

HB 4122-1
(LC 256)
2/2/24 (MNJ/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Representative Jason Kropf)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4122**

1 On page 1 of the printed bill, delete lines 4 through 28 and delete page
2 2 and insert:

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

4 **“181A.205. (1) As used in this section:**

5 **“(a) ‘Authorized agency’ means a state or local government agency**
6 **authorized by state and federal law to submit fingerprint-based back-**
7 **ground check requests for employment and licensing purposes to the**
8 **Federal Bureau of Investigation and who may receive criminal history**
9 **record information in response to such requests.**

10 **“(b) ‘Criminal history record information’ means information col-**
11 **lected by and maintained in the files of criminal justice agencies con-**
12 **cerning individuals, consisting of identifiable descriptions, notations**
13 **of arrest, detentions, indictments or other formal criminal charges.**
14 **This includes any disposition, sentencing, correctional supervision,**
15 **and release information.**

16 **“(c) ‘Non-criminal justice government agency’ means a government**
17 **agency that is not a criminal justice agency and receives criminal**
18 **history record information for employment and licensing purposes.**

19 **“(d) ‘Rap Back program’ means a system that enables authorized**
20 **entities to receive ongoing status notifications of any criminal history**
21 **reported on individuals whose fingerprints are registered in the sys-**

1 **tem.**

2 **“(e) ‘Rap Back system’ means the Rap Back system maintained by**
3 **the Federal Bureau of Investigation.**

4 *“[(1)(a)] (2)(a) The Department of State Police shall establish a*
5 *[voluntary] fingerprint retention program **for participation in the Rap***
6 ***Back system** through which the department **retains fingerprint cards,***
7 ***facsimiles of fingerprints provided to or received from the Federal***
8 ***Bureau of Investigation that are obtained during a state criminal re-***
9 ***ords check requested by an authorized agency for the purpose of***
10 ***employment or licensing.[:]***

11 *“[(A) Retains fingerprint cards, facsimiles of fingerprints received from the*
12 *Federal Bureau of Investigation or facsimiles of fingerprints created during*
13 *a state criminal records check under ORS 181A.190, 181A.195, 181A.200 or*
14 *267.237, for the purpose of providing information as described in subsection (4)*
15 *of this section; and]*

16 *“[(B) Provides facsimiles of fingerprints created during a state criminal*
17 *records check under ORS 181A.190, 181A.195, 181A.200 or 267.237 to the Fed-*
18 *eral Bureau of Investigation.]*

19 *“(b) The department may not use fingerprint cards or facsimiles of fin-*
20 *gerprints retained pursuant to paragraph (a) of this subsection for any pur-*
21 *pose other than the purpose of providing information as described in*
22 *subsection [(4)] (5) of this section.*

23 *“[(2) An authorized agency as defined in ORS 181A.190 or 181A.195, an*
24 *agency listed in ORS 181A.200 (2), or a district as defined in ORS 267.237*
25 *may subscribe to the fingerprint retention program.]*

26 *“[(3)(a) If an authorized agency, agency or district subscribes to the fin-*
27 *gerprint retention program, the authorized agency, agency or district must in-*
28 *form an individual subject to a criminal records check under ORS 181A.190,*
29 *181A.195, 181A.200 or 267.237 about the program in a form and manner pre-*
30 *scribed by the authorized agency, agency or district, provided that the author-*

1 *ized agency, agency or district includes as part of that information notice of*
2 *the following:]*

3 *“[(A) That the individual is not required to participate in the program;]*

4 *“[(B) That if the individual chooses to participate in the program, the in-*
5 *dividual may, at any time, stop participating in the program;]*

6 **“(3) An authorized agency may participate in the state fingerprint**
7 **retention program by subscribing to the Rap Back program.**

8 **“(4)(a) If an authorized agency subscribes to the Rap Back program,**
9 **the authorized agency must inform an individual subject to a criminal**
10 **records check about the Rap Back program in a form and manner**
11 **prescribed by the authorized agency. The authorized agency must in-**
12 **clude the following information:**

13 **“(A) That employment or licensing by the authorized agency re-**
14 **quires that the individual be enrolled in the Rap Back program;**

15 *“[(C)] (B) That [choosing to participate in the program will allow] the Rap*
16 **Back program allows** the department to provide information as described
17 in subsection [(4)] (5) of this section; **and**

18 *“[(D) The potential consequences of information being provided as described*
19 *in subsection (4) of this section; and]*

20 *“[(E)] (C) [The process by which the individual may contest] That ORS*
21 **181A.230 allows the individual to challenge** the accuracy of information
22 **that is** provided as described in subsection [(4)] (5) of this section.

