

Chapter 181 — State Police; Crime Reporting and Records;  
Public Safety Standards and Training

2001 EDITION

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## STATE POLICE

**181.010 Definitions for ORS 181.010 to 181.560 and 181.715 to 181.730.** As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires otherwise:

- (1) “Bureau” means the Department of State Police Bureau of Criminal Identification.
- (2) “Criminal justice agency” means:
  - (a) The Governor;
  - (b) Courts of criminal jurisdiction;
  - (c) The Attorney General;
  - (d) District attorneys, city attorneys with criminal prosecutive functions and public defender organizations established under ORS chapter 151;
  - (e) Law enforcement agencies;
  - (f) The Department of Corrections;
  - (g) The State Board of Parole and Post-Prison Supervision;
  - (h) The Department of Public Safety Standards and Training; and
  - (i) Any other state or local agency with law enforcement authority designated by order of the Governor.
- (3) “Criminal offender information” includes records and related data as to physical description and vital statistics, fingerprints received and compiled by the bureau for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.
- (4) “Department” means the Department of State Police established under ORS 181.020.
- (5) “Deputy superintendent” means the Deputy Superintendent of State Police.

(6) "Designated agency" means any state, county or municipal government agency where Oregon criminal offender information is required to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, licensing purposes or other demonstrated and legitimate needs when designated by order of the Governor.

(7) "Disposition report" means a form or process prescribed or furnished by the bureau, containing a description of the ultimate action taken subsequent to an arrest.

(8) "Law enforcement agency" means county sheriffs, municipal police departments, State Police, other police officers of this and other states and law enforcement agencies of the federal government.

(9) "State Police" means the members of the state police force appointed under ORS 181.250.

(10) "Superintendent" means the Superintendent of State Police. [Amended by 1963 c.547 §1; 1971 c.467 §1; 1975 c.548 §1; 1977 c.745 §46; 1981 c.905 §1; 1987 c.320 §136; 1987 c.475 §5; 1989 c.364 §3; 2001 c.104 §60]

**Note:** The amendments to 181.010 by section 42, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

**181.010.** As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires otherwise:

(1) "Bureau" means the Department of State Police Bureau of Criminal Identification.

(2) "Criminal justice agency" means:

(a) The Governor;

(b) Courts of criminal jurisdiction;

(c) The Attorney General;

(d) District attorneys, city attorneys with criminal prosecutive functions, attorney employees of the office of public defense services and nonprofit public defender organizations established under contract with the Public Defense Services Commission;

(e) Law enforcement agencies;

(f) The Department of Corrections;

(g) The State Board of Parole and Post-Prison Supervision;

(h) The Department of Public Safety Standards and Training; and

(i) Any other state or local agency with law enforcement authority designated by order of the Governor.

(3) "Criminal offender information" includes records and related data as to physical description and vital statistics, fingerprints received and compiled by the bureau for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.

(4) "Department" means the Department of State Police established under ORS 181.020.

(5) "Deputy superintendent" means the Deputy Superintendent of State Police.

(6) "Designated agency" means any state, county or municipal government agency where Oregon criminal offender information is required to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, licensing purposes or other demonstrated and legitimate needs when designated by order of the Governor.

(7) "Disposition report" means a form or process prescribed or furnished by the bureau, containing a description of the ultimate action taken subsequent to an arrest.

(8) "Law enforcement agency" means county sheriffs, municipal police departments, State Police, other police officers of this and other states and law enforcement agencies of the federal government.

(9) "State Police" means the members of the state police force appointed under ORS 181.250.

(10) "Superintendent" means the Superintendent of State Police.

**181.020 Department of State Police established.** There is established a Department of State Police. The department shall consist of office personnel and the Oregon State Police. The Oregon State Police shall consist of members of the state police force appointed under ORS 181.250, state police cadets and legislative security personnel appointed under ORS 181.265. [Amended by 1963 c.547 §8; 1971 c.467 §2]

**181.030 Powers and duties of department and its members.** (1) The Department of State Police and each

member of the Oregon State Police shall be charged with the enforcement of all criminal laws.

(2) Each member of the state police is authorized and empowered to:

(a) Prevent crime.

(b) Pursue and apprehend offenders and obtain legal evidence necessary to insure the conviction in the courts of such offenders.

(c) Institute criminal proceedings.

(d) Execute any lawful warrant or order of arrest issued against any person or persons for any violation of the law.

(e) Make arrests without warrant for violations of law in the manner provided in ORS 133.310.

(f) Give first aid to the injured.

(g) Succor the helpless.

(3) Each member of the state police shall have in general the same powers and authority as those conferred by law upon sheriffs, police officers, constables, peace officers and may be appointed as deputy medical examiners.

