

House Bill 2229

Sponsored by Representative NATHANSON (Pre-session filed.)

SUMMARY

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

Requires Department of State Police to establish voluntary program through which department retains fingerprint cards or creates facsimiles of fingerprints received from Federal Bureau of Investigation, or created during state criminal records check, for purpose of notifying agencies and districts that subscribe to program if individual is convicted of crime.

A BILL FOR AN ACT

1
2 Relating to retention of fingerprint information; creating new provisions; and amending ORS 181.533,
3 181.534, 181.880, 267.237, 480.235, 703.090 and 703.425.

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

5 **SECTION 1. (1) The Department of State Police shall establish a voluntary fingerprint**
6 **retention program through which the department retains fingerprint cards or creates fac-**
7 **similes of fingerprints received from the Federal Bureau of Investigation, or created during**
8 **a state criminal records check under ORS 181.533, 181.534, 181.537 or 267.237, for the purpose**
9 **of providing information as described in subsection (4) of this section.**

10 **(2) An individual subject to a criminal records check under ORS 181.533, 181.534, 181.537**
11 **or 267.237 is not required to participate in the fingerprint retention program. Participation**
12 **in the program is voluntary.**

13 **(3) When the department receives forms containing a person's fingerprints and other**
14 **identifying information under ORS 181.511 or for any other purpose related to the adminis-**
15 **tration of criminal justice, the department shall determine whether the person is a partic-**
16 **ipant in the fingerprint retention program. If the person is a participant, the department**
17 **shall use the best available technology to monitor any criminal proceeding involving the**
18 **person for purposes of determining whether the person is convicted.**

19 **(4) If an authorized agency as defined in ORS 181.533 or 181.534, an agency listed in ORS**
20 **181.537 (2) or a district as defined in ORS 267.237 subscribes to the fingerprint retention**
21 **program, the department shall notify the authorized agency, agency or district when the**
22 **department determines, pursuant to subsection (3) of this section, that the participant in the**
23 **fingerprint retention program has been convicted.**

24 **(5) Participation in the fingerprint retention program may not be made a condition of**
25 **employment.**

26 **(6) Information retained under this section is exempt from public disclosure under ORS**
27 **192.410 to 192.505, and the department may not otherwise disclose the information.**

28 **(7) The department:**

29 **(a) Shall adopt rules for the administration of this section; and**

30 **(b) May adopt a fee that an authorized agency, agency or district must pay to subscribe**

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 **to the program.**

2 **SECTION 2.** ORS 181.533 is amended to read:

3 181.533. (1) As used in this section:

4 (a) "Authorized agency" means the Department of State Police or other governmental agency
5 designated by the State of Oregon to report, receive or disseminate criminal offender information.

6 (b) "Qualified entity" means a business or organization that:

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

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

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

12 (c) "Subject individual" means a person who is employed or seeks to be employed by a qualified
13 entity or who is providing services or seeks to provide services to a qualified entity on a contractual
14 or volunteer basis.

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

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

20 (a) The authorized agency must determine whether the entity requesting the criminal records
21 check is a qualified entity;

22 (b) The qualified entity must establish criteria, subject to rules adopted by the Oregon Depart-
23 ment of Administrative Services under ORS 181.547, to be used by the authorized agency in re-
24 viewing the criminal offender information for a final record check determination;

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

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

31 (4)(a) Upon receipt of a subject individual's criminal offender information, the authorized agency
32 shall use the criteria provided to the authorized agency by the qualified entity under subsection
33 (3)(c) of this section and rules adopted by the Oregon Department of Administrative Services under
34 ORS 181.547 to make a fitness determination. In making the final record check determination, the
35 authorized agency may consider only information that the Department of State Police may disclose
36 under ORS 181.560.

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

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

42 (6) **Except as provided in section 1 of this 2015 Act**, if the public agency or person returns
43 a fingerprint card to the authorized agency, the authorized agency:

44 (a) Shall destroy the fingerprint card[. *The authorized agency*]; **and**

45 (b) May not keep a record of the fingerprints.

