervisory authority if the representative has  
32 reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision  
33 will be found.

34 (J) Participation in random polygraph examinations to obtain information for risk management  
35 and treatment. The person is responsible for paying the expenses of the examinations. The results  
36 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to  
37 prove a violation of post-prison supervision.

38 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless  
39 approved by the board, supervisory authority or supervising officer.

40 (L) A prohibition against using a post-office box unless approved by the board, supervisory au-  
41 thority or supervising officer.

42 (M) A prohibition against residing in any dwelling in which another sex offender who is on  
43 probation, parole or post-prison supervision resides unless approved by the board, supervisory au-  
44 thority or supervising officer, or in which more than one other sex offender who is on probation,  
45 parole or post-prison supervision resides unless approved by the board or the director of the super-

1 visory authority, or a designee of the board or director. As soon as practicable, the supervising of-  
2 ficer of a person subject to the requirements of this subparagraph shall review the person's living  
3 arrangement with the person's sex offender treatment provider to ensure that the arrangement  
4 supports the goals of offender rehabilitation and community safety. As used in this subparagraph:

5 (i) "Dwelling" has the meaning given that term in ORS 469.160.

6 (ii) "Dwelling" does not include a residential treatment facility or a halfway house.

7 (iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential fa-  
8 cility that provides rehabilitative care and treatment for sex offenders.

9 (c)(A) If the person is on post-prison supervision following conviction of a sex crime, as defined  
10 in ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18  
11 years of age, the board or supervisory authority, if requested by the victim, shall include as a special  
12 condition of the person's post-prison supervision that the person not reside within three miles of the  
13 victim unless:

14 (i) The victim resides in a county having a population of less than 130,000 and the person is  
15 required to reside in that county under subsection (6) of this section;

16 (ii) The person demonstrates to the board or supervisory authority by a preponderance of the  
17 evidence that no mental intimidation or pressure was brought to bear during the commission of the  
18 crime;

19 (iii) The person demonstrates to the board or supervisory authority by a preponderance of the  
20 evidence that imposition of the condition will deprive the person of a residence that would be  
21 materially significant in aiding in the rehabilitation of the person or in the success of the post-prison  
22 supervision; or

23 (iv) The person resides in a halfway house. As used in this sub-subparagraph, "halfway house"  
24 means a publicly or privately operated profit or nonprofit residential facility that provides  
25 rehabilitative care and treatment for sex offenders.

26 (B) A victim may request imposition of the special condition of post-prison supervision described  
27 in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim's  
28 request may be included in the judgment document.

29 (C) If the board or supervisory authority imposes the special condition of post-prison supervision  
30 described in this paragraph and if at any time during the period of post-prison supervision the victim  
31 moves to within three miles of the person's residence, the board or supervisory authority may not  
32 require the person to change the person's residence in order to comply with the special condition  
33 of post-prison supervision.

34 (4)(a) The board or supervisory authority may require the person to pay, as a condition of  
35 post-prison supervision, any compensatory fines, restitution or attorney fees:

36 (A) As determined, imposed or required by the sentencing court; or

37 (B) When previously required as a condition of any type of supervision that is later revoked.

38 (b) The board may require a person to pay restitution as a condition of post-prison supervision  
39 imposed for an offense other than the offense for which the restitution was ordered if the person:

40 (A) Was ordered to pay restitution as a result of another conviction; and

41 (B) Has not fully paid the restitution by the time the person has completed the period of post-  
42 prison supervision imposed for the offense for which the restitution was ordered.

43 (5) A person's failure to apply for or accept employment at any workplace where there is a labor  
44 dispute in progress does not constitute a violation of the conditions of post-prison supervision. As  
45 used in this subsection, "labor dispute" has the meaning given that term in ORS 662.010.



1 (6)(a) When a person is released from imprisonment on post-prison supervision, the board shall  
2 order, as a condition of post-prison supervision, that the person reside for the first six months after  
3 release in the county where the person resided at the time of the offense that resulted in the  
4 imprisonment.

5 (b) Upon motion of the board, the person, a victim or a district attorney, the board may waive  
6 the residency requirement only after making a finding that one of the following conditions has been  
7 met:

8 (A) The person provides proof of employment with no set ending date in a county other than the  
9 established county of residence;

10 (B) The person is found to pose a significant danger to a victim of the person's crime, or a vic-  
11 tim or victim's family is found to pose a significant danger to the person residing in the established  
12 county of residence;

13 (C) The person has a spouse or biological or adoptive family residing in a county other than the  
14 established county of residence who will be materially significant in aiding in the rehabilitation of  
15 the person and in the success of the post-prison supervision;

16 (D) As another condition of post-prison supervision, the person is required to participate in a  
17 treatment program that is not available in the established county of residence;

18 (E) The person desires to be released to another state; or

19 (F) The board finds other good cause, of a nature similar to the other conditions listed in this  
20 paragraph, for the waiver.

21 (c)(A) The board shall determine the county where the person resided at the time of the offense  
22 by establishing the person's last address at the time of the offense. In making its determination, the  
23 board shall examine all of the following:

24 (i) An Oregon driver license, regardless of its validity;

25 (ii) Records maintained by the Department of Revenue;

26 (iii) Records maintained by the Department of State Police [*bureau of criminal identification*];

27 (iv) Records maintained by the Department of Human Services;

28 (v) Records maintained by the Department of Corrections; and

29 (vi) Records maintained by the Oregon Health Authority.

30 (B) When the person did not have an identifiable address of record at the time of the offense,  
31 the person is considered to have resided in the county where the offense occurred.

32 (C) If the person is serving multiple sentences, the county of residence shall be determined ac-  
33 cording to the date of the last arrest resulting in a conviction.

34 (D) In determining the person's county of residence for purposes of this subsection, the board  
35 may not consider offenses committed by the person while the person was incarcerated in a Depart-  
36 ment of Corrections facility.

37 (7) As used in this section, "attends," "institution of higher education," "works" and "carries  
38 on a vocation" have the meanings given those terms in ORS 181.594.

39 **SECTION 31.** ORS 144.270 is amended to read:

40 144.270. (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on  
41 parole, shall specify in writing the conditions of the parole and a copy of such conditions shall be  
42 given to the person paroled.

43 (2) The board shall determine, and may at any time modify, the conditions of parole, which may  
44 include, among other conditions, that the parolee shall:

45 (a) Accept the parole granted subject to all terms and conditions specified by the board.

1 (b) Be under the supervision of the Department of Corrections and its representatives and abide  
2 by their direction and counsel.

3 (c) Answer all reasonable inquiries of the board or the parole officer.

4 (d) Report to the parole officer as directed by the board or parole officer.

5 (e) Not own, possess or be in control of any weapon.

6 (f) Respect and obey all municipal, county, state and federal laws.

7 (g) Understand that the board may, in its discretion, suspend or revoke parole if it determines  
8 that the parole is not in the best interest of the parolee, or in the best interest of society.

9 (3)(a) The board may establish such special conditions as it determines are necessary because  
10 of the individual circumstances of the parolee.

11 (b) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594, the  
12 board shall include all of the following as special conditions of the person's parole:

13 (A) Agreement to comply with any curfew set by the board or the supervising officer.

14 (B) A prohibition against contacting a person under 18 years of age without the prior written  
15 approval of the board or supervising officer.

16 (C) A prohibition against being present more than one time, without the prior written approval  
17 of the board or supervising officer, at a place where persons under 18 years of age regularly con-  
18 gregate.

19 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition  
20 against being present, without the prior written approval of the board or supervising officer, at, or  
21 on property adjacent to, a school, child care center, playground or other place intended for use  
22 primarily by persons under 18 years of age.

23 (E) A prohibition against working or volunteering at a school, child care center, park, play-  
24 ground or other place where persons under 18 years of age regularly congregate.

25 (F) Entry into and completion of or successful discharge from a sex offender treatment program  
26 approved by the board or supervising officer. The program may include polygraph and  
27 plethysmograph testing. The person is responsible for paying for the treatment program.

28 (G) A prohibition against any contact with the victim, directly or indirectly, unless approved  
29 by the victim, the person's treatment provider and the board or supervising officer.

30 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-  
31 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating  
32 visual or auditory materials that are relevant to the person's deviant behavior.

33 (I) Agreement to consent to a search of the person or the vehicle or residence of the person  
34 upon the request of a representative of the board if the representative has reasonable grounds to  
35 believe that evidence of a violation of a condition of parole will be found.