(4) The members of the state police shall be subject to the call of the Governor, and are empowered to cooperate with any other instrumentality or authority of the state, or any political subdivision in detecting crime, apprehending criminals and preserving law and order throughout the state; but the state police shall not be used as a posse except when ordered by the Governor. [Amended by 1961 c.434 §7; 1971 c.467 §3; 1973 c.408 §30; 1977 c.595 §1]

**181.040 Department to enforce laws relating to highways and operation of vehicles on highways; power of arrest possessed by persons not members of department.** (1) The Department of State Police shall enforce all laws now or hereafter enacted relating to highways and to the operation of vehicles on state or other highways.

(2) Members of the state police have the power to arrest violators of any provision of the laws applicable to highways or to the movement of vehicles on highways.

(3) The necessary expenses in carrying out this section shall be paid from the State Highway Fund and from the moneys received under ORS 802.110.

(4) ORS 181.010 to 181.560 and 181.715 to 181.730 do not prevent an officer or employee of the Department of Transportation from arresting any person for any crime committed in the officer's or employee's presence and do not affect other powers of arrest granted by the laws of this state to persons other than peace officers. [Amended by 1967 c.175 §5; 1971 c.467 §4; 1983 c.338 §899]

**181.050 Duty to enforce laws and regulations of agencies.** The state police, with the approval of the Governor, may be called upon by any other branch or department of the state government to enforce criminal laws or any regulation of such branch or department. [Amended by 1971 c.58 §1]

**181.060** [Repealed by 1963 c.547 §11]

**181.065** [1963 c.547 §6; repealed by 1975 c.548 §2 (181.066 enacted in lieu of 181.065)]

**181.066 Bureau of criminal identification.** (1) There is established in the Department of State Police a bureau of criminal identification which shall be operated by the department.

(2) The bureau shall:

(a) Install and maintain systems for filing and retrieving fingerprint data and supplemental information submitted by criminal justice agencies for the identification of criminal offenders as the Superintendent of State Police deems necessary;

(b) Employ its fingerprint record file as a basis for identifying individuals and provide criminal offender information to criminal justice agencies while acting in the performance of their official duties;

(c) Provide information to persons and agencies as provided in ORS 181.555 and 181.560; and

(d) Undertake such other projects as are necessary or appropriate to the speedy collection and dissemination of information relating to crimes and criminals. [1975 c.548 §3 (enacted in lieu of 181.065); 1975 c.605 §11a; 1981 c.905 §2]

**181.070 State detective bureau.** (1) The Superintendent of State Police may, with the approval of the Governor, maintain a state detective bureau under the immediate supervision of the superintendent.

(2) The detective bureau shall:

(a) Maintain facilities for the detection of crime by the state police.

(b) Supply expert information on handwriting and ballistics.

(3) To accomplish the purposes of subsection (2) of this section, the superintendent may, with the approval of the Governor, utilize the services of such members of the state police as assistant state detectives as the superintendent deems expedient. [Amended by 1963 c.547 §9; 1971 c.467 §22]

**181.080 Forensic laboratories.** (1) The Department of State Police may establish forensic laboratories.

(2) The laboratories shall furnish service as available to all district attorneys, sheriffs and other peace officers in the state. The services of the laboratories shall also be available to any defendant in a criminal case on order of the court before which the criminal case is pending. [Amended by 1953 c.5 §3; 1963 c.218 §1; 1971 c.467 §23; 2001 c.870 §12]

**181.085 Authority over blood and buccal samples and analyses; disclosure; inspection by subject person; destruction of sample.** (1) The Department of State Police is authorized to:

(a) Store blood and buccal samples received under authority of this section, ORS 137.076, 161.325 and 419C.473 (1) and section 2, chapter 852, Oregon Laws 2001, and other physical evidence obtained from analysis of such samples;

(b) Analyze such samples for the purpose of establishing the genetic profile of the donor or otherwise determining the identity of persons or contract with other qualified public or private laboratories to conduct that analysis;

(c) Maintain a criminal identification database containing information derived from blood and buccal analyses;

(d) Utilize such samples to create statistical population frequency databases, provided that genetic profiles or other such information in a population frequency database shall not be identified with specific individuals; and

(e) Adopt rules establishing procedures for obtaining, transmitting and analyzing blood and buccal samples and for storing and destroying blood and buccal samples and other physical evidence and criminal identification information obtained from such analysis. Procedures for blood and buccal analyses may include all techniques which the department determines are accurate and reliable in establishing identity, including but not limited to, analysis of DNA (deoxyribonucleic acid), antigen antibodies, polymorphic enzymes or polymorphic proteins.

