

Requested by Representative KROPF

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4122**

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest  
2 of the line and insert “creating new provisions; amending ORS 181A.205; and  
3 prescribing an effective date.”.

4 Delete lines 4 through 28 and delete page 2 and insert:

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

6 **“181A.205. (1) As used in this section:**

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

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

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

21 **“(d) ‘Rap Back program’ means a system that enables authorized**

1 **entities to receive ongoing status notifications of any criminal history**  
2 **reported on individuals whose fingerprints are registered in the sys-**  
3 **tem.**

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

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

13 *“[(A) Retains fingerprint cards, facsimiles of fingerprints received from the*  
14 *Federal Bureau of Investigation or facsimiles of fingerprints created during*  
15 *a state criminal records check under ORS 181A.190, 181A.195, 181A.200 or*  
16 *267.237, for the purpose of providing information as described in subsection (4)*  
17 *of this section; and]*

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

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

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

28 *“[(3)(a) If an authorized agency, agency or district subscribes to the fin-*  
29 *gerprint retention program, the authorized agency, agency or district must in-*  
30 *form an individual subject to a criminal records check under ORS 181A.190,*

1 181A.195, 181A.200 or 267.237 about the program in a form and manner pre-  
2 scribed by the authorized agency, agency or district, provided that the author-  
3 ized agency, agency or district includes as part of that information notice of  
4 the following:]

5 “[A] That the individual is not required to participate in the program;]

6 “[B] That if the individual chooses to participate in the program, the in-  
7 dividual may, at any time, stop participating in the program;]

8 **“(3) An authorized agency may participate in the state fingerprint**  
9 **retention program by subscribing to the Rap Back program with the**  
10 **Department of State Police and submitting an implementation plan to**  
11 **an appropriate committee or interim committee of the Legislative**  
12 **Assembly related to the judiciary. In preparing the implementation**  
13 **plan, an authorized agency must consult with the department and with**  
14 **stakeholders, including but not limited to impacted providers and im-**  
15 **acted employees. The implementation plan must describe:**

16 **“(a) How the authorized agency will ensure that fingerprinting is**  
17 **accessible for all individuals across geographic regions of the state and**  
18 **provider settings;**

19 **“(b) How the authorized agency will ensure that fingerprinting ac-**  
20 **cessibility will not be a barrier to enrollment in the Rap Back program**  
21 **for individuals;**

22 **“(c) The estimated timeline for enrolling individuals in the Rap**  
23 **Back program;**

24 **“(d) How the authorized agency will educate and inform individuals**  
25 **about the Rap Back program; and**

26 **“(e) Projected costs associated with reducing barriers to finger-**  
27 **printing, including out-of-pocket cost to the individual and costs to the**  
28 **authorized agency for additional fingerprinting services.**

29 **“(4)(a) If an authorized agency subscribes to the Rap Back program,**  
30 **the authorized agency must inform an individual subject to a criminal**

1 **records check about the Rap Back program in a form and manner**  
2 **prescribed by the authorized agency. The authorized agency must in-**  
3 **clude the following information:**

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

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

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

11 **“[(E)] (C) [The process by which the individual may contest] That ORS**  
12 **181A.230 allows the individual to challenge** the accuracy of information  
13 **that is** provided as described in subsection [(4)] (5) of this section.

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

16 **“[(4)(a) An individual subject to a criminal records check under ORS**  
17 **181A.190, 181A.195, 181A.200 or 267.237 may, but is not required to, participate**  
18 **in the fingerprint retention program.]**

19 **“[(b) If an individual participates in the program, then the department,**  
20 **upon receiving forms containing the person’s fingerprints and other identifying**  
21 **information under ORS 181A.160, or as part of any other proceeding related**  
22 **to the arrest of the individual, shall provide that information to the authorized**  
23 **agency, agency or district for which a criminal records check under ORS**  
24 **181A.190, 181A.195, 181A.200 or 267.237 for the individual was performed.]**

25 **“[(5) At any time, an individual participating in the fingerprint retention**  
26 **program may inform the department, in a form and manner prescribed by the**  
27 **department, that the individual is no longer participating in the program. If**  
28 **an individual informs the department that the individual is no longer partic-**  
29 **ipating in the program, the department shall:]**

30 **“(5)(a) If an individual is subject to a criminal records check for**

1 **employment or licensing and the authorized agency subscribes to the**  
2 **Rap Back program, the individual shall be enrolled in the Rap Back**  
3 **program.**

4 **“(b) Under the Rap Back program the Department of State Police**  
5 **may receive fingerprints of individuals from an authorized agency and**  
6 **submit those fingerprints to the Rap Back system to be retained in the**  
7 **Rap Back system for the purposes of being searched by future sub-**  
8 **missions to the Rap Back system, including latent fingerprint**  
9 **searches.**

10 **“(c) The Rap Back system provides continuous evaluation of the**  
11 **criminal history status of each individual enrolled in the Rap Back**  
12 **system as long as the individual remains in a position of trust. If the**  
13 **Rap Back program identifies a new criminal history event for an in-**  
14 **dividual enrolled in the Rap Back program, the Federal Bureau of In-**  
15 **vestigation will send notice to the department. The department shall**  
16 **disseminate the new criminal history information to the authorized**  
17 **agency that enrolled the individual.**

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

22 **“(7) When the department receives notice that an individual is no**  
23 **longer employed or licensed by an authorized agency, the department**  
24 **shall:**

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

28 **“(b) Notify the Federal Bureau of Investigation that the individual**  
29 **is no longer employed by the authorized agency and request that the**  
30 **Federal Bureau of Investigation destroy any printed and electronic**

1 **fingerprint cards or facsimiles of fingerprints that the Federal Bureau**  
2 **of Investigation has retained for the individual in the Rap Back sys-**  
3 **tem.**

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

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

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

13 *“(7) (8) Information retained by the department under this section is*  
14 *exempt from public disclosure under ORS 192.311 to 192.478, and the depart-*  
15 *ment may not disclose the information for any purpose not authorized by this*  
16 *section **or otherwise required by law.***

17 *“(8) (9) The Department of State Police:*

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

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

22 **“SECTION 2. (1) The amendments ORS 181A.205 by section 1 of this**  
23 **2024 Act become operative on January 1, 2025.**

24 **“(2) To participate in the Rap Back program described in ORS**  
25 **181A.205 beginning on January 1, 2025, an authorized agency must**  
26 **subscribe to the Rap Back program with the Department of State Po-**  
27 **lice and submit an implementation plan meeting the requirements of**  
28 **ORS 181A.205 (3) to a committee or interim committee of the Legisla-**  
29 **tive Assembly related to the judiciary no later than December 31, 2024.**

30 **“SECTION 3. This 2024 Act takes effect on the 91st day after the**

1 **date on which the 2024 regular session of the Eighty-second Legislative**  
2 **Assembly adjourns sine die.”**

3 \_\_\_\_\_