36 (J) Participation in random polygraph examinations to obtain information for risk management  
37 and treatment. The person is responsible for paying the expenses of the examinations. The results  
38 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to  
39 prove a violation of parole.

40 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless  
41 approved by the board or supervising officer.

42 (L) A prohibition against using a post-office box unless approved by the board or supervising  
43 officer.

44 (M) A prohibition against residing in any dwelling in which another sex offender who is on  
45 probation, parole or post-prison supervision resides unless approved by the board or supervising of-

1 ficer, or in which more than one other sex offender who is on probation, parole or post-prison  
2 supervision resides unless approved by the board or a designee of the board. As soon as practicable,  
3 the supervising officer of a person subject to the requirements of this subparagraph shall review the  
4 person's living arrangement with the person's sex offender treatment provider to ensure that the  
5 arrangement supports the goals of offender rehabilitation and community safety. As used in this  
6 subparagraph:

7 (i) "Dwelling" has the meaning given that term in ORS 469.160.

8 (ii) "Dwelling" does not include a residential treatment facility or a halfway house.

9 (iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential fa-  
10 cility that provides rehabilitative care and treatment for sex offenders.

11 (c)(A) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594,  
12 or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the  
13 board, if requested by the victim, shall include as a special condition of the person's parole that the  
14 person not reside within three miles of the victim unless:

15 (i) The victim resides in a county having a population of less than 130,000 and the person is  
16 required to reside in that county under subsection (5) of this section;

17 (ii) The person demonstrates to the board by a preponderance of the evidence that no mental  
18 intimidation or pressure was brought to bear during the commission of the crime;

19 (iii) The person demonstrates to the board by a preponderance of the evidence that imposition  
20 of the condition will deprive the person of a residence that would be materially significant in aiding  
21 in the rehabilitation of the person or in the success of the parole; or

22 (iv) The person resides in a halfway house. As used in this sub-subparagraph, "halfway house"  
23 means a publicly or privately operated profit or nonprofit residential facility that provides  
24 rehabilitative care and treatment for sex offenders.

25 (B) A victim may request imposition of the special condition of parole described in this para-  
26 graph at the time of sentencing in person or through the prosecuting attorney. A victim's request  
27 may be included in the judgment document.

28 (C) If the board imposes the special condition of parole described in this paragraph and if at any  
29 time during the period of parole the victim moves to within three miles of the parolee's residence,  
30 the board may not require the parolee to change the parolee's residence in order to comply with the  
31 special condition of parole.

32 (4) It is not a cause for revocation of parole that the parolee failed to apply for or accept em-  
33 ployment at any workplace where there is a labor dispute in progress. As used in this subsection,  
34 "labor dispute" has the meaning given that term in ORS 662.010.

35 (5)(a) When the board grants an inmate parole from the custody of the Department of Cor-  
36 rections, the board shall order, as a condition of parole, that the inmate reside for the first six  
37 months in the county where the inmate resided at the time of the offense that resulted in the  
38 imprisonment.

39 (b) Upon motion of the board, an inmate, a victim or a district attorney, the board may waive  
40 the residency requirement only after making a finding that one of the following conditions has been  
41 met:

42 (A) The inmate provides proof of a job with no set ending date in a county other than the es-  
43 tablished county of residence;

44 (B) The inmate is found to pose a significant danger to the victim of the offender's crime, or the  
45 victim or victim's family is found to pose a significant danger to the inmate residing in the county

1 of residence;

2 (C) The inmate has a spouse or biological or adoptive family residing in other than the county  
3 of residence who will be materially significant in aiding in the rehabilitation of the offender and in  
4 the success of the parole;

5 (D) As another condition of parole, the inmate is required to participate in a treatment program  
6 that is not available or located in the county of residence;

7 (E) The inmate desires to be paroled to another state; or

8 (F) The board finds other good cause, of a nature similar to the other conditions listed in this  
9 paragraph, for the waiver.

10 (c)(A) For purposes of this subsection, “residency” means the last address at the time of the  
11 offense, as established by an examination of all of the following:

12 (i) An Oregon driver license, regardless of its validity;

13 (ii) Records maintained by the Department of Revenue;

14 (iii) Records maintained by the Department of State Police [*bureau of criminal identification*];

15 (iv) Records maintained by the Department of Human Services;

16 (v) Records maintained by the Department of Corrections; and

17 (vi) Records maintained by the Oregon Health Authority.

18 (B) When an inmate did not have one identifiable address of record at the time of the offense,  
19 the inmate shall be considered to have resided in the county where the offense occurred.

20 (C) If the inmate is serving multiple sentences, the county of residence shall be determined ac-  
21 cording to the date of the last arrest resulting in a conviction.

22 (D) If the inmate is being rereleased after revocation of parole, the county of residence shall  
23 be determined according to the date of the arrest resulting in a conviction of the underlying offense.

24 (E) In determining the inmate’s county of residence, a conviction for an offense that the inmate  
25 committed while incarcerated in a state [*corrections*] **correctional** institution may not be considered.

26 (6) When the board grants an inmate parole from the custody of the Department of Corrections  
27 and if the inmate is required to report as a sex offender under ORS 181.595, the board, as a condi-  
28 tion of parole, shall order the inmate to report with the Department of State Police, a city police  
29 department, a county sheriff’s office or the supervising agency:

30 (a) When supervision begins;

31 (b) Within 10 days of a change in residence;

32 (c) Once each year within 10 days of the inmate’s date of birth;

33 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
34 institution of higher education; and

35 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
36 education.

37 (7) As used in this section, “attends,” “institution of higher education,” “works” and “carries  
38 on a vocation” have the meanings given those terms in ORS 181.594.

39 **NOTE:** Section 32 was deleted. Subsequent sections were not renumbered.

40 **SECTION 33.** ORS 166.291, as amended by section 7, chapter 826, Oregon Laws 2009, is  
41 amended to read:

42 166.291. (1) The sheriff of a county, upon a person’s application for an Oregon concealed  
43 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set  
44 out in this section, shall issue the person a concealed handgun license if the person:

45 (a)(A) Is a citizen of the United States; or

1 (B) Is a legal resident alien who can document continuous residency in the county for at least  
2 six months and has declared in writing to the United States Citizenship and Immigration Services  
3 the intent to acquire citizenship status and can present proof of the written declaration to the  
4 sheriff at the time of application for the license;

5 (b) Is at least 21 years of age;

6 (c) Is a resident of the county;

7 (d) Has no outstanding warrants for arrest;

8 (e) Is not free on any form of pretrial release;

9 (f) Demonstrates competence with a handgun by any one of the following:

10 (A) Completion of any hunter education or hunter safety course approved by the State Depart-  
11 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component  
12 of the course;

13 (B) Completion of any National Rifle Association firearms safety or training course if handgun  
14 safety was a component of the course;

15 (C) Completion of any firearms safety or training course or class available to the general public  
16 offered by law enforcement, community college, or private or public institution or organization or  
17 firearms training school utilizing instructors certified by the National Rifle Association or a law  
18 enforcement agency if handgun safety was a component of the course;

19 (D) Completion of any law enforcement firearms safety or training course or class offered for  
20 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-  
21 cers if handgun safety was a component of the course;

22 (E) Presents evidence of equivalent experience with a handgun through participation in organ-  
23 ized shooting competition or military service;

24 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been  
25 revoked; or

26 (G) Completion of any firearms training or safety course or class conducted by a firearms in-  
27 structor certified by a law enforcement agency or the National Rifle Association if handgun safety  
28 was a component of the course;

29 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,  
30 of a felony;

31 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS  
32 161.295, of a misdemeanor within the four years prior to the application;

33 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

34 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that  
35 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

36 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,  
37 while a minor, the person was found to be within the jurisdiction of the juvenile court for having  
38 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-  
39 volving violence, as defined in ORS 166.470;

40 (L) Has not been convicted of an offense involving controlled substances or participated in a  
41 court-supervised drug diversion program, except this disability does not operate to exclude a person  
42 if:

43 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed  
44 a court-supervised drug diversion program under ORS 135.907; or

45 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and

1 has not been convicted of violating ORS 475.864 (3);

2 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,  
3 107.700 to 107.735 or 163.738;

4 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

5 (o) Is not required to register as a sex offender in any state.

6 (2) A person who has been granted relief under ORS 166.274 or 166.293 or section 5, chapter 826,  
7 Oregon Laws 2009, or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of  
8 this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection  
9 (1)(g) to (L) of this section.