(2) If the department is unable to analyze all samples due to lack of funds, the department shall analyze samples in the following order:

(a) The department shall first analyze samples from persons convicted of:

(A) Rape, sodomy, unlawful sexual penetration, sexual abuse, public indecency, incest or using a child in a display of sexually explicit conduct, as those offenses are defined in ORS 163.355 to 163.427, 163.465 (1)(c), 163.525 and 163.670;

(B) Burglary in the second degree, as defined in ORS 164.215;

(C) Promoting or compelling prostitution, as defined in ORS 167.012 and 167.017;

(D) Burglary in the first degree, as defined in ORS 164.225;

(E) Assault in the first, second or third degree, as defined in ORS 163.165, 163.175 and 163.185;

(F) Kidnapping in the first or second degree, as defined in ORS 163.225 and 163.235;

(G) Stalking, as defined in ORS 163.732;

(H) Robbery in the first, second or third degree, as defined in ORS 164.395, 164.405 and 164.415;

(I) Manslaughter in the first or second degree, as defined in ORS 163.118 and 163.125;

(J) Criminally negligent homicide, as defined in ORS 163.145;

(K) Conspiracy or attempt to commit any felony listed in subparagraphs (A) to (J) of this paragraph; or

(L) Murder, aggravated murder or an attempt to commit murder or aggravated murder.

(b) After analyzing samples from persons described in paragraph (a) of this subsection, the department shall analyze samples from persons convicted of a felony under ORS 475.992, 475.993, 475.995 or 475.999.

(c) After analyzing samples from persons described in paragraphs (a) and (b) of this subsection, the department shall analyze samples from persons convicted of any other felony.

(3) Notwithstanding subsection (2) of this section, the department may analyze a sample from a lower priority before all samples in higher priorities are analyzed if required in a particular case for law enforcement purposes.

(4) The department may not transfer or disclose any sample, physical evidence or criminal identification information obtained, stored or maintained under authority of this section, ORS 137.076, 161.325 or 419C.473 (1) except:

(a) To a law enforcement agency as defined in ORS 181.010, a district attorney or the Criminal Justice Division of the Department of Justice for the purpose of establishing the identity of a person in the course of a criminal investigation or proceeding;

(b) To a party in a criminal prosecution or juvenile proceeding pursuant to ORS 419C.005 if discovery or disclosure is required by a separate statutory or constitutional provision; or

(c) To a court or grand jury in response to a lawful subpoena or court order when the evidence is not otherwise privileged and is necessary for criminal justice purposes.

(5) The department may not transfer or disclose any sample, physical evidence or criminal identification information under subsection (4) of this section unless the public agency or person receiving the sample, physical evidence or criminal identification information agrees to destroy the sample, physical evidence or criminal identification information if notified by the department that a court has reversed the conviction, judgment or order that created the obligation to provide the blood or buccal sample.

(6) Any public agency that receives a sample, physical evidence or criminal identification information under authority of subsection (4) of this section may not disclose it except as provided in subsection (4) of this section.

(7) Notwithstanding subsections (4) and (6) of this section, any person who is the subject of a record within a criminal identification database maintained under the authority of this section may, upon request, inspect that information at a time and location designated by the department. The department may deny inspection if it determines that there is a reasonable likelihood that such inspection would prejudice a pending criminal investigation. In any case, the department is not required to allow the person or anyone acting on the person's behalf to test any blood or buccal sample or other physical evidence. The department shall adopt procedures governing the inspection of records and samples and challenges to the accuracy of records. The procedures shall accommodate the need to preserve the materials from contamination and destruction.

(8)(a) Whenever a court reverses the conviction, judgment or order that created an obligation to provide a blood or buccal sample under ORS 137.076 (2), 161.325 or 419C.473 (1), the person who provided the sample may request destruction of the sample and any criminal identification record created in connection with that sample.

(b) Upon receipt of a written request for destruction pursuant to this section and a certified copy of the court order reversing the conviction, judgment or order, the department shall destroy any sample received from the person, any physical evidence obtained from that sample and any criminal identification records pertaining to the person, unless the department determines that the person has otherwise become obligated to submit a blood or buccal sample as a result of a separate conviction, juvenile adjudication or finding of guilty except for insanity for an offense listed in ORS 137.076 (1). When the department destroys a sample, physical evidence or criminal identification record under this paragraph, the department shall notify any public agency or person to whom the sample, physical evidence or criminal identification information was transferred or disclosed under subsection (4) of this section of the reversal of the conviction, judgment or order.

(c) The department is not required to destroy an item of physical evidence obtained from a blood or buccal sample if evidence relating to another person subject to the provisions of ORS 137.076, 161.325, 181.085, 419A.260 and 419C.473 (1) would thereby be destroyed. Notwithstanding this subsection, no sample, physical evidence or criminal identification record is affected by an order to set aside a conviction under ORS 137.225.