23 **“(b) Notice provided pursuant to paragraph (a) of this subsection must**
24 **be provided in a clear and easy to understand manner.**

25 *“[(4)(a) An individual subject to a criminal records check under ORS*
26 *181A.190, 181A.195, 181A.200 or 267.237 may, but is not required to, participate*
27 *in the fingerprint retention program.]*

28 *“[(b) If an individual participates in the program, then the department,*
29 *upon receiving forms containing the person’s fingerprints and other identifying*
30 *information under ORS 181A.160, or as part of any other proceeding related*

1 *to the arrest of the individual, shall provide that information to the authorized*
2 *agency, agency or district for which a criminal records check under ORS*
3 *181A.190, 181A.195, 181A.200 or 267.237 for the individual was performed.]*

4 *“(5) At any time, an individual participating in the fingerprint retention*
5 *program may inform the department, in a form and manner prescribed by the*
6 *department, that the individual is no longer participating in the program. If*
7 *an individual informs the department that the individual is no longer partic-*
8 *ipating in the program, the department shall:)*

9 **“(5)(a) If an individual is subject to a criminal records check for**
10 **employment or licensing and the authorized agency, agency or district**
11 **subscribes to the Rap Back program, the individual shall be enrolled**
12 **in the Rap Back program.**

13 **“(b) Under the Rap Back program the department may receive**
14 **fingerprints of individuals from an authorized agency and submit those**
15 **fingerprints to the Rap Back system to be retained in the Rap Back**
16 **system for the purposes of being searched by future submissions to the**
17 **Rap Back system, including latent fingerprint searches.**

18 **“(c) The Rap Back system provides continuous evaluation of the**
19 **criminal history status of each individual enrolled in the Rap Back**
20 **system as long as the individual remains in a position of trust. If the**
21 **Rap Back program identifies a new criminal history event for an in-**
22 **dividual enrolled in the Rap Back program, the Federal Bureau of In-**
23 **vestigation will send notice to the Department of State Police. The**
24 **department shall disseminate the new criminal history information to**
25 **the authorized agency that enrolled the individual.**

26 **“(6) An authorized agency that subscribes to the Rap Back program**
27 **shall notify the Department of State Police, in a form and manner**
28 **prescribed by the department, when an individual is no longer em-**
29 **ployed or licensed by the authorized agency.**

30 **“(7) When the department receives notice that an individual is no**

1 **longer employed or licensed by an authorized agency, the department**
2 **shall:**

3 “(a) Destroy any **printed and electronic** fingerprint cards and facsimiles
4 of fingerprints that the department has retained for the individual as part
5 of the **Rap Back** program; and

6 “(b) **Notify the Federal Bureau of Investigation that the individual**
7 **is no longer employed by the authorized agency and request that the**
8 **Federal Bureau of Investigation destroy any printed and electronic**
9 **fingerprint cards or facsimiles of fingerprints that the Federal Bureau**
10 **of Investigation has retained for the individual in the Rap Back sys-**
11 **tem.**

12 “[*(b) Inform the Federal Bureau of Investigation that the individual is no*
13 *longer participating in the program and direct the Federal Bureau of Investi-*
14 *gation to destroy any fingerprint cards or facsimiles of fingerprints that the*
15 *Federal Bureau of Investigation has retained for the individual; and*]

16 “[*(c) Notify the authorized agency, agency or district who employs the in-*
17 *dividual that the individual is no longer participating in the program.*]

18 “[*(6) An authorized agency, agency or district that subscribes to the fin-*
19 *gerprint retention program may not require a person to participate in the pro-*
20 *gram as a condition of employment.*]

21 “[*(7)*] **(8)** Information retained by the department under this section is
22 exempt from public disclosure under ORS 192.311 to 192.478, and the depart-
23 ment may not disclose the information for any purpose not authorized by this
24 section **or otherwise required by law.**

25 “[*(8)*] **(9)** The Department of State Police:

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

28 “(b) May adopt a fee that an authorized agency, agency or district must
29 pay to subscribe to the **Rap Back** program.”.

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