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

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

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

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

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

13 **SECTION 3.** ORS 181.534 is amended to read:

14 181.534. (1) As used in this section:

15 (a) "Authorized agency" means state government as defined in ORS 174.111 and the Oregon
 16 State Bar. "Authorized agency" does not include:

17 (A) The Oregon State Lottery Commission or the Oregon State Lottery; or

18 (B) A criminal justice agency, as defined in ORS 181.010, that is authorized by federal law to
 19 receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

20 (b) "Subject individual" means a person from whom an authorized agency may require finger-
 21 prints pursuant to statute for the purpose of enabling the authorized agency to request a state or
 22 nationwide criminal records check.

23 (2) An authorized agency may request that the Department of State Police conduct a criminal
 24 records check on a subject individual for non-criminal justice purposes. If a nationwide criminal
 25 records check of a subject individual is necessary, the authorized agency may request that the De-
 26 partment of State Police conduct the check, including fingerprint identification, through the Federal
 27 Bureau of Investigation.

28 (3) The Department of State Police shall provide the results of a criminal records check con-
 29 ducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

30 (4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to
 31 conduct the criminal records check and may not keep any record of the fingerprints. If the federal
 32 bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department
 33 of State Police shall cease to send the cards to the federal bureau but shall continue to process the
 34 information through other available resources.

35 (5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of
 36 State Police, the Department of State Police shall destroy the fingerprint cards and *[shall retain*
 37 *no]* **may not retain** facsimiles or other material from which a fingerprint can be reproduced, **except**
 38 **that the Department of State Police may retain the fingerprint cards or create facsimiles for**
 39 **the purpose of providing information under section 1 of this 2015 Act.**

40 (6) If only a state criminal records check is conducted, **after the criminal records check is**
 41 **completed**, the Department of State Police shall destroy the fingerprint cards *[after the criminal*
 42 *records check is completed]* and the results of the criminal records check provided to the authorized
 43 agency and *[shall retain no]* **may not retain** facsimiles or other material from which a fingerprint
 44 can be reproduced, **except that the Department of State Police may retain the fingerprint**
 45 **cards and results or create facsimiles for the purpose of providing information under section**

1 **1 of this 2015 Act.**

2 (7) An authorized agency may conduct criminal records checks on subject individuals through
 3 the Law Enforcement Data System maintained by the Department of State Police in accordance with
 4 rules adopted, and procedures established, by the Department of State Police.

5 (8) An authorized agency and the Department of State Police shall permit a subject individual
 6 for whom a fingerprint-based criminal records check was conducted to inspect the individual's own
 7 state and national criminal offender records and, if requested by the subject individual, provide the
 8 individual with a copy of the individual's own state and national criminal offender records.

9 (9) Each authorized agency, in consultation with the Department of State Police, shall adopt
 10 rules to implement this section and other statutes relating to criminal offender information obtained
 11 through fingerprint-based criminal records checks. The rules shall include but need not be limited
 12 to:

13 (a) Identifying applicable categories of subject individuals as specified by the Oregon Depart-
 14 ment of Administrative Services under ORS 181.547 who are subject to criminal records checks by
 15 the authorized agency.

16 (b) Identifying applicable information that may be required from a subject individual to permit
 17 a criminal records check as specified by the Oregon Department of Administrative Services under
 18 ORS 181.547.

19 (c) Specifying which programs or services are subject to this section.

20 (d) If the authorized agency uses criminal records checks for agency employment purposes:

21 (A) Determining when and under what conditions a subject individual may be hired on a pre-
 22 liminary basis pending a criminal records check; and

23 (B) Defining the conditions under which a subject individual may participate in training, orien-
 24 tation and work activities pending completion of a criminal records check.

25 (e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing
 26 criminal offender information.