(9) As used in this section, "convicted" includes a juvenile court finding of jurisdiction based on ORS 419C.005. [1991 c.669 §4; 1993 c.33 §319; 1993 c.469 §4; 1999 c.97 §3; 2001 c.852 §3]

**Note:** 181.085 was added to and made a part of ORS chapter 181 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**181.090 Headquarters and patrol stations.** The Superintendent of State Police, with the approval of the Governor, may establish headquarters and patrol stations at such places as the superintendent may deem most advisable for the patrol and protection of the state and for the enforcement of the laws. For that purpose, with the approval of the Governor, the superintendent may use lands and buildings for the accommodation of members of the state police and their vehicles and equipment. [Amended by 1971 c.467 §21]

**181.100 Organization of work of department.** The Superintendent of State Police shall, so far as in the judgment of the superintendent it is practicable and expedient so to do, organize the work of the Department of State Police so that:

(1) The various duties required of the department may be assigned to appropriate departments, to be performed by persons experienced and qualified for such respective kinds of work.

(2) The duties of the various officers and police of the superintendent are coordinated so that when not engaged in a particular duty specified or directed to be done or not then requiring attention such officers and police shall perform

the other duties required of the department and then required to be done.

(3) The cooperation of other officers and police may be secured for the purposes of avoiding duplication of time and effort.

**181.110 Distribution of police throughout state.** The Superintendent of State Police shall distribute the state police throughout the various sections of the state where they will be most efficient in carrying out the purposes of the Department of State Police to preserve the peace, to enforce the law and to prevent and detect crime.

**181.120 Standard uniform for state police.** The State of Oregon shall provide the members of the state police with standard uniforms. Subject to detailed regulations and specifications prescribed by the Superintendent of State Police, the uniform to be worn by members of the state police shall be of standard pattern and distinctive design. [Amended by 1971 c.467 §7; 1979 c.30 §1]

**181.130 Service without wearing uniform.** The Superintendent of State Police may direct that members of the state police shall serve without wearing uniform, when, in the judgment of the superintendent, law enforcement will thereby be made more efficient. [Amended by 1971 c.467 §8]

**181.140 Wearing uniforms by other persons prohibited.** (1) No person other than a member of the Oregon State Police shall wear, use or order to be worn or used, copy or imitate in any respect or manner the standard uniforms specified in ORS 181.120.

(2) As used in this section, "person" includes agents, officers and officials elected or appointed by any municipality or county.

**181.150 Supplies and equipment of state police as state property; exceptions.** (1) The state shall provide the members of the state police with emergency and first aid outfits, weapons, motor vehicles, and all other supplies and equipment necessary to carry out the objects of the Department of State Police. This property shall remain the property of the state with the exception of a retiring or deceased officer's department-issued service revolver, which may be sold by the department to the officer or, in the case of a deceased officer, to a member of the officer's family, upon the officer's retirement or death, and the officer's badge, which may be given to the officer or, in the case of a deceased officer, to a member of the deceased officer's family, upon the officer's retirement or death. When a service revolver is sold pursuant to this section, it shall be sold for its fair market value. The badge shall be marked to indicate the officer's retirement status and under no circumstance shall it be used for official police identification other than as a memento of service to the department.

(2) When any of the property, supplies or equipment becomes surplus, obsolete or unused it shall be disposed of by the Oregon Department of Administrative Services as provided in ORS 279.828.

(3) For purposes of ORS 279.011 to 279.063, the sale of a service revolver to a retiring officer by the department is not a public contract and shall not be subject to the competitive bidding requirements of ORS 279.011 to 279.063. The provisions of ORS 166.412 do not apply to transfers of firearms pursuant to this section. [Amended by 1955 c.148 §1; 1971 c.467 §9; 1985 c.281 §1; 1989 c.839 §28; 1995 c.729 §10]

**181.160** [Repealed by 1955 c.260 §3]

**181.170 Damage or loss of property by neglect of member; deduction from pay.** The Superintendent of State Police shall make charges against any member of the state police for property of the Department of State Police damaged, lost or destroyed through carelessness or neglect of such member. If it is determined that such damage, loss or destruction was due to carelessness or neglect, there shall be deducted from the pay of such member the amount of money necessary to repair or replace the article or articles damaged, lost or destroyed.

**181.175 State Police Account; subaccount; uses.** (1) There is established in the General Fund of the State Treasury an account to be known as the State Police Account. All moneys received by the Department of State Police shall be paid to the credit of the State Police Account, and such moneys are continuously appropriated for the payment of expenses of the Department of State Police.

