

D R A F T

SUMMARY

Digest: The Act says that a person who gets a background check can let OSP send their fingerprints to the FBI's rap back system. (Flesch Readability Score: 80.4).

Provides that a person's participation in the Department of State Police's fingerprint retention program authorizes the department to submit the person's fingerprints to the Federal Bureau of Investigation's rap back system.

A BILL FOR AN ACT

1
2 Relating to fingerprint retention; amending ORS 181A.205.

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

4 **SECTION 1.** ORS 181A.205 is amended to read:

5 181A.205. (1)(a) The Department of State Police shall establish a volun-
6 tary fingerprint retention program through which the department:

7 (A) Retains fingerprint cards, facsimiles of fingerprints received from the
8 Federal Bureau of Investigation or facsimiles of fingerprints created during
9 a state criminal records check under ORS 181A.190, 181A.195, 181A.200 or
10 267.237, for the purpose of providing information as described in subsection
11 (4) of this section; and

12 (B) Provides facsimiles of fingerprints created during a state criminal
13 records check under ORS 181A.190, 181A.195, 181A.200 or 267.237 to the
14 Federal Bureau of Investigation.

15 (b) The department may not use fingerprint cards or facsimiles of finger-
16 prints retained pursuant to paragraph (a) of this subsection for any purpose
17 other than the purpose of providing information as described in subsection
18 (4) of this section.

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 (2) An authorized agency as defined in ORS 181A.190 or 181A.195, an
2 agency listed in ORS 181A.200 (2), or a district as defined in ORS 267.237
3 may subscribe to the fingerprint retention program.

4 (3)(a) If an authorized agency, agency or district subscribes to the fin-
5 gerprint retention program, the authorized agency, agency or district must
6 inform an individual subject to a criminal records check under ORS
7 181A.190, 181A.195, 181A.200 or 267.237 about the program in a form and
8 manner prescribed by the authorized agency, agency or district, provided that
9 the authorized agency, agency or district includes as part of that information
10 notice of the following:

11 (A) That the individual is not required to participate in the program;

12 (B) That if the individual chooses to participate in the program, the in-
13 dividual may, at any time, stop participating in the program;

14 (C) That choosing to participate in the program will allow the department
15 to provide information as described in subsection (4) of this section;

16 (D) The potential consequences of information being provided as described
17 in subsection (4) of this section; and

18 (E) The process by which the individual may contest the accuracy of in-
19 formation provided as described in subsection (4) of this section.

20 (b) Notice provided pursuant to paragraph (a) of this subsection must be
21 provided in a clear and easy to understand manner.

22 (4)(a) An individual subject to a criminal records check under ORS
23 181A.190, 181A.195, 181A.200 or 267.237 may, but is not required to, partic-
24 ipate in the fingerprint retention program.

25 **(b) Participation in the program authorizes the department to sub-**
26 **mit fingerprints to the Federal Bureau of Investigation's rap back**
27 **system to be retained in the system for the purpose of being searched**
28 **by future submissions to the system, including latent fingerprint**
29 **searches. The rap back system provides continuous evaluation of the**
30 **criminal history status of each individual as long as the individual**
31 **remains in a position of trust and volunteers to have their fingerprint**

1 **retained.**

2 [(b)] (c) If an individual participates in the program, then the department,
3 upon receiving forms containing the person's fingerprints and other identi-
4 fying information under ORS 181A.160, or as part of any other proceeding
5 related to the arrest of the individual, shall provide that information to the
6 authorized agency, agency or district for which a criminal records check
7 under ORS 181A.190, 181A.195, 181A.200 or 267.237 for the individual was
8 performed.

9 (5) At any time, an individual participating in the fingerprint retention
10 program may inform the department, in a form and manner prescribed by the
11 department, that the individual is no longer participating in the program. If
12 an individual informs the department that the individual is no longer par-
13 ticipating in the program, the department shall:

14 (a) Destroy any fingerprint cards and facsimiles of fingerprints that the
15 department has retained for the individual as part of the program;

16 (b) Inform the Federal Bureau of Investigation that the individual is no
17 longer participating in the program and direct the Federal Bureau of Inves-
18 tigation to destroy any fingerprint cards or facsimiles of fingerprints that the
19 Federal Bureau of Investigation has retained for the individual; and

20 (c) Notify the authorized agency, agency or district who employs the in-
21 dividual that the individual is no longer participating in the program.

22 (6) An authorized agency, agency or district that subscribes to the fin-
23 gerprint retention program may not require a person to participate in the
24 program as a condition of employment.

25 (7) Information retained by the department under this section is exempt
26 from public disclosure under ORS 192.311 to 192.478, and the department may
27 not disclose the information for any purpose not authorized by this section.

28 (8) The Department of State Police:

29 (a) Shall, in consultation with the Oregon Department of Administrative
30 Services, adopt rules for the administration of this section; and

31 (b) May adopt a fee that an authorized agency, agency or district must

1 pay to subscribe to the program.

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