27 (10) The Department of State Police shall verify that an authorized agency has adopted the rules
 28 required by subsection (9) of this section.

29 (11)(a) Except as otherwise provided in ORS 181.612, 342.143, 342.223, 443.735 and 475.304 and
 30 paragraph (b) of this subsection, an authorized agency, using the rules adopted by the authorized
 31 agency under subsection (9) of this section and the rules adopted by the Oregon Department of Ad-
 32 ministrative Services under ORS 181.547, shall determine whether a subject individual is fit to hold
 33 a position, provide services, be employed or be granted a license, certification, registration or per-
 34 mit, based on the criminal records check obtained pursuant to this section, on any false statements
 35 made by the individual regarding the criminal history of the individual and on any refusal to submit
 36 or consent to a criminal records check including fingerprint identification. If a subject individual
 37 is determined to be unfit, then the individual may not hold the position, provide services, be em-
 38 ployed or be granted a license, certification, registration or permit.

39 (b) An individual prohibited from receiving public funds for employment under ORS 443.004 (3)
 40 is not entitled to a determination of fitness as a subject individual under paragraph (a) of this sub-
 41 section.

42 (c)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness de-
 43 termination of an individual under this subsection may request results of a previously made fitness
 44 determination from an authorized agency that has already made a fitness determination for the in-
 45 dividual. An authorized agency that receives a request under this paragraph shall provide the re-

1 requested information.

2 (B) An authorized agency may make a request under this paragraph only for individuals:

3 (i) Who are applying to hold a position, provide services, be employed or be granted a license,
4 certification, registration or permit;

5 (ii) Who are in a category of individuals as specified by the Oregon Department of Administra-
6 tive Services under ORS 181.547; and

7 (iii) For whom a fitness determination has already been made.

8 (12) Except as otherwise provided in ORS 181.612, in making the fitness determination under
9 subsection (11) of this section, the authorized agency shall consider:

10 (a) The nature of the crime;

11 (b) The facts that support the conviction or pending indictment or that indicate the making of
12 the false statement;

13 (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the
14 subject individual's present or proposed position, services, employment, license, certification or reg-
15 istration; and

16 (d) Intervening circumstances relevant to the responsibilities and circumstances of the position,
17 services, employment, license, certification, registration or permit. Intervening circumstances in-
18 clude but are not limited to:

19 (A) The passage of time since the commission of the crime;

20 (B) The age of the subject individual at the time of the crime;

21 (C) The likelihood of a repetition of offenses or of the commission of another crime;

22 (D) The subsequent commission of another relevant crime;

23 (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

24 (F) A recommendation of an employer.

25 (13) An authorized agency and an employee of an authorized agency acting within the course
26 and scope of employment are immune from any civil liability that might otherwise be incurred or
27 imposed for determining, pursuant to subsection (11) of this section, that a subject individual is fit
28 or not fit to hold a position, provide services, be employed or be granted a license, certification,
29 registration or permit. An authorized agency and an employee of an authorized agency acting within
30 the course and scope of employment who in good faith comply with this section are not liable for
31 employment-related decisions based on determinations made under subsection (11) of this section.
32 An authorized agency or an employee of an authorized agency acting within the course and scope
33 of employment is not liable for defamation or invasion of privacy in connection with the lawful dis-
34 semination of information lawfully obtained under this section.

35 (14)(a) Each authorized agency shall establish by rule a contested case process by which a sub-
36 ject individual may appeal the determination that the individual is fit or not fit to hold a position,
37 provide services, be employed or be granted a license, certification, registration or permit on the
38 basis of information obtained as the result of a criminal records check conducted pursuant to this
39 section. Challenges to the accuracy or completeness of information provided by the Department of
40 State Police, the Federal Bureau of Investigation and agencies reporting information to the De-
41 partment of State Police or Federal Bureau of Investigation must be made through the Department
42 of State Police, Federal Bureau of Investigation or reporting agency and not through the contested
43 case process required by this paragraph.