(2) There is established a subaccount in the State Police Account consisting of all moneys, revenue and income described in ORS 463.220. All moneys in the subaccount are appropriated continuously to the Department of State

Police to carry out the provisions of ORS chapter 463. [1971 c.277 §2; 1979 c.541 §4; 1981 c.881 §3; 1993 c.742 §140a; 1993 c.744 §216b]

**181.180 Petty cash account.** The Superintendent of State Police shall establish a petty cash account from the appropriation for carrying out the functions of the Department of State Police in the amount of \$25,000 and shall authorize designated commissioned officers to make disbursements from such account in all cases where it may be necessary to make an immediate cash payment for transportation expenses, accessories and repairs to motor vehicles, board and lodging, immediate medical and veterinary supplies, telephone and imperative supplementary supplies. Upon presentation to the Oregon Department of Administrative Services of duly approved vouchers for moneys so expended from the petty cash account or fund, the account or fund shall be reimbursed to the amount of vouchers submitted. [Amended by 1985 c.478 §5]

**181.190 Commanding assistance of citizens.** All members of the state police may direct and command the assistance of any able-bodied citizen of the United States to aid, when necessary, to maintain law and order. When so called, any person shall, during the time the assistance of the person is required, be considered a member of the state police and subject to ORS 181.010 to 181.560 and 181.715 to 181.730. [Amended by 1971 c.467 §10]

**181.200 Superintendent of State Police; appointment; confirmation; removal.** The Superintendent of State Police shall be the executive and administrative head of the Department of State Police. Subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565, the Governor shall appoint the superintendent for a term of four years. The Governor may remove the superintendent for inefficiency or malfeasance in office after charges have been preferred and a hearing granted. [Amended by 1971 c.467 §11; 1973 c.792 §1]

**181.210 Oath and bond of superintendent and deputy.** The Superintendent of State Police and the Deputy Superintendent of State Police, before assuming their duties, each shall take and subscribe an oath of office as prescribed by ORS 181.390 and shall be covered by a fidelity or blanket bond as provided in ORS 291.011. [Amended by 1971 c.467 §13]

**181.220 Deputy Superintendent of State Police; qualifications, appointment and removal.** The Superintendent of State Police may, with the approval of the Governor as to person and salary, appoint a Deputy Superintendent of State Police. The deputy superintendent shall have served as a captain or in higher rank in the Oregon State Police not less than one year prior to the appointment of the deputy superintendent. The deputy superintendent shall be removable for the causes and in the manner provided in ORS 181.290 to 181.350 for the removal of members of the state police. [Amended by 1971 c.467 §12]

**181.230** [Repealed by 1971 c.467 §26]

**181.240 Powers and duties of deputy superintendent.** The Deputy Superintendent of State Police, when appointed and qualified, shall possess during the term of office of deputy superintendent all the powers of the Superintendent of State Police and shall act as the head of the Department of State Police in the absence or incapacity of the superintendent, and shall perform such duties as the superintendent may prescribe.

**181.250 State police force; appointment; examination and enlistment of applicants.** The Superintendent of State Police, with the approval of the Governor, shall appoint a state police force, consisting of the number of commissioned officers, noncommissioned officers and troopers who are, in the judgment of the Governor and the superintendent, necessary in the performance of the duties of the Department of State Police. The superintendent shall, subject to the laws of the state and with the approval of the Governor, arrange for the examination and enlistment of applicants and establish ranks or grades. [Amended by 1971 c.467 §6]

**181.260 Qualifications for appointment and reappointment as member of state police; special officers.** (1) No person, other than an expert in crime detection, shall be appointed a member of the state police unless the person is:

- (a) A citizen of the United States.
- (b) Of good health and of good moral character.
- (c) Over the age of 21 years.

(2) No person shall be appointed a member of the state police who has not established satisfactory evidence of qualifications by passing a physical and mental examination based upon the standard provided by the rules and regulations of the United States Army; but the Superintendent of State Police, with the approval of the Governor, may, for such positions and where, in the judgment of the superintendent, the good of the service requires it, waive the physical standard provided by such rules and regulations.

(3) Any member who voluntarily withdraws from the state police force without the consent of the superintendent, and all persons removed from the state police for cause after hearing, shall be ineligible for reappointment.

(4) The superintendent may appoint special state police officers upon the following conditions:

(a) The officers are appointed for the limited purpose of providing assistance to the state police in law enforcement emergencies and major operations in Oregon in areas near the Oregon border and the neighboring state.

(b) The officers are police officers certified by the state bordering Oregon.

(c) The officers receive no separate compensation from the State of Oregon for their services.

(d) There is a reciprocal agreement wherein the Superintendent of State Police authorizes a member of the Oregon State Police to assist the bordering state's police officers under identically prescribed criteria in the neighboring state in areas near the Oregon border with the neighboring state.