10 (3) Before the sheriff may issue a license:

11 (a) The application must state the applicant's legal name, current address and telephone number,  
12 date and place of birth, hair and eye color and height and weight. The application must also list the  
13 applicant's residence address or addresses for the previous three years. The application must contain  
14 a statement by the applicant that the applicant meets the requirements of subsection (1) of this  
15 section. The application may include the Social Security number of the applicant if the applicant  
16 voluntarily provides this number. The application must be signed by the applicant.

17 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff  
18 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to  
19 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal  
20 records check is necessary, the sheriff shall request the Department of State Police to conduct the  
21 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal  
22 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records  
23 check and may not keep any record of the fingerprints. The Department of State Police shall report  
24 the results of the fingerprint-based criminal records check to the sheriff. The Department of State  
25 Police shall also furnish the sheriff with any information about the applicant that the Department  
26 of State Police may have in its possession [*from its central bureau of criminal identification*] includ-  
27 ing, but not limited to, manual or computerized criminal offender information.

28 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-  
29 quest. The forms shall be uniform throughout [*the*] **this** state in substantially the following form:

30 \_\_\_\_\_  
31  
32 APPLICATION FOR LICENSE TO CARRY  
33 CONCEALED HANDGUN

34 Date \_\_\_\_\_

35 I hereby declare as follows:

36 I am a citizen of the United States or a legal resident alien who can document continuous resi-  
37 dency in the county for at least six months and have declared in writing to the United States Cit-  
38 izenship and Immigration Services my intention to become a citizen and can present proof of the  
39 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have  
40 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-  
41 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,  
42 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined  
43 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under  
44 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,  
45 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a

1 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-  
2 volving controlled substances or completed a court-supervised drug diversion program. There are  
3 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not  
4 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found mentally  
5 ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because  
6 of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish  
7 to petition for relief from the disability under ORS 166.274 or 166.293 or section 5, chapter 826,  
8 Oregon Laws 2009, or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a ci-  
9 tation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738.  
10 I have never received a dishonorable discharge from the Armed Forces of the United States. I am  
11 not required to register as a sex offender in any state. I understand I will be fingerprinted and  
12 photographed.

13  
14 Legal name \_\_\_\_\_  
15 Age \_\_\_\_\_ Date of birth \_\_\_\_\_  
16 Place of birth \_\_\_\_\_  
17 Social Security number \_\_\_\_\_

18 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-  
19 thorized under ORS 166.291. It will be used only as a means of identification.)

20  
21 Proof of identification (Two pieces of current identification are required, one of which must bear a  
22 photograph of the applicant. The type of identification and the number on the identification are to  
23 be filled in by the sheriff.):

- 24 1. \_\_\_\_\_  
25 2. \_\_\_\_\_

26  
27 Height \_\_\_\_\_ Weight \_\_\_\_\_  
28 Hair color \_\_\_\_\_ Eye color \_\_\_\_\_

29  
30 Current address \_\_\_\_\_

(List residence addresses for the  
past three years on the back.)

31  
32  
33  
34 City \_\_\_\_\_ County \_\_\_\_\_ Zip \_\_\_\_\_  
35 Phone \_\_\_\_\_

36  
37 I have read the entire text of this application, and the statements therein are correct and true.  
38 (Making false statements on this application is a misdemeanor.)

39 \_\_\_\_\_  
40 (Signature of Applicant)

41  
42 Character references.  
43 \_\_\_\_\_  
44 Name Address  
45 \_\_\_\_\_

1           Name           Address  
2  
3 Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ by \_\_\_\_\_

4  
5 Competence with handgun demonstrated by \_\_\_\_\_ (to be filled in by sheriff)  
6 Date \_\_\_\_\_ Fee Paid \_\_\_\_\_  
7 License No. \_\_\_\_\_  
8  
9

---

10           (5)(a) Fees for concealed handgun licenses are:

11           (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

12           (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

13           (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

14           (b) The sheriff may enter into an agreement with the Department of Transportation to produce  
15 the concealed handgun license.

16           (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-  
17 gaged in the receipt and review of, or an investigation connected with, any application for, or in the  
18 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful  
19 performance of duties under those sections.

20           (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff  
21 shall enter the applicant's name into the Law Enforcement Data System indicating that the person  
22 is an applicant for a concealed handgun license or is a license holder.

23           (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section  
24 for a resident of a contiguous state who has a compelling business interest or other legitimate  
25 demonstrated need.

26           (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the  
27 person:

28           (a) Has a current Oregon driver license issued to the person showing a residence address in the  
29 county;

30           (b) Is registered to vote in the county and has a memorandum card issued to the person under  
31 ORS 247.181 showing a residence address in the county;

32           (c) Has documentation showing that the person currently leases or owns real property in the  
33 county; or

34           (d) Has documentation showing that the person filed an Oregon tax return for the most recent  
35 tax year showing a residence address in the county.

36           **SECTION 34.** ORS 166.291, as amended by sections 7 and 10, chapter 826, Oregon Laws 2009,  
37 is amended to read:

38           166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed  
39 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set  
40 out in this section, shall issue the person a concealed handgun license if the person:

41           (a)(A) Is a citizen of the United States; or

42           (B) Is a legal resident alien who can document continuous residency in the county for at least  
43 six months and has declared in writing to the United States Citizenship and Immigration Services  
44 the intent to acquire citizenship status and can present proof of the written declaration to the  
45 sheriff at the time of application for the license;



- 1 (b) Is at least 21 years of age;
- 2 (c) Is a resident of the county;
- 3 (d) Has no outstanding warrants for arrest;
- 4 (e) Is not free on any form of pretrial release;
- 5 (f) Demonstrates competence with a handgun by any one of the following:
  - 6 (A) Completion of any hunter education or hunter safety course approved by the State Department of Fish and Wildlife or a similar agency of another state if handgun safety was a component
  - 7 of the course;
  - 8
  - 9 (B) Completion of any National Rifle Association firearms safety or training course if handgun
  - 10 safety was a component of the course;
  - 11 (C) Completion of any firearms safety or training course or class available to the general public
  - 12 offered by law enforcement, community college, or private or public institution or organization or
  - 13 firearms training school utilizing instructors certified by the National Rifle Association or a law
  - 14 enforcement agency if handgun safety was a component of the course;
  - 15 (D) Completion of any law enforcement firearms safety or training course or class offered for
  - 16 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
  - 17 cers if handgun safety was a component of the course;
  - 18 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
  - 19 ized shooting competition or military service;
  - 20 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
  - 21 revoked; or
  - 22 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
  - 23 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
  - 24 was a component of the course;
  - 25 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
  - 26 of a felony;
  - 27 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
  - 28 161.295, of a misdemeanor within the four years prior to the application;
  - 29 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;
  - 30 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
  - 31 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
  - 32 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
  - 33 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
  - 34 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
  - 35 volving violence, as defined in ORS 166.470;
  - 36 (L) Has not been convicted of an offense involving controlled substances or participated in a
  - 37 court-supervised drug diversion program, except this disability does not operate to exclude a person
  - 38 if:
    - 39 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
    - 40 a court-supervised drug diversion program under ORS 135.907; or
    - 41 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
    - 42 has not been convicted of violating ORS 475.864 (3);
    - 43 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
    - 44 107.700 to 107.735 or 163.738;
    - 45 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

1 (o) Is not required to register as a sex offender in any state.

2 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or  
3 has had the person's record expunged under the laws of this state or equivalent laws of other ju-  
4 risdications is not subject to the disabilities in subsection (1)(g) to (L) of this section.

5 (3) Before the sheriff may issue a license:

6 (a) The application must state the applicant's legal name, current address and telephone number,  
7 date and place of birth, hair and eye color and height and weight. The application must also list the  
8 applicant's residence address or addresses for the previous three years. The application must contain  
9 a statement by the applicant that the applicant meets the requirements of subsection (1) of this  
10 section. The application may include the Social Security number of the applicant if the applicant  
11 voluntarily provides this number. The application must be signed by the applicant.

12 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff  
13 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to  
14 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal  
15 records check is necessary, the sheriff shall request the Department of State Police to conduct the  
16 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal  
17 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records  
18 check and may not keep any record of the fingerprints. The Department of State Police shall report  
19 the results of the fingerprint-based criminal records check to the sheriff. The Department of State  
20 Police shall also furnish the sheriff with any information about the applicant that the Department  
21 of State Police may have in its possession [*from its central bureau of criminal identification*] includ-  
22 ing, but not limited to, manual or computerized criminal offender information.