44 (b) A subject individual who is employed by an authorized agency and who is determined not to
45 be fit for a position on the basis of information obtained as the result of a criminal records check

1 conducted pursuant to this section may appeal the determination through the contested case process
 2 adopted under this subsection or applicable personnel rules, policies and collective bargaining pro-
 3 visions. An individual's decision to appeal a determination through personnel rules, policies and
 4 collective bargaining provisions is an election of remedies as to the rights of the individual with
 5 respect to the fitness determination and is a waiver of the contested case process.

6 (c) An individual prohibited from receiving public funds for employment under ORS 443.004 (3)
 7 is not entitled to appeal a determination under paragraph (a) or (b) of this subsection.

8 (15) Criminal offender information is confidential. Authorized agencies and the Department of
 9 State Police shall adopt rules to restrict dissemination of information received under this section to
 10 persons with a demonstrated and legitimate need to know the information.

11 (16) If a subject individual refuses to consent to the criminal records check or refuses to be
 12 fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny
 13 any applicable position, authority to provide services, license, certification, registration or permit.

14 (17) If an authorized agency requires a criminal records check of employees, prospective em-
 15 ployees, contractors, vendors or volunteers or applicants for a license, certification, registration or
 16 permit, the application forms of the authorized agency must contain a notice that the person is
 17 subject to fingerprinting and a criminal records check.

18 **SECTION 4.** ORS 267.237 is amended to read:

19 267.237. (1) As used in this section:

20 (a) "District" means a mass transit district organized under ORS 267.010 to 267.390 or a trans-
 21 portation district organized under ORS 267.510 to 267.650.

22 (b) "Qualified entity" means an individual or business or organization, whether public, private,
 23 for-profit, nonprofit or voluntary, that, under contract with a district, provides individuals to operate
 24 motor vehicles for the transportation of passengers in the public transportation system of the dis-
 25 trict.

26 (c) "Subject individual" means a person subject to a criminal records check as specified by re-
 27 solution of a mass transit district or a transportation district.

28 (2) A mass transit district or a transportation district shall request the Department of State
 29 Police to conduct criminal records checks of subject individuals if the checks are required in order
 30 to protect vulnerable Oregonians:

31 (a) To implement a federal or state statute, executive order or rule that expressly refers to
 32 criminal conduct and contains requirements or exclusions expressly based on such conduct;

33 (b) For district employment purposes when hiring individuals to operate motor vehicles of the
 34 district; or

35 (c) For the purposes of employment decisions made by a district for qualified entities that, under
 36 contracts with the district, employ individuals to operate motor vehicles for the transportation of
 37 passengers in the public transportation system of the district.

38 (3) A mass transit district that has a population of more than 500,000 may request the Depart-
 39 ment of State Police to conduct a criminal records check of a subject individual who is:

40 (a) Seeking employment by the district in a position that provides the individual with access to
 41 critical infrastructure or security sensitive facilities or information; or

42 (b) Seeking to provide services to the district that will result in the individual's having access
 43 to critical infrastructure or security sensitive facilities or information.

44 (4) In order to determine the suitability of the subject individual, a district shall require the
 45 subject individual to furnish to the district a full set of fingerprints to enable a criminal records

1 check to be conducted. The district shall submit the completed fingerprint cards to the Department
2 of State Police along with the applicable Oregon and Federal Bureau of Investigation processing
3 fees. If no disqualifying record is identified at the state level, the Department of State Police shall
4 forward the fingerprints to the Federal Bureau of Investigation for a national criminal records
5 check.

6 (5) The Federal Bureau of Investigation shall either return or destroy the fingerprint cards used
7 to conduct the criminal records check and shall not keep any record of the fingerprints. However,
8 if the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, a
9 district shall cease to cause the cards to be sent to the federal bureau but shall continue to process
10 the information through other available resources.