(5) The Superintendent of State Police is authorized to enter into reciprocal agreements with bordering state law enforcement agencies for the purpose of providing assistance to the Oregon State Police and the bordering state law enforcement agency in carrying out major operations and responding to emergencies in areas near the Oregon border and the border of the adjacent state. [Amended by 1985 c.411 §1; 1993 c.594 §5]

### **181.263 Special state police officers; employees of Department of Corrections; appointment as. (1)**

Notwithstanding ORS 181.260, the Superintendent of State Police may appoint employees of the Department of Corrections as special state police officers if the superintendent deems it necessary or advisable to assist the Department of Corrections in the discharge of the Department of Corrections' medical transport functions and duties. To be eligible for appointment under this subsection, an employee must be currently certified as a corrections officer under ORS 181.610 to 181.712. The superintendent and the Department of Corrections shall enter into an intergovernmental agreement that specifies the terms, conditions and duration of appointments made under this subsection.

(2) A person appointed as a special state police officer under subsection (1) of this section may not receive any separate or additional compensation from the Department of State Police for performance of the person's duties. [2001 c.435 §1]

**Note:** 181.263 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.265 Qualification for cadets and legislative and executive security personnel.** Notwithstanding ORS 181.260 (1)(c), 181.645 and 181.665, the superintendent may appoint, as state police cadets or legislative and executive security personnel, individuals who are 18 years of age or older and satisfy other requirements of ORS 181.260 (1) and (2). [1971 c.467 §25b; 1977 c.258 §1; 1993 c.594 §2]

**181.270** [Amended by 1953 c.50 §4; 1955 c.704 §1; 1957 c.674 §1; 1959 c.677 §1; 1961 c.493 §2; 1963 c.572 §54; repealed by 1965 c.14 §2 (181.271 enacted in lieu of 181.270)]

**181.271 Salaries of state police.** The salaries of members of the Oregon State Police shall be fixed in the same manner as the salaries of other officers and employees in the unclassified service pursuant to ORS 240.240. [1965 c.14 §3 (enacted in lieu of 181.270); 1971 c.467 §14]

**181.280 Instruction; rules and regulations for discipline and control.** The Superintendent of State Police shall:

(1) Provide the necessary preliminary and subsequent instruction to recruits and troopers as to their duties as police officers of the state.

(2) Make rules and regulations for the discipline and control of the state police. [Amended by 1971 c.467 §15]

**181.290 Grounds for removal of state police.** The Superintendent of State Police may remove members of the Oregon State Police in the manner prescribed in ORS 181.290 to 181.350 for inefficiency, misfeasance, malfeasance,

nonfeasance in office, violation of the criminal laws of the state or of the United States, willful violation of any rule or regulation of the Department of State Police, insubordination, forfeiture of license to operate a motor vehicle, or physical or mental disability not incurred in line of duty. [Amended by 1971 c.467 §16]

**181.300 Proceeding for removal.** (1) Members of the Oregon State Police may be removed only after written charges have been preferred and a hearing granted as prescribed in ORS 181.290 to 181.350.

(2) This section does not require a hearing for:

(a) Disciplinary measures taken by the superintendent or any commanding officer of a detachment for the punishment of minor infractions of the rules or regulations of the Department of State Police.

(b) Demotion of members.

(c) Removal of recruits. [Amended by 1971 c.467 §17]

**181.310 Superintendent to make rules and regulations governing proceedings for removal.** The Superintendent of State Police shall make rules and regulations providing for:

(1) The filing of written charges against an accused member of the Oregon State Police.

(2) A hearing by the trial board on the charges upon not less than 10 days' notice.

(3) An opportunity to the accused member to produce proof in the defense of the accused member. [Amended by 1971 c.467 §18]

**181.320 Trial board; members; presiding officer.** A trial board to hear charges against members of the Oregon State Police shall consist of the Superintendent of State Police and two commissioned officers, senior in service, appointed by the superintendent. The superintendent shall be the presiding officer of the trial board. Upon written order of the superintendent, any commissioned officer appointed or designated by the superintendent may sit as presiding officer of the trial board. [Amended by 1971 c.467 §19]

**181.330 Hearing on charges; compelling attendance of witnesses; fees and mileage.** The presiding officer of the trial board shall make all necessary rulings during the course of the hearing which may be held at any place designated by the Superintendent of State Police. The superintendent or the officer acting in the stead of the superintendent as presiding officer of the trial board is empowered to issue subpoenas to compel the attendance of witnesses and the production of evidence and to administer all necessary oaths. Persons summoned as witnesses before the trial board shall be entitled to fees and mileage provided for witnesses in ORS 44.415 (2). Failure or refusal to obey any subpoena shall be brought to the attention of the circuit court for the county in which the hearing is held and shall be punished by that court as a contempt. [Amended by 1989 c.980 §10]