23 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-  
24 quest. The forms shall be uniform throughout [*the*] **this** state in substantially the following form:

25 \_\_\_\_\_  
26  
27 APPLICATION FOR LICENSE TO CARRY  
28 CONCEALED HANDGUN

29 Date\_\_\_\_\_

30 I hereby declare as follows:

31 I am a citizen of the United States or a legal resident alien who can document continuous res-  
32 idency in the county for at least six months and have declared in writing to the United States Cit-  
33 izenship and Immigration Services my intention to become a citizen and can present proof of the  
34 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have  
35 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-  
36 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,  
37 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined  
38 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under  
39 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,  
40 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a  
41 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-  
42 volving controlled substances or completed a court-supervised drug diversion program. There are  
43 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not  
44 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found mentally  
45 ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because

1 of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish  
2 to petition for relief from the disability under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or have  
3 had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order is-  
4 sued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge  
5 from the Armed Forces of the United States. I am not required to register as a sex offender in any  
6 state. I understand I will be fingerprinted and photographed.

7  
8 Legal name \_\_\_\_\_  
9 Age \_\_\_\_\_ Date of birth \_\_\_\_\_  
10 Place of birth \_\_\_\_\_  
11 Social Security number \_\_\_\_\_

12 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-  
13 thorized under ORS 166.291. It will be used only as a means of identification.)

14  
15 Proof of identification (Two pieces of current identification are required, one of which must bear a  
16 photograph of the applicant. The type of identification and the number on the identification are to  
17 be filled in by the sheriff.):

- 18 1. \_\_\_\_\_
- 19 2. \_\_\_\_\_

20  
21 Height \_\_\_\_\_ Weight \_\_\_\_\_  
22 Hair color \_\_\_\_\_ Eye color \_\_\_\_\_

23  
24 Current address \_\_\_\_\_

(List residence addresses for the  
past three years on the back.)

25  
26  
27  
28 City \_\_\_\_\_ County \_\_\_\_\_ Zip \_\_\_\_\_  
29 Phone \_\_\_\_\_

30  
31 I have read the entire text of this application, and the statements therein are correct and true.  
32 (Making false statements on this application is a misdemeanor.)

33 \_\_\_\_\_  
34 (Signature of Applicant)

35  
36 Character references.

37 \_\_\_\_\_

38 Name	38 Address
39 _____	39 _____
40 Name	40 Address

41  
42 Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ by \_\_\_\_\_

43  
44 Competence with handgun demonstrated by \_\_\_\_\_ (to be filled in by sheriff)

45 Date \_\_\_\_\_ Fee Paid \_\_\_\_\_

1 License No. \_\_\_\_\_  
2 \_\_\_\_\_  
3

4 (5)(a) Fees for concealed handgun licenses are:

5 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

6 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

7 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

8 (b) The sheriff may enter into an agreement with the Department of Transportation to produce  
9 the concealed handgun license.

10 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-  
11 gaged in the receipt and review of, or an investigation connected with, any application for, or in the  
12 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful  
13 performance of duties under those sections.

14 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff  
15 shall enter the applicant's name into the Law Enforcement Data System indicating that the person  
16 is an applicant for a concealed handgun license or is a license holder.

17 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section  
18 for a resident of a contiguous state who has a compelling business interest or other legitimate  
19 demonstrated need.

20 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the  
21 person:

22 (a) Has a current Oregon driver license issued to the person showing a residence address in the  
23 county;

24 (b) Is registered to vote in the county and has a memorandum card issued to the person under  
25 ORS 247.181 showing a residence address in the county;

26 (c) Has documentation showing that the person currently leases or owns real property in the  
27 county; or

28 (d) Has documentation showing that the person filed an Oregon tax return for the most recent  
29 tax year showing a residence address in the county.

30 **SECTION 35.** ORS 181.595 is amended to read:

31 181.595. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency to  
32 which a person reports under subsection (3) of this section shall complete a sex offender registration  
33 form concerning the person when the person reports under subsection (3) of this section.

34 (b) When a person who is under supervision reports to the agency supervising the person, the  
35 supervising agency may require the person to report instead to the Department of State Police, a  
36 city police department or a county sheriff's office and provide the supervising agency with proof of  
37 the completed registration.

38 (2) Subsection (3) of this section applies to a person who:

39 (a) Is discharged, paroled or released on any form of supervised or conditional release from a  
40 jail, prison or other correctional facility or detention facility in this state at which the person was  
41 confined as a result of:

42 (A) Conviction of a sex crime;

43 (B) Having been found guilty except for insanity of a sex crime; or

44 (C) Having been found to be within the jurisdiction of the juvenile court for having committed  
45 an act that if committed by an adult would constitute a sex crime;

1 (b) Is paroled to this state under ORS 144.610 after being convicted in another United States  
2 court of a crime that would constitute a sex crime if committed in this state;

3 (c) Is paroled to or otherwise placed in this state after having been found by another United  
4 States court to have committed an act while the person was under 18 years of age that would con-  
5 stitute a sex crime if committed in this state by an adult;

6 (d) Is discharged or placed on conditional release by the juvenile panel of the Psychiatric Se-  
7 curity Review Board after having been found to be responsible except for insanity under ORS  
8 419C.411 for an act that would constitute a sex crime if committed by an adult; or

9 (e) Is discharged by the court under ORS 161.329 after having been found guilty except for in-  
10 sanity of a sex crime.

11 (3)(a) A person described in subsection (2) of this section shall report, in person, to the Depart-  
12 ment of State Police, a city police department or a county sheriff's office or, if the person is under  
13 supervision, to the supervising agency:

14 (A) Within 10 days following discharge, release on parole, post-prison supervision or other  
15 supervised or conditional release;

16 (B) Within 10 days of a change of residence;

17 (C) Once each year within 10 days of the person's birth date, regardless of whether the person  
18 changed residence;

19 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
20 institution of higher education; and

21 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
22 education.

23 (b) If the person required to report under this subsection is a youth offender or young person,  
24 as defined in ORS 419A.004, who is under supervision, the person shall report to the agency super-  
25 vising the person.

26 (c) The obligation to report under this subsection terminates if the conviction or adjudication  
27 that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

28 (4) As part of the registration and reporting requirements of this section:

29 (a) The person required to report shall:

30 (A) Provide the information necessary to complete the sex offender registration form and sign  
31 the form as required; and

32 (B) Submit to the requirements described in paragraph (b) of this subsection.

33 (b) The Department of State Police, the city police department, the county sheriff's office or the  
34 supervising agency:

35 (A) Shall photograph the person when the person initially reports under this section and each  
36 time the person reports annually under this section;

37 (B) May photograph the person or any identifying scars, marks or tattoos located on the person  
38 when the person reports under any of the circumstances described in this section; and

39 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file  
40 of the Department of State Police [*bureau of criminal identification*].

41 **SECTION 36.** ORS 181.596 is amended to read:

42 181.596. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency to  
43 which a person reports under subsection (4) of this section shall complete a sex offender registration  
44 form concerning the person when the person reports under subsection (4) of this section.

45 (b) When a person who is under supervision reports to the agency supervising the person, the

1 supervising agency may require the person to report instead to the Department of State Police, a  
2 city police department or a county sheriff's office and provide the supervising agency with proof of  
3 the completed registration.

4 (2) Subsection (4) of this section applies to a person who is discharged, released or placed on  
5 probation:

6 (a) By the court after being convicted in this state of a sex crime;

7 (b) By the juvenile court after being found to be within the jurisdiction of the juvenile court for  
8 having committed an act that if committed by an adult would constitute a sex crime;

9 (c) To **or in** this state under ORS 144.610 after being convicted in another United States court  
10 of a crime that would constitute a sex crime if committed in this state; or

11 (d) To **or in** this state after having been found by another United States court to have commit-  
12 ted an act while the person was under 18 years of age that would constitute a sex crime if com-  
13 mitted in this state by an adult.

14 (3) The court shall ensure that the person completes a form that documents the person's obli-  
15 gation to report under ORS 181.595 or this section. No later than three working days after the  
16 person completes the form required by this subsection, the court shall ensure that the form is sent  
17 to the Department of State Police.

18 (4)(a) A person described in subsection (2) of this section shall report, in person, to the Depart-  
19 ment of State Police, a city police department or a county sheriff's office or, if the person is under  
20 supervision, to the supervising agency:

21 (A) Within 10 days following discharge, release or placement on probation;

22 (B) Within 10 days of a change of residence;

23 (C) Once each year within 10 days of the person's birth date, regardless of whether the person  
24 changed residence;

25 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
26 institution of higher education; and

27 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
28 education.