11 (6) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of
12 State Police, the Department **of State Police** shall destroy the fingerprint cards and [*shall retain*
13 *no*] **may not retain** facsimiles or other material from which a fingerprint can be reproduced, **except**
14 **that the Department of State Police may retain the fingerprint cards or create facsimiles for**
15 **the purpose of providing information under section 1 of this 2015 Act.**

16 (7) If only a state criminal records check is conducted, **after the criminal records check is**
17 **completed**, the Department of State Police shall destroy the fingerprint cards [*after the criminal*
18 *records check is completed*] and the results of the criminal records check provided to the district and
19 [*shall retain no*] **may not retain** facsimiles or other material from which a fingerprint can be re-
20 produced, **except that the Department of State Police may retain the fingerprint cards and**
21 **results or create facsimiles for the purpose of providing information under section 1 of this**
22 **2015 Act.**

23 (8) The district and the Department of State Police shall permit a subject individual to inspect
24 the individual's own Oregon and Federal Bureau of Investigation criminal offender records after
25 positive fingerprint identification has been made.

26 (9)(a) A district, using guidelines established by a resolution of the district, shall determine un-
27 der this section whether a subject individual is fit to operate motor vehicles for the transportation
28 of passengers in the public transportation system of the district or to hold a position or provide
29 services that provide the individual with access to critical infrastructure or security sensitive fa-
30 cilities or information, based on the criminal records check obtained pursuant to this section, any
31 false statements made by the individual regarding the criminal history of the individual and any
32 refusal to submit or consent to a criminal records check including fingerprint identification. If a
33 subject individual is determined to be unfit, then that person shall not be allowed to operate motor
34 vehicles for the transportation of passengers in the public transportation system of the district or
35 to hold the position or provide services that provide the individual with access to critical
36 infrastructure or security sensitive facilities or information.

37 (b) In making the fitness determination, the district shall consider:

38 (A) The nature of the crime;

39 (B) The facts that support the conviction or pending indictment or indicate the making of the
40 false statement;

41 (C) The relevancy, if any, of the crime or the false statement to the specific requirements of the
42 subject individual's present or proposed position or employment; and

43 (D) Intervening circumstances relevant to the responsibilities and circumstances of the position
44 or employment. Intervening circumstances include but are not limited to the passage of time since
45 the commission of the crime, the age of the person at the time of the crime, the likelihood of a re-

1 petition of offenses, the subsequent commission of another relevant crime and a recommendation of
 2 an employer.

3 (c) A district and an employee of the district are immune from any civil liability that might
 4 otherwise be incurred or imposed for actions taken in determining pursuant to this subsection that
 5 a subject individual is fit or not fit to hold a position or be employed. A district, an employee of the
 6 district and an employer or employer's agent who in good faith comply with this section and the
 7 decision of the district or employee of the district are not liable for the failure to hire a prospective
 8 employee or the decision to discharge an employee on the basis of the district's or employee's de-
 9 cision. A district and an employee of the district are immune from any civil liability for the lawful
 10 dissemination of information obtained under this section when the disclosure is:

11 (A) For the purpose of providing notice to the subject individual or the employer of the subject
 12 individual of a determination of fitness under this section;

13 (B) Required by law; or

14 (C) Necessary to support a claim or defense related to denying employment to the subject indi-
 15 vidual.

16 (10) A district shall establish by resolution a process by which a subject individual may appeal
 17 the determination that the subject individual is disqualified for a position or employment pursuant
 18 to this section. Challenges to the accuracy or completeness of information provided by the Depart-
 19 ment of State Police, the Federal Bureau of Investigation and agencies reporting information to the
 20 department or bureau must be made through the department, bureau or agency and not through the
 21 appeal process required by this subsection.

22 (11) A district shall develop a system that maintains information regarding criminal records
 23 checks in order to minimize the administrative burden that criminal records check requirements
 24 impose upon subject individuals and providers. Records maintained under this subsection for subject
 25 individuals are confidential and may not be disseminated except for the purposes of this section and
 26 in accordance with the relevant resolutions of the district. Nothing in this subsection permits a
 27 district to retain fingerprint cards of subject individuals.