**181.340 Finding of trial board; action by superintendent.** If the charges are proved the trial board shall make a written finding of guilty and recommend either removal of the member of the Oregon State Police or such disciplinary punishment as, in their opinion, the offense merits. Thereupon the Superintendent of State Police shall direct the removal or punishment. If any member refuses to attend the hearing or abide by any such disciplinary order, the superintendent may by order remove the member forthwith. [Amended by 1971 c.467 §20]

**181.350 Procedure for review of decision of trial board.** The decisions of the trial board shall be subject to review by the Court of Appeals. The procedure for review shall be as provided in ORS 183.482. [Amended by 1979 c.772 §14]

**181.360 Directors of forensic laboratories.** The Superintendent of State Police shall appoint:

(1) The director of each forensic laboratory, who shall have charge and supervision over the laboratory under the general supervision of the superintendent.

(2) The assistants necessary for the operation of the laboratories. [Amended by 1971 c.467 §24; 2001 c.870 §13]

**181.370** [Repealed by 1971 c.467 §26]

**181.380** [Repealed by 1971 c.467 §26]

**181.390 Oath of members of state police.** Each member of the Oregon State Police shall take and subscribe to an

oath of office to support the Constitution and laws of the United States and of the State of Oregon, and to honestly and faithfully perform the duties imposed upon the member under the laws of Oregon. The oath of the Superintendent of State Police and Deputy Superintendent of State Police shall be filed with the Secretary of State, and the oaths of all other members with the superintendent. [Amended by 1971 c.467 §5]

**181.400 Interference with personal and property rights of others.** No member of the state police shall in any way interfere with the rights or property of any person, except for the prevention of crime, or the capture or arrest of persons committing crimes. [Amended by 1971 c.467 §25; 1991 c.145 §1]

**181.410 Records and reports of time spent in performance of duties; approval of claims.** (1) Under rules and regulations to be promulgated by the Superintendent of State Police, with the approval of the Governor, all state police shall be required to keep a record of the time spent in the performance of their various duties and report same to the superintendent at such times as the superintendent shall direct.

(2) The superintendent shall approve all claims. [Amended by 1957 c.521 §4; 1959 c.480 §3]

**181.415** [1967 c.194 §1; repealed by 1977 c.249 §1]

**181.420** [Amended by 1957 c.7 §1; repealed by 1971 c.743 §432]

**181.440 Eligibility of towing business to be placed on department list.** The Superintendent of State Police may make rules governing the eligibility of towing businesses to be placed and remain on any list of such businesses used by the Department of State Police when it requests towing services on behalf of any person. [1987 c.112 §2]

#### STATE POLICE AS EXPERT WITNESSES

**181.450 Definitions for ORS 181.450 to 181.490.** For the purposes of ORS 181.450 to 181.490:

(1) "Member of the Department of State Police" includes those persons designated as sworn officers by the Superintendent of State Police.

(2) "Tribunal" means any person or body before which attendance of witnesses may be required by subpoena, including an arbitrator in arbitration proceedings. [1989 c.725 §2]

**181.455 Member of State Police as expert witness; subpoena.** (1) Whenever a member of the Department of State Police is called as an expert witness by a party by whom the member is not employed, a subpoena requiring attendance may be served by delivering a copy either to such member personally or to the member's immediate superior.

(2) Any person causing a subpoena to be issued to compel the attendance of a member of the Department of State Police before a tribunal shall indicate on the face of that subpoena whether the person or the person's representative intends to ask the expert opinion of the member as to any aspect of the proceedings. No member of the Department of State Police may be required by a tribunal to give the member's expert opinion on any matter before the tribunal unless the subpoena compelling the member's presence indicates that the member's expert opinion will be asked. [1989 c.725 §4]

**181.460 Payment of member called as expert witness; reimbursement of department; deposit.** (1) Any member of the Department of State Police who is obliged by a subpoena issued pursuant to ORS 181.455 (2) to attend as an expert witness shall receive the salary or other compensation to which the member is normally entitled from the Department of State Police during the time that the member travels to and from the place where the court or other tribunal is located and while the member is required to remain at such place pursuant to such subpoena. The member shall also receive from the Department of State Police the actual necessary and reasonable traveling expenses incurred in complying with the subpoena.

(2) The party at whose request a subpoena is issued pursuant to ORS 181.455 (2) compelling the attendance of a member of the Department of State Police as an expert witness shall reimburse the Department of State Police for the full cost to the department incurred in reimbursing the member as provided in subsection (1) of this section for each day that the member is required to remain in attendance pursuant to the subpoena. The amount of \$160 shall be deposited with the clerk of the court or with the tribunal prior to the issuance of a subpoena issued pursuant to ORS

181.455 (2) to compel the attendance of a member of the Department of State Police as an expert witness for each day that the member is required to remain in attendance pursuant to the subpoena. If the person causing the issuance of a subpoena requiring the expert opinion of a member of the Department of State Police makes arrangements with the member and with the tribunal prior to the issuance of the subpoena to take the testimony of the member by telephone, and testimony by telephone is otherwise allowed by the Oregon Rules of Civil Procedure, the amount of \$80 shall be deposited with the clerk of the court or with the tribunal prior to the issuance of the subpoena for each day that the member is required to testify pursuant to the subpoena.