29 (b) If the person required to report under this subsection is a youth offender, as defined in ORS  
30 419A.004, who is under supervision, the person shall report to the agency supervising the person.

31 (c) The obligation to report under this subsection terminates if the conviction or adjudication  
32 that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

33 (5) As part of the registration and reporting requirements of this section:

34 (a) The person required to report shall:

35 (A) Provide the information necessary to complete the sex offender registration form and sign  
36 the form as required; and

37 (B) Submit to the requirements described in paragraph (b) of this subsection.

38 (b) The Department of State Police, the city police department, the county sheriff's office or the  
39 supervising agency:

40 (A) Shall photograph the person when the person initially reports under this section and each  
41 time the person reports annually under this section;

42 (B) May photograph the person or any identifying scars, marks or tattoos located on the person  
43 when the person reports under any of the circumstances described in this section; and

44 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file  
45 of the Department of State Police [*bureau of criminal identification*].

1       **SECTION 36a. If Senate Bill 408 becomes law, section 12, chapter \_\_, Oregon Laws 2011**  
2 **(Enrolled Senate Bill 408) (amending ORS 181.596), is repealed and ORS 181.596, as amended**  
3 **by section 36 of this 2011 Act, is amended to read:**

4       181.596. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency to  
5 which a person reports under subsection (4) of this section shall complete a sex offender registration  
6 form concerning the person when the person reports under subsection (4) of this section.

7       (b) When a person who is under supervision reports to the agency supervising the person, the  
8 supervising agency may require the person to report instead to the Department of State Police, a  
9 city police department or a county sheriff's office and provide the supervising agency with proof of  
10 the completed registration.

11       (2) Subsection (4) of this section applies to a person who is discharged, released or placed on  
12 probation:

13       (a) By the court after being convicted in this state of a sex crime; **or**

14       ***[(b) By the juvenile court after being found to be within the jurisdiction of the juvenile court for***  
15 ***having committed an act that if committed by an adult would constitute a sex crime;]***

16       ***[(c)] (b) To or in this state under ORS 144.610 after being convicted in another United States***  
17 ***court of a crime that would constitute a sex crime if committed in this state[; or].***

18       ***[(d) To or in this state after having been found by another United States court to have committed***  
19 ***an act while the person was under 18 years of age that would constitute a sex crime if committed in***  
20 ***this state by an adult.]***

21       (3) The court shall ensure that the person completes a form that documents the person's obli-  
22 gation to report under ORS 181.595 or this section. No later than three working days after the  
23 person completes the form required by this subsection, the court shall ensure that the form is sent  
24 to the Department of State Police.

25       (4)(a) A person described in subsection (2) of this section shall report, in person, to the Depart-  
26 ment of State Police, a city police department or a county sheriff's office or, if the person is under  
27 supervision, to the supervising agency:

28       (A) Within 10 days following discharge, release or placement on probation;

29       (B) Within 10 days of a change of residence;

30       (C) Once each year within 10 days of the person's birth date, regardless of whether the person  
31 changed residence;

32       (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
33 institution of higher education; and

34       (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
35 education.

36       ***[(b) If the person required to report under this subsection is a youth offender, as defined in ORS***  
37 ***419A.004, who is under supervision, the person shall report to the agency supervising the person.]***

38       ***[(c)] (b) The obligation to report under this subsection terminates if the conviction or adjudi-***  
39 ***cation that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.***

40       (5) As part of the registration and reporting requirements of this section:

41       (a) The person required to report shall:

42       (A) Provide the information necessary to complete the sex offender registration form and sign  
43 the form as required; and

44       (B) Submit to the requirements described in paragraph (b) of this subsection.

45       (b) The Department of State Police, the city police department, the county sheriff's office or the

1 supervising agency:

2 (A) Shall photograph the person when the person initially reports under this section and each  
3 time the person reports annually under this section;

4 (B) May photograph the person or any identifying scars, marks or tattoos located on the person  
5 when the person reports under any of the circumstances described in this section; and

6 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file  
7 of the Department of State Police.

8 **SECTION 36b.** If Senate Bill 408 becomes law, section 27, chapter \_\_\_, Oregon Laws 2011 (En-  
9 rolled Senate Bill 408), is amended to read:

10 **Sec. 27.** (1) Sections 1 and 2 [*of this 2011 Act*], **chapter \_\_\_, Oregon Laws 2011 (Enrolled**  
11 **Senate Bill 408)**, and the amendments to ORS 93.275, 181.589, 181.590, 181.592, 181.594, 181.595,  
12 181.596, 181.597, 181.598, 181.599, 181.602, 181.604, 181.606, 181.820, 181.823, 181.826, 181.830, 181.875,  
13 417.042 and 696.880 by sections 3, 4, [*and*] 7 to **11 and 13 to 24 [*of this 2011 Act*], **chapter \_\_\_,**  
14 **Oregon Laws 2011 (Enrolled Senate Bill 408), and section 36a of this 2011 Act** become operative  
15 on January 1, 2012.**

16 (2) Sections 1 and 2 [*of this 2011 Act*], **chapter \_\_\_, Oregon Laws 2011 (Enrolled Senate Bill**  
17 **408)**, and the amendments to ORS 21.110, 93.275, 181.589, 181.590, 181.592, 181.594, 181.595, 181.596,  
18 181.597, 181.598, 181.599, 181.602, 181.604, 181.606, 181.820, 181.823, 181.826, 181.830, 181.875, 417.042  
19 and 696.880 by sections 3 to **11 and 13 to 24 [*of this 2011 Act*], **chapter \_\_\_, Oregon Laws 2011**  
20 **(Enrolled Senate Bill 408), and section 36a of this 2011 Act** apply to persons adjudicated before,  
21 on or after the effective date of [*this 2011 Act*] **chapter \_\_\_, Oregon Laws 2011 (Enrolled Senate**  
22 **Bill 408)**.**

23 (3) A person who is adjudicated before January 1, 2012, and, but for the amendments to ORS  
24 181.595, 181.596 and 181.597 by sections 11[, 12] and 13, **chapter \_\_\_, Oregon Laws 2011 (Enrolled**  
25 **Senate Bill 408), and section 36a of this 2011 Act**, would be required to make an initial report  
26 as a sex offender on or after January 1, 2012, shall make an initial report that complies with section  
27 1 (6) [*of this 2011 Act*], **chapter \_\_\_, Oregon Laws 2011 (Enrolled Senate Bill 408)**, no later than  
28 the date described in section 1 (2) [*of this 2011 Act*], **chapter \_\_\_, Oregon Laws 2011 (Enrolled**  
29 **Senate Bill 408)**, as applicable.

30 **SECTION 37.** ORS 181.597 is amended to read:

31 181.597. (1)(a) When a person described in subsection (2) of this section moves into this state  
32 and is not otherwise required by ORS 181.595 or 181.596 to report, the person shall report, in person,  
33 to the Department of State Police, a city police department or a county sheriff's office:

34 (A) No later than 10 days after moving into this state;

35 (B) Within 10 days of a change of residence;

36 (C) Once each year within 10 days of the person's birth date, regardless of whether the person  
37 changed residence;

38 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
39 institution of higher education; and

40 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
41 education.