28 (12) A district, in consultation with the Department of State Police and affected provider groups,
 29 shall adopt resolutions to implement this section and other statutes relating to criminal offender
 30 information. The resolutions shall include but need not be limited to:

31 (a) Specifying which employees are authorized to make criminal record inquiries;

32 (b) Specifying categories of subject individuals who are subject to criminal records checks;

33 (c) Specifying the information, including fingerprints, that may be required from a subject indi-
 34 vidual to permit a criminal records check;

35 (d) Specifying which services or qualified entities are subject to this section;

36 (e) Specifying which crimes may be considered in reviewing criminal offender information for a
 37 subject individual;

38 (f) Specifying when a nationwide criminal records check shall be conducted on a subject indi-
 39 vidual through the Department of State Police. The additional cost of obtaining a nationwide crim-
 40 inal records check and the risk to vulnerable Oregonians should be taken into consideration when
 41 enacting resolutions under this subsection;

42 (g) Specifying when a district, in lieu of conducting a completely new criminal records check,
 43 may proceed to make a fitness determination under this section using the information maintained
 44 by the district under subsection (11) of this section; and

45 (h) Determining when a subject individual may be hired on a probationary basis pending a

1 criminal records check. At a minimum, if there is any indication of criminal behavior by the subject
2 individual, the resolution must require that, if the individual is hired, the individual can be hired
3 only on a probationary basis and must be actively supervised at all times when the individual is in
4 contact with children, the elderly or persons with disabilities.

5 (13) Criminal offender information is confidential. The Department of State Police shall adopt
6 rules to restrict dissemination of information received under this section to persons with a demon-
7 strated and legitimate need to know the information. Any district receiving information pursuant to
8 this section is bound by the rules of disclosure adopted by the department.

9 (14) If a subject individual refuses to consent to the criminal records check or refuses to be
10 fingerprinted, the district or qualified entity shall deny or terminate the employment of the individ-
11 ual, or revoke or deny any applicable position, authority to provide services or employment.

12 (15) A district shall define by resolution the conditions under which subject individuals may
13 participate in training, orientation and work activities pending completion of a criminal records
14 check through the Law Enforcement Data System or nationwide criminal records check. At a mini-
15 mum, subject individuals shall be actively supervised at all times that they are in contact with
16 children, the elderly and persons with disabilities during such periods of training, orientation and
17 work. Subject individuals may continue probationary employment while awaiting the nationwide
18 criminal records check as long as the individual's criminal records check through the Law
19 Enforcement Data System did not result in disqualification and there are no other indications of
20 criminal behavior.

21 (16) If a district or a qualified entity requires a criminal records check of employees or other
22 persons, the application forms of the district or qualified entity must contain a notice that employ-
23 ment is subject to fingerprinting and a criminal records check as required by this section.

24 **SECTION 5.** ORS 181.880 is amended to read:

25 181.880. (1) A license or certificate issued by the Department of Public Safety Standards and
26 Training under ORS 181.878 expires two years following the date of issuance or on the assigned
27 renewal date.

28 (2) The Department of **Public Safety Standards and Training** shall offer certificates or li-
29 censes to private security providers in levels and categories as established by the Board on Public
30 Safety Standards and Training in consultation with the department.

31 (3) Upon receipt of an application for certification under ORS 181.876, the Department of **Public**
32 **Safety Standards and Training** shall forward a complete set of the applicant's fingerprints to the
33 Department of State Police and request that the Department of State Police conduct a nationwide
34 criminal records check of the applicant as provided in ORS 181.534. [*Notwithstanding ORS 181.534*
35 *(5) and (6), the Department of State Police shall maintain in the department's files the fingerprint cards*
36 *used to conduct the criminal records check.*] **The Department of Public Safety Standards and**
37 **Training is not required to subscribe to the fingerprint retention program established under**
38 **section 1 of this 2015 Act to receive information related to a criminal records check con-**
39 **ducted by the Department of State Police under ORS 181.534.**

40 **SECTION 6.** ORS 480.235 is amended to read:

41 480.235. (1) A certificate of possession shall be issued or denied within 45 days after the date
42 of the application or the conclusion of the investigation conducted by the issuing authority pursuant
43 to subsection (2) of this section.