(3) If the actual expenses should later prove to be less than the amount deposited, the excess of the amount deposited shall be refunded.

(4) If the actual expenses should later prove to be more than the amount deposited, the difference shall be paid to the Department of State Police by the party at whose request the subpoena is issued.

(5) If a court or tribunal continues a proceeding on its own motion, no additional deposit may be required prior to the issuance of a subpoena or the making of an order directing the member to appear on the date to which the proceeding is continued. [1989 c.725 §5]

**181.465 Demand for payment of deposit; effect of failure to pay on demand.** Members of the Department of State Police who are called as expert witnesses in civil cases may demand the payment of a deposit as specified in ORS 181.460 (2) for one day, in advance, and when so demanded shall not be compelled to attend until the deposit is paid. [1989 c.725 §3]

**181.470 Deposit prior to requiring member of department to return beyond day stated in subpoena.** No member of the Department of State Police shall be ordered to return by the court or tribunal for subsequent proceedings beyond the day stated in the subpoena requiring the member to give the member's expert opinion referred to in ORS 181.455 (4) or the day upon which the witness appeared pursuant to the provisions of ORS 181.480, unless the party at whose request the subpoena was issued, or the party at whose request the witness is ordered to return, shall first deposit with the clerk of the court or with the tribunal the same sum required to be deposited for the issuance of a subpoena in the first instance. [1989 c.725 §6]

**181.475 Application of ORS 181.455, 181.460 and 181.470 to subpoenas for depositions.** The provisions of ORS 181.455, 181.460 and 181.470 apply to subpoenas issued for the taking of depositions of members of the Department of State Police. [1989 c.725 §7]

**181.480 Agreement to appear at time other than time specified in subpoena.** A member of the Department of State Police who has been subpoenaed pursuant to the provisions of ORS 181.455 or 181.475, for the purpose of giving the member's expert opinion, in lieu of attendance at the time specified in the subpoena, may agree with the party at whose request such subpoena was issued to appear at another time or pursuant to such notice as may be agreed upon. [1989 c.725 §8]

**181.485 Action by department to recover funds if member appearing as expert witness not reimbursed.** Whenever a member of the Department of State Police appears as an expert witness pursuant to ORS 181.450 to 181.490 and reimbursement is not made as provided for in ORS 181.450 to 181.490, the Department of State Police shall have standing to bring an action in order to recover such funds. [1989 c.725 §9]

**181.490 Exception to provisions of ORS 181.450 to 181.485.** ORS 181.450 to 181.485 shall not apply to any proceeding in which a public body is a party. For the purposes of this section, "public body" has the meaning given in ORS 30.260. [1989 c.725 §10]

## COMMUNITY POLICING DEMONSTRATION PROJECTS

**181.495 Grant program; eligibility; project elements.** (1) The Department of State Police may administer a grant program for statewide community policing demonstration projects. The department shall award grants on the basis of appropriateness and effectiveness and shall consider geographic and demographic factors in making the awards.

(2) To be eligible for a grant, a community must:

(a) Demonstrate interaction between its citizens and the police; and

(b) Have initiated planning for innovative police strategies that are problem oriented, proactive and community based.

(3) A community must submit to the department a proposal that provides the details of the community policing project the community intends to implement. The project shall contain the following elements:

(a) Community involvement, including involving neighborhood associations, business groups, churches and other civic organizations in establishing priorities for anticrime efforts involving the police and other community agencies and providing recognition of and police support to citizen-based anticrime efforts including, but not limited to, block watches, task forces and alternative programs;

(b) Problem-solving orientation;

(c) Community-based deployment strategies that fit the community's problems, financial limitations and priorities, as jointly determined by the citizens of the community, the elected officials and the police; and

(d) Increased accountability of the police to the citizens. [Formerly 184.413]

**181.496 Evaluation of projects.** The Department of State Police shall evaluate the demonstration projects to determine their effectiveness. [Formerly 184.415]

**181.497 Training program for local law enforcement units.** The Department of State Police may administer a training program for local law enforcement units on community, problem-oriented policing. The training shall include, but not be limited to, familiarizing police officers with the problem-oriented policing model of scanning for problems in the community, analyzing and responding to the problems and assessing the results. [Formerly 184.417]

## MISSING CHILDREN CLEARINGHOUSE

**181.505 Establishment and maintenance of missing