42 (b) When a person described in subsection (2) of this section attends school or works in this  
43 state, resides in another state and is not otherwise required by ORS 181.595 or 181.596 to report,  
44 the person shall report, in person, to the Department of State Police, a city police department or a  
45 county sheriff's office no later than 10 days after:



- 1 (A) The first day of school attendance or the 14th day of employment in this state; and  
2 (B) A change in school enrollment or employment.
- 3 (c) When a person described in subsection (2) of this section resides in this state at the time of  
4 the conviction or adjudication giving rise to the obligation to report, continues to reside in this  
5 state following the conviction or adjudication and is not otherwise required by ORS 181.595 or  
6 181.596 to report, the person shall report, in person, to the Department of State Police, a city police  
7 department or a county sheriff's office:
- 8 (A) Within 10 days following:
- 9 (i) Discharge, release on parole or release on any form of supervised or conditional release, from  
10 a jail, prison or other correctional facility or detention facility; or  
11 (ii) Discharge, release or placement on probation, by another United States court;
- 12 (B) Within 10 days of a change of residence;
- 13 (C) Once each year within 10 days of the person's birth date, regardless of whether the person  
14 has changed residence;
- 15 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
16 institution of higher education; and
- 17 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
18 education.
- 19 (d) As used in paragraph (b) of this subsection, "attends school" means enrollment in any type  
20 of school on a full-time or part-time basis.
- 21 (e) When a person reports under this subsection, the agency to which the person reports shall  
22 complete a sex offender registration form concerning the person.
- 23 (f) The obligation to report under this section terminates if the conviction or adjudication that  
24 gave rise to the obligation is reversed or vacated or if the registrant is pardoned.
- 25 (2) Subsection (1) of this section applies to:
- 26 (a) A person convicted in another United States court of a crime if the elements of the crime  
27 would constitute a sex crime;
- 28 (b) A person found by another United States court to have committed an act while the person  
29 was under 18 years of age that would constitute a sex crime if committed in this state by an adult;  
30 and
- 31 (c) A person required to register in another state for having committed a sex offense in that  
32 state regardless of whether the crime would constitute a sex crime in this state.
- 33 (3) As part of the registration and reporting requirements of this section:
- 34 (a) The person required to report shall:
- 35 (A) Provide the information necessary to complete the sex offender registration form and sign  
36 the form as required; and
- 37 (B) Submit to the requirements described in paragraph (b) of this subsection.
- 38 (b) The Department of State Police, the city police department or the sheriff's office:
- 39 (A) Shall photograph the person when the person initially reports under this section, each time  
40 the person reports annually under subsection (1)(a)(C) of this section and each time the person re-  
41 ports under subsection (1)(b)(B) of this section;
- 42 (B) May photograph the person or any identifying scars, marks or tattoos located on the person  
43 when the person reports under any of the circumstances described in this section; and
- 44 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file  
45 of the Department of State Police [*bureau of criminal identification*].

1       **SECTION 38.** ORS 181.660 is amended to read:

2       181.660. (1) The minimum standards and minimum training requirements established pursuant to  
3 ORS 181.640 (1) do not apply to:

4       (a) The Superintendent of State Police.

5       (b) Any individual who is a constable of the justice court.

6       (c) Any sheriff's deputy appointed with authority only to receive and serve summons and civil  
7 process.

8       (d) Any municipal parole officer.

9       (e) Any dog control officer commissioned by a city or county.

10       [(f) Any individual appointed by the Superintendent of State Police under ORS 181.265.]

11       [(g)] (f) An individual performing the duties of a reserve officer who has not been required by  
12 the law enforcement unit utilizing the individual to receive training for certification as a certified  
13 reserve officer.

14       (2) The Department of Public Safety Standards and Training may, upon application of an indi-  
15 vidual public safety officer, except a youth correction officer, at its discretion, certify the public  
16 safety officer as provided in ORS 181.640 (1)(d) upon a finding that the public safety officer's pro-  
17 fessional experience, education or training meets the standards required for certification.

18       **SECTION 39.** ORS 194.024 is amended to read:

19       194.024. (1) To assist in determining the identity of an applicant for notary public, or if the ap-  
20 plicant has been convicted of a felony or of a lesser offense incompatible with the duties of a notary  
21 public, upon consent of the person making application for appointment as notary public and upon  
22 request of the Secretary of State, the Department of State Police shall furnish to the Secretary of  
23 State any information that the department may have in its possession [*from its central bureau of*  
24 *criminal identification*], including but not limited to manual or computerized information and any  
25 information to which the department may have access, including but not limited to the Law  
26 Enforcement Data System established in ORS 181.730. For purposes of receiving the information  
27 described in this subsection, the Secretary of State is a "criminal justice agency" under ORS 181.010  
28 to 181.560 and 181.715 to 181.730 and the rules adopted under ORS 181.555.

29       (2) A person making application for appointment as notary public shall be deemed, upon signing  
30 or with signature upon the application filed under ORS 194.014, to have given the consent necessary  
31 for purposes of subsection (1) of this section.

32       **SECTION 40.** ORS 240.205 is amended to read:

33       240.205. The unclassified service shall comprise:

34       (1) One executive officer and one secretary for each board or commission, the members of which  
35 are elected officers or are appointed by the Governor.

36       (2) The director of each department of state government, each full-time salaried head of a state  
37 agency required by law to be appointed by the Governor and each full-time salaried member of a  
38 board or commission required by law to be appointed by the Governor.

39       (3) The administrator of each division within a department of state government required by law  
40 to be appointed by the director of the department with the approval of the Governor.

41       (4) Principal assistants and deputies and one private secretary for each executive or adminis-  
42 trative officer specified in ORS 240.200 (1) and in subsections (1) to (3) of this section. "Deputy"  
43 means the deputy or deputies to an executive or administrative officer listed in subsections (1) to  
44 (3) of this section who is authorized to exercise that officer's authority upon absence of the officer.  
45 "Principal assistant" means a manager of a major agency organizational component who reports

1 directly to an executive or administrative officer listed in subsections (1) to (3) of this section or  
2 deputy and who is designated as such by that executive or administrative officer with the approval  
3 of the Director of the Oregon Department of Administrative Services.

4 (5) Employees in the Governor's office and the principal assistant and private secretary in the  
5 Secretary of State's division.

6 (6) The director, principals, instructors and teachers in the school operated under ORS 346.010.

7 (7) Apprentice trainees only during the prescribed length of their course of training.

8 (8) Licensed physicians and dentists employed in their professional capacities and student  
9 nurses, interns, and patient or inmate help in state institutions.

10 (9) Lawyers employed in their professional capacities.

11 (10) All members of the Oregon State Police appointed under ORS 181.250 [and 181.265].

12 (11) Deputy superintendents and associate superintendents in the Department of Education.

13 (12) Temporary seasonal farm laborers engaged in single phases of agricultural production or  
14 harvesting.

15 (13) Any individual employed and paid from federal funds received under the Emergency Job and  
16 Unemployment Assistance Act of 1974 (United States Public Law 93-567) or any other federal pro-  
17 gram intended primarily to alleviate unemployment. However, persons employed under this sub-  
18 section shall be treated as classified employees for purposes of ORS 243.650 to 243.782.

19 (14) Managers, department heads, directors, producers and announcers of the state radio and  
20 television network.

21 (15) Employees, including managers, of the foreign trade offices of the Oregon Business Devel-  
22 opment Department located outside the country.

23 (16) Any other position designated by law as unclassified.

24 **SECTION 41.** ORS 240.580 is amended to read:

25 240.580. An employee who is initially appointed to a position in the unclassified service as a  
26 member of the Oregon State Police under ORS 181.250 [or 181.265], who separates voluntarily from  
27 that service and who, within two years after the separation, is appointed to a position in the clas-  
28 sified service, whether within a bargaining unit covered by a collective bargaining agreement or not,  
29 and acquires regular employee status shall be entitled, for purposes of layoff and opportunity for  
30 reemployment after separation for reasons other than cause, to service credit for the service in the  
31 unclassified service preceding the service in the classified service. ORS 240.321 (3) does not apply  
32 to service credit granted under this section.

33 **SECTION 42.** ORS 250.048, as amended by section 4, chapter 9, Oregon Laws 2010, is amended  
34 to read:

35 250.048. (1) A person may not pay money or other valuable consideration to another person for  
36 obtaining signatures of electors on a state initiative, referendum or recall petition or a prospective  
37 petition for a state measure to be initiated, and a person may not receive money or other valuable  
38 consideration for obtaining signatures of electors on a state initiative, referendum or recall petition  
39 or a prospective petition for a state measure to be initiated, unless the person obtaining the signa-  
40 tures:

41 (a) Registers with the Secretary of State in the manner prescribed by this section and by rule  
42 of the secretary; and

43 (b) Completes the training program prescribed by rule of the secretary.

