

House Bill 4122

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Representative Jason Kropf)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

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 voluntary fingerprint retention
6 program through which the department:

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

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

13 (b) The department may not use fingerprint cards or facsimiles of fingerprints retained pursuant
14 to paragraph (a) of this subsection for any purpose other than the purpose of providing information
15 as described in subsection (4) of this section.

16 (2) An authorized agency as defined in ORS 181A.190 or 181A.195, an agency listed in ORS
17 181A.200 (2), or a district as defined in ORS 267.237 may subscribe to the fingerprint retention pro-
18 gram.

19 (3)(a) If an authorized agency, agency or district subscribes to the fingerprint retention program,
20 the authorized agency, agency or district must inform an individual subject to a criminal records
21 check under ORS 181A.190, 181A.195, 181A.200 or 267.237 about the program in a form and manner
22 prescribed by the authorized agency, agency or district, provided that the authorized agency, agency
23 or district includes as part of that information notice of the following:

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

25 (B) That if the individual chooses to participate in the program, the individual may, at any time,
26 stop participating in the program;

27 (C) That choosing to participate in the program will allow the department to provide information
28 as described in subsection (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 (D) The potential consequences of information being provided as described in subsection (4) of
 2 this section; and

3 (E) The process by which the individual may contest the accuracy of information provided as
 4 described in subsection (4) of this section.

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

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

9 **(b) Participation in the program authorizes the department to submit fingerprints to the**
 10 **Federal Bureau of Investigation’s rap back system to be retained in the system for the pur-**
 11 **pose of being searched by future submissions to the system, including latent fingerprint**
 12 **searches. The rap back system provides continuous evaluation of the criminal history status**
 13 **of each individual as long as the individual remains in a position of trust and volunteers to**
 14 **have their fingerprint retained.**

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

20 (5) At any time, an individual participating in the fingerprint retention program may inform the
 21 department, in a form and manner prescribed by the department, that the individual is no longer
 22 participating in the program. If an individual informs the department that the individual is no longer
 23 participating in the program, the department shall:

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

26 (b) Inform the Federal Bureau of Investigation that the individual is no longer participating in
 27 the program and direct the Federal Bureau of Investigation to destroy any fingerprint cards or
 28 facsimiles of fingerprints that the Federal Bureau of Investigation has retained for the individual;
 29 and

30 (c) Notify the authorized agency, agency or district who employs the individual that the indi-
 31 vidual is no longer participating in the program.

32 (6) An authorized agency, agency or district that subscribes to the fingerprint retention program
 33 may not require a person to participate in the program as a condition of employment.

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

37 (8) The Department of State Police:

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

40 (b) May adopt a fee that an authorized agency, agency or district must pay to subscribe to the
 41 program.