44 (2) The issuing authority shall conduct an investigation to ensure that the applicant meets the
45 requirements listed in ORS 480.225 and 480.230. The issuing authority shall include fingerprinting

1 and photographic identification in the investigation. The issuing authority may use fingerprints ob-
 2 tained under this subsection for the purpose of requesting a state or nationwide criminal records
 3 check under ORS 181.534. Unless the issuing authority finds that the applicant is ineligible under
 4 ORS 480.225 or 480.230, the authority shall issue a certificate of possession to the applicant. If the
 5 issuing authority finds that the applicant is ineligible under ORS 480.225 or 480.230, the authority
 6 shall issue a notification of denial. The denial is subject to the provisions of ORS 480.275.

7 (3) A certificate of possession is valid for three years from the date of issuance unless suspended
 8 or revoked pursuant to ORS 480.270.

9 (4) A certificate of possession may not be assigned or transferred.

10 (5) The holder of a certificate of possession shall maintain a record of the type and quantity of
 11 all explosives possessed during the certificate period. The record shall be made available upon de-
 12 mand of the issuing authority, a magistrate or a law enforcement agency, public fire department or
 13 fire protection agency of this state.

14 (6) Notwithstanding ORS 181.534 (5) and (6), the Department of State Police shall maintain in
 15 the department's files fingerprint cards submitted to it for purposes of conducting a state or na-
 16 tionwide criminal records check under ORS 181.534 on applicants for a certificate of possession.

17 **(7) An issuing authority is not required to subscribe to the fingerprint retention program**
 18 **under section 1 of this 2015 Act to receive information related to a criminal records check**
 19 **conducted by the Department of State Police under ORS 181.534.**

20 **SECTION 7.** ORS 703.090 is amended to read:

21 703.090. (1) All of the following requirements apply to an applicant for a license as a general
 22 polygraph examiner. The applicant must:

23 (a) Be at least 18 years of age.

24 (b) Be a citizen of the United States.

25 (c) Not have demonstrated, in the preceding 10 years, a course of behavior that indicates a high
 26 degree of probability that the applicant will be unlikely to perform the duties of a polygraph exam-
 27 iner in a manner that would serve the interests of the public.

28 (d) If previously convicted for a criminal offense, provide information, as required by the De-
 29 partment of Public Safety Standards and Training, relating to the circumstances of the conviction.
 30 ORS 670.280 is applicable when the department considers information provided under this paragraph.

31 (e)(A) Have received a baccalaureate degree from a college or university that is accredited by
 32 the American Association of Collegiate Registrars and Admissions Officers; or

33 (B) Have graduated from high school or have been awarded a General Educational Development
 34 (GED) certificate, and have at least five years of active investigative experience before the date of
 35 application.

36 (f) Have graduated from a polygraph examiners course approved by the department and con-
 37 forming to any minimum training standards approved by the Board on Public Safety Standards and
 38 Training and have satisfactorily completed at least 200 examinations, or have worked as a polygraph
 39 examiner for a period of at least five years for a governmental agency within the State of Oregon
 40 and have satisfactorily completed at least 200 examinations.

41 (g) Have successfully completed an examination conducted by the department to determine,
 42 consistent with any standards approved by the board, competency to act as a polygraph examiner.

43 (2) An applicant meets the requirements of subsection (1)(e) or (f) of this section if the applicant
 44 provides the Department of Public Safety Standards and Training with documentation of military
 45 training or experience that the department determines is substantially equivalent to the education

1 or experience required by subsection (1)(e) or (f) of this section.

2 (3) For the purpose of requesting a state or nationwide criminal records check under ORS
 3 181.534, the Department of Public Safety Standards and Training shall require each applicant to be
 4 fingerprinted as part of the licensing procedure.

5 (4) Notwithstanding ORS 181.534 (5) and (6), the Department of State Police shall maintain in
 6 the department's files fingerprint cards submitted to it for purposes of conducting a state or na-
 7 tionwide criminal records check under ORS 181.534 on applicants for a license as a general
 8 polygraph examiner.

9 **(5) The Department of Public Safety Standards and Training is not required to subscribe**
 10 **to the fingerprint retention program established under section 1 of this 2015 Act to receive**
 11 **information related to a criminal records check conducted by the Department of State Police**
 12 **under ORS 181.534.**

13 [(5)] (6) When the Department of Public Safety Standards and Training refuses to issue a license
 14 based upon an applicant's failure to meet the requirements of subsection (1)(c) of this section, the
 15 department shall prepare a concise, specific written statement of the facts supporting the
 16 department's conclusion that there is a high degree of probability that the applicant will be unlikely
 17 to perform required duties in a manner that would serve the interests of the public. A copy of the
 18 statement must be given to the applicant.

19 **SECTION 8.** ORS 703.425 is amended to read:

20 703.425. (1) An application for a private investigator's license or a provisional investigator's li-
 21 cense must be in writing on a form prescribed by the Department of Public Safety Standards and
 22 Training, stating the applicant's:

- 23 (a) Legal name;
- 24 (b) Birthdate;
- 25 (c) Citizenship;
- 26 (d) Physical description;
- 27 (e) Current residence;
- 28 (f) Residence for the preceding 10 years;
- 29 (g) Current employment;
- 30 (h) Employment for the preceding 10 years;
- 31 (i) Experience qualifications;
- 32 (j) Education;
- 33 (k) Business address, which may be a post office box; and
- 34 (L) Any other information required by the department.

35 (2) The application must be accompanied by:

- 36 (a) The application fee as prescribed by the Board on Public Safety Standards and Training by
 37 rule;
- 38 (b) Recent photographs of the applicant as prescribed by the board by rule to be used for an
 39 identification card and for the files of the department;
- 40 (c) Complete sets of the applicant's fingerprints as prescribed by the board by rule;
- 41 (d) Three professional references, none of which may be from a person who is related to the
 42 applicant by blood or marriage;
- 43 (e) Proof of a corporate surety bond, an irrevocable letter of credit issued by an insured insti-
 44 tution as defined in ORS 706.008 or such other security as the department may prescribe by rule in
 45 the sum of at least \$5,000, or errors and omissions insurance in the sum of at least \$5,000; and

1 (f) Proof of a passing score on the test of investigator competency adopted by the board and
2 administered by the department.

3 (3) All applicants must disclose any acts constituting grounds for denial of an investigator's li-
4 cense and must notify the department if the applicant is charged with a criminal offense. The de-
5 partment shall conduct a special review of any applicant making a disclosure under this subsection.

6 (4) The Department of Public Safety Standards and Training shall forward a complete set of an
7 applicant's fingerprints to the Department of State Police and shall request that the Department of
8 State Police conduct criminal records checks as provided in ORS 181.534. Notwithstanding ORS
9 181.534 (5) and (6), the Department of State Police shall maintain in its files the fingerprint cards
10 used to conduct the state criminal records check. **The Department of Public Safety Standards
11 and Training is not required to subscribe to the fingerprint retention program established
12 under section 1 of this 2015 Act to receive information related to a criminal records check
13 conducted by the Department of State Police under ORS 181.534.**

14 (5) Employees of or partners in a firm who are covered by the firm's errors and omissions in-
15 surance meet the requirements of subsection (2)(e) of this section as long as the coverage is at least
16 \$5,000 per investigator.

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