44 (2) A person may apply to the secretary for a registration required under subsection (1) of this  
45 section. The application shall include:

- 1 (a) The full name and any assumed name of the applicant;
- 2 (b) The residential street address of the applicant;
- 3 (c) An example of the signature of the applicant;
- 4 (d) A list of the prospective petitions on which the applicant will gather signatures;
- 5 (e) A list of the initiative, referendum and recall petitions on which the applicant will gather  
6 signatures;
- 7 (f) If the applicant has been convicted for a criminal offense involving fraud, forgery or iden-  
8 tification theft, information relating to the circumstances of the conviction as required by the sec-  
9 retary;
- 10 (g) A statement signed by the applicant acknowledging that the applicant has read and under-  
11 stands Oregon law applicable to the gathering of signatures on state initiative, referendum and re-  
12 call petitions and prospective petitions for state measures to be initiated, as the law is summarized  
13 in the training program established by the Secretary of State;
- 14 (h) Evidence indicating that the applicant has completed the training required by the secretary  
15 by rule;
- 16 (i) A photograph of the applicant; and
- 17 (j) A statement signed by a chief petitioner of each petition or prospective petition, or a person  
18 designated by a chief petitioner under this paragraph, upon which the applicant will gather signa-  
19 tures acknowledging that the chief petitioner is liable for violations of law or rule committed by the  
20 person obtaining signatures as provided in ORS 260.561. A chief petitioner may designate a person  
21 to sign a statement described in this paragraph on behalf of the chief petitioner.
- 22 (3)(a) If an applicant complies with subsection (2) of this section, not later than five business  
23 days after the applicant applies, the secretary shall register the applicant and assign the applicant  
24 a registration number.
- 25 (b) A person who is registered to obtain signatures on a prospective petition for a state measure  
26 to be initiated need not reapply for a registration under this section in order to obtain signatures  
27 on a state initiative, referendum or recall petition, except that the person shall submit a list of the  
28 initiative, referendum and recall petitions on which the person will gather signatures.
- 29 (c) A registration to obtain signatures on a state initiative petition or a prospective petition for  
30 a state measure to be initiated is valid until the date that is four months before the next general  
31 election.
- 32 (d) A registration to obtain signatures on a referendum or recall petition is valid until the date  
33 the petition is filed for signature verification.
- 34 (4) A person may not apply for registration under this section if, during the five-year period  
35 prior to the date of application, the person:
  - 36 (a) Has been convicted for a criminal offense involving fraud, forgery or identification theft in  
37 any state;
  - 38 (b) Has had a civil penalty imposed under ORS 260.995 for a violation of this section or ORS  
39 260.262; or
  - 40 (c) Has had a civil or criminal penalty imposed for violation of a statute subject to a criminal  
41 penalty under ORS 260.993.
- 42 (5) To assist in determining the identity of an applicant or whether an applicant has been con-  
43 victed for a criminal offense described in subsection (4) of this section, upon consent of the applicant  
44 and upon request of the secretary, the Department of State Police shall furnish to the secretary any  
45 information that the department may have in its possession [*from its central bureau of criminal*

1 *identification*], including but not limited to the Law Enforcement Data System established in ORS  
 2 181.730, other computerized information and any other information to which the department may  
 3 have access. For purposes of receiving the information described in this subsection, the office of the  
 4 Secretary of State is a “criminal justice agency” under ORS 181.010 to 181.560 and 181.715 to  
 5 181.730 and the rules adopted under ORS 181.555. Upon submitting an application for registration  
 6 described in subsection (2) of this section, an applicant is deemed to have given the consent neces-  
 7 sary for purposes of this subsection.

8 (6) If a person receives money or other valuable consideration for obtaining signatures of elec-  
 9 tors on a state initiative, referendum or recall petition or a prospective petition for a state measure  
 10 to be initiated and the person was not registered as required under this section at the time the  
 11 signatures were obtained, the secretary may not include any signatures obtained by the person in  
 12 a count under ORS 250.045 (3) or 250.105 or ORS chapter 249 for purposes of determining whether  
 13 the petition or prospective petition contains the required number of signatures of electors.

14 (7) A person registered under this section shall carry evidence of registration with the person  
 15 while the person is obtaining signatures on a state initiative, referendum or recall petition or a  
 16 prospective petition for a state measure to be initiated. The evidence of registration shall contain  
 17 the photograph and registration number of the person. The secretary by rule shall designate the  
 18 form of the evidence of registration.

19 (8) A photograph of an applicant submitted under subsection (2) of this section shall:

20 (a) Be a conventional photograph with a plain background;

21 (b) Show the face or the face, neck and shoulders of the applicant; and

22 (c) Be prepared and processed for printing as prescribed by the secretary.

23 (9) A person registered under this section may not obtain signatures on a petition or prospective  
 24 petition for which the person is being paid and, at the same time, obtain signatures on a petition  
 25 or prospective petition for which the person is not being paid. The secretary may not include any  
 26 signatures obtained in violation of this subsection in a count under ORS 250.045 (3) or 250.105 or  
 27 ORS chapter 249 for purposes of determining whether a state initiative, referendum or recall petition  
 28 or a prospective petition for a state measure to be initiated contains the required number of signa-  
 29 tures of electors.

30 (10) The secretary shall adopt rules necessary to implement this section, including rules:

31 (a) Establishing procedures for registering persons who may be paid money or other valuable  
 32 consideration for obtaining signatures of electors on state initiative, referendum or recall petitions  
 33 or prospective petitions for state measures to be initiated; and

34 (b) Establishing a training program for persons who may be paid money or other valuable con-  
 35 sideration for obtaining signatures of electors on state initiative, referendum or recall petitions or  
 36 prospective petitions for state measures to be initiated.

37 **SECTION 43.** ORS 418.701 is amended to read:

38 418.701. (1) Upon the request of a youth sports provider, and in compliance with procedures  
 39 adopted by the Department of State Police under ORS 181.555, the Department of State Police shall  
 40 furnish to the authorized staff of the youth sports provider such information on a subject individual  
 41 as the Department of State Police may have in its possession [*from its central bureau of criminal*  
 42 *identification*], including but not limited to manual or computerized criminal offender information.  
 43 With the approval of the Department of State Police, a local law enforcement agency may furnish  
 44 the information described in this subsection to a youth sports provider.

45 (2)(a) Subsequent to furnishing the information required under subsection (1) of this section, the

1 Department of State Police shall conduct nationwide criminal records checks of the subject indi-  
 2 vidual through the Federal Bureau of Investigation by use of the subject individual's fingerprints  
 3 and shall report the results to the staff of the youth sports provider, who must be specifically au-  
 4 thorized to receive the information. In accordance with the procedures of the Department of State  
 5 Police, a local law enforcement agency may conduct the criminal records check described in this  
 6 paragraph if the local law enforcement agency has received approval under subsection (1) of this  
 7 section.

8 (b) The Department of State Police or a local law enforcement agency may not transfer the  
 9 fingerprint card used to conduct a criminal records check unless the public agency or person re-  
 10 ceiving the fingerprint card agrees to destroy the fingerprint card or return the fingerprint card to  
 11 the Department of State Police or local law enforcement agency.

12 (c) If a public agency or person returns a fingerprint card to the Department of State Police or  
 13 local law enforcement agency, the Department of State Police or local law enforcement agency shall  
 14 destroy the fingerprint card or return the fingerprint card to the subject individual. The Department  
 15 of State Police or local law enforcement agency may not keep a record of the fingerprints.

16 **SECTION 44.** ORS 419A.250 is amended to read:

17 419A.250. (1) A child, ward, youth or youth offender may be photographed or fingerprinted by  
 18 a law enforcement agency:

19 (a) Pursuant to a search warrant;

20 (b) According to laws concerning adults if the youth has been transferred to criminal court for  
 21 prosecution;

22 (c) Upon consent of both the child or youth and the child or youth's parent after advice that  
 23 they are not required to give such consent;

24 (d) Upon request or consent of the child's parent alone if the child is less than 10 years of age,  
 25 and if the law enforcement agency delivers the original photographs or fingerprints to the parent  
 26 and does not make or retain any copies thereof; or

27 (e) By order of the juvenile court.

28 (2) When a youth is taken into custody under ORS 419C.080, the law enforcement agency taking  
 29 the youth into custody shall photograph and fingerprint the youth. When a youth is found within the  
 30 jurisdiction of the juvenile court for the commission of an act that would constitute a crime if  
 31 committed by an adult, the court shall ensure that the youth offender's fingerprints have been taken.  
 32 The law enforcement agency attending upon the court is the agency responsible for obtaining the  
 33 fingerprints. The law enforcement agency attending upon the court may, by agreement, arrange for  
 34 another law enforcement agency to obtain the fingerprints on the attending agency's behalf.

35 (3) Fingerprint and photograph files or records of children, wards, youths and youth offenders  
 36 must be kept separate from those of adults, and fingerprints and photographs known to be those of  
 37 a child may be maintained on a local basis only and may not be sent to a central state or federal  
 38 depository.

