

HB 4122-4
(LC 256)
2/14/24 (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, 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) ‘Rap Back program’ means a system that enables authorized**
19 **entities to receive ongoing status notifications of any criminal history**
20 **reported on individuals whose fingerprints are registered in the sys-**
21 **tem.**

1 “(d) ‘Rap Back system’ means the Rap Back system maintained by
2 the Federal Bureau of Investigation.

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

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

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

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

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

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

1 *the following:]*

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

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

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

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

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

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

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

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

26 **“(4)(a) If an authorized agency subscribes to the Rap Back program,**
27 **the authorized agency must inform an individual subject to a criminal**
28 **records check about the Rap Back program in a form and manner**
29 **prescribed by the authorized agency. The authorized agency must in-**
30 **clude the following information:**

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

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

6 ~~“(D) The potential consequences of information being provided as described~~
7 ~~in subsection (4) of this section; and]~~

8 ~~“(E) (C) [The process by which the individual may contest]~~ **That ORS**
9 **181A.230 allows the individual to challenge** the accuracy of information
10 **that is** provided as described in subsection ~~[(4)] (5)~~ of this section.

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

13 ~~“(4)(a) An individual subject to a criminal records check under ORS~~
14 ~~181A.190, 181A.195, 181A.200 or 267.237 may, but is not required to, participate~~
15 ~~in the fingerprint retention program.]~~

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

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

27 **“(5)(a) If an individual is subject to a criminal records check for**
28 **employment or licensing and the authorized agency subscribes to the**
29 **Rap Back program, the individual shall be enrolled in the Rap Back**
30 **program.**

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

7 **“(c) The Rap Back system provides continuous evaluation of the**
8 **criminal history status of each individual enrolled in the Rap Back**
9 **system as long as the individual remains in a position of trust. If the**
10 **Rap Back system identifies a new criminal history event for an indi-**
11 **vidual enrolled in the Rap Back program, the Federal Bureau of In-**
12 **vestigation will send notice to the department. Upon receiving**
13 **notification from the Federal Bureau of Investigation of a new crimi-**
14 **nal history event, within or outside of Oregon, for an individual en-**
15 **rolled in the Rap Back program, the department shall notify the**
16 **authorized agency that enrolled the individual of the new criminal**
17 **history event.**

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 employed or licensed**
21 **by the authorized agency and enrolled in the Rap Back program is no**
22 **longer employed or licensed by the authorized agency.**

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

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

29 **“(b) Notify the Federal Bureau of Investigation that the individual**
30 **is no longer employed or licensed by the authorized agency and request**

1 **that the Federal Bureau of Investigation destroy any printed and**
2 **electronic fingerprint cards or facsimiles of fingerprints that the Fed-**
3 **eral Bureau of Investigation has retained for the individual in the Rap**
4 **Back system.**

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

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

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

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

18 *“[(8)] (9) The Department of State Police:*

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

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

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

25 **“(2) To participate in the Rap Back program described in ORS**
26 **181A.205, as amended by section 1 of this 2024 Act, beginning on Jan-**
27 **uary 1, 2025, an authorized agency must subscribe to the Rap Back**
28 **program with the Department of State Police and submit an imple-**
29 **mentation plan meeting the requirements of ORS 181A.205 (3), as**
30 **amended by section 1 of this 2024 Act, to a committee or interim**

1 committee of the Legislative Assembly related to the judiciary no later
2 than December 31, 2024.

3 **“SECTION 3. This 2024 Act takes effect on the 91st day after the**
4 **date on which the 2024 regular session of the Eighty-second Legislative**
5 **Assembly adjourns sine die.”**

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