39 (4) Fingerprint and photograph files or records of a child, ward, youth or youth offender are  
 40 open to inspection only by, or the contents disclosed only to, the following:

41 (a) Public agencies for use in investigation or prosecution of crimes and of conduct by a child,  
 42 ward, youth or youth offender that if committed by an adult would be an offense, provided that a  
 43 law enforcement agency may provide information to another agency only when the information is  
 44 pertinent to a specific investigation by that agency;

45 (b) The juvenile department and the juvenile court having the child, ward, youth or youth

1 offender before it in any proceeding;

2 (c) Caseworkers and counselors taking action or otherwise responsible for planning and care of  
3 the child, ward, youth or youth offender;

4 (d) The parties to the proceeding and their counsel; and

5 (e) The victim or a witness of an act or behavior described under ORS 419C.005 (1) or the  
6 victim's parent, guardian, personal representative or subrogee, when necessary to identify the youth  
7 or youth offender committing the act or behavior and identifying the apparent extent of the youth  
8 or youth offender's involvement in the act or behavior.

9 (5)(a) Fingerprint and photograph files or records of youths and youth offenders must be sent to  
10 a central state depository in the same manner as fingerprint and photograph files or records of  
11 adults. The fingerprint and photograph files or records of a youth or youth offender sent to a central  
12 depository under this subsection are open to inspection in the same manner and under the same  
13 circumstances as fingerprint and photograph files or records of adults.

14 (b) A party filing a petition alleging that a youth is within the jurisdiction of the court under  
15 ORS 419C.005 shall notify the central state depository of the following:

16 (A) The filing of a petition alleging that a youth committed an act that if committed by an adult  
17 would constitute a crime; or

18 (B) The dismissal of a petition alleging that a youth committed an act that if committed by an  
19 adult would constitute a crime.

20 (c) The juvenile court shall notify the central state depository of the disposition of a case in  
21 which jurisdiction is based on ORS 419C.005.

22 (d) The Department of State Police shall delete the fingerprint and photograph files or records  
23 of a youth or youth offender from the depository and destroy the files or records relating to the  
24 conduct that caused the files or records to be sent to the depository:

25 (A) One year after receiving the files, if the central state depository has not received notice  
26 under paragraph (b) of this subsection;

27 (B) No later than one year following receipt of a notice of dismissal of a petition under para-  
28 graph (b)(B) of this subsection; or

29 (C) In all other circumstances, no later than five years and 30 days after fingerprint and pho-  
30 tograph files or records are sent to the central state depository.

31 (6) Fingerprint and photograph files and records of a child, ward, youth or youth offender must  
32 be expunged when the juvenile court orders expunction of a child, ward, youth or youth offender's  
33 record pursuant to ORS 419A.260 and 419A.262.

34 (7) The parent or guardian of a missing child may submit a fingerprint card and photograph of  
35 the child to a law enforcement agency at the time a missing person report is made. The law  
36 enforcement agency may submit the fingerprint file to the Department of State Police [*bureau of*  
37 *criminal identification*]. The information must be entered into the Law Enforcement Data System  
38 and the Western Identification Network Automated Fingerprint Identification System.

39 (8) When fingerprint files or records are submitted under subsection (7) of this section, the De-  
40 partment of State Police shall enter in a special index in the computerized criminal history files the  
41 name of the child and the name of the county or agency that submitted the fingerprint file or record.

42 (9) Fingerprints and other information entered in any data system pursuant to subsection (7) of  
43 this section must be deleted when the child is located.

44 **SECTION 45.** ORS 426.160 is amended to read:

45 426.160. The judge shall cause to be recorded in the court records a full account of proceedings

1 had at all hearings and examinations conducted pursuant to ORS 426.005, 426.060 to 426.170, 426.217,  
2 426.228, 426.255 to 426.292, 426.300 to 426.309, 426.335, 426.385 and 426.395, together with the judg-  
3 ments and orders of the court and a copy of the orders issued. The account of the proceedings and  
4 transcripts of testimony if taken thereat shall be delivered to the court clerk or court administrator  
5 who shall cause it to be sealed and neither the account of the proceedings nor the transcript of  
6 testimony if taken shall be disclosed to any person except:

7 (1) The court shall, pursuant to rules adopted by the Department of State Police, transmit the  
8 minimum information necessary, as defined in ORS 181.740, to the Department of State Police [*bu-*  
9 *reau of criminal identification*] for persons described in ORS 181.740 (1)(a) or (b) to enable the de-  
10 partment to access and maintain the information and transmit the information to the federal  
11 government as required under federal law;

12 (2) As provided in ORS 426.070 (5)(c), 426.130 (3) or 426.170;

13 (3) Upon request of the person subject to the proceedings, the legal representatives, or the at-  
14 torney of the person; or

15 (4) Pursuant to court order.

16 **SECTION 46.** ORS 427.293 is amended to read:

17 427.293. (1) The court shall cause to be recorded in the court records:

18 (a) A full account of all proceedings conducted under ORS 427.235 to 427.290;

19 (b) Reports submitted to the court under ORS 427.270;

20 (c) The judgments and orders of the court; and

21 (d) A copy of the judgments and orders issued.

22 (2) The account of the proceedings, including any transcript of testimony, and reports submitted  
23 to the court under ORS 427.270 shall be delivered to the court clerk or court administrator who  
24 shall cause them to be sealed. The account of the proceedings, the reports and any transcript of  
25 testimony may not be disclosed to any person except:

26 (a) The court shall, pursuant to rules adopted by the Department of State Police, transmit the  
27 minimum information necessary, as defined in ORS 181.740, to the Department of State Police [*bu-*  
28 *reau of criminal identification*] for persons described in ORS 181.740 (1)(c) to enable the department  
29 to maintain the information and transmit the information to the federal government as required  
30 under federal law;

31 (b) Upon request of the person subject to the proceedings or the legal representative or attorney  
32 of the person; or

33 (c) Pursuant to an order of the court.

34 **SECTION 47.** ORS 461.110 is amended to read:

35 461.110. (1) Upon the request of the Oregon State Lottery Commission or the Director of the  
36 Oregon State Lottery, the office of the Attorney General and the Oregon State Police shall furnish  
37 to the director and to the Assistant Director for Security such information as may tend to ensure  
38 security, integrity, honesty and fairness in the operation and administration of the Oregon State  
39 Lottery as the office of the Attorney General and the Oregon State Police may have in their pos-  
40 session, including, but not limited to, manual or computerized information and data.

41 (2) In order to determine an applicant's suitability to enter into a contract with or to be em-  
42 ployed by the Oregon State Lottery, each applicant identified in this subsection shall be finger-  
43 printed. The Assistant Director for Security may submit to the Department of State Police [*bureau*  
44 *of criminal identification*] and to the Federal Bureau of Investigation, for the purpose of verifying the  
45 identity of the following persons and obtaining records of their arrests and criminal convictions,



1 fingerprints of:

2 (a) With respect to video game retailers, each person for whom ORS 461.300 or an administrative  
3 rule of the Oregon State Lottery Commission requires disclosure of the person's name and address;

4 (b) With respect to lottery vendors and lottery contractors, each person for whom ORS 461.410  
5 or an administrative rule of the Oregon State Lottery Commission requires disclosure of the person's  
6 name and address;

7 (c) Applicants for employment with the Oregon State Lottery; and

8 (d) With respect to other persons and entities that apply for contracts or have contracts with  
9 the Oregon State Lottery, each person for whom ORS 461.300 requires disclosure of the person's  
10 name and address and for whom the Assistant Director for Security has prepared written reasons,  
11 approved in writing by the director, for requiring the confirmation of the person's identity and re-  
12 cords.

13 (3) For the purpose of requesting and receiving the information described in subsections (1) and  
14 (2) of this section, the Oregon State Lottery Commission is a state agency and a criminal justice  
15 agency and its enforcement agents are peace officers pursuant to ORS [181.010] **181.610** to 181.712  
16 and rules adopted thereunder.

17 (4) Enforcement agents, designated as such by the commission, shall have the same authority  
18 with respect to service and execution of warrants of arrest and search warrants as is conferred upon  
19 peace officers of this state.

20 **SECTION 48. ORS 181.040, 181.170, 181.265, 181.290, 181.300, 181.310, 181.320, 181.330,**  
21 **181.340, 181.350, 181.360, 181.450, 181.455, 181.460, 181.465, 181.470, 181.475, 181.480, 181.485,**  
22 **181.490, 181.495, 181.496 and 181.497 are repealed.**

23 **SECTION 49. This 2011 Act being necessary for the immediate preservation of the public**  
24 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
25 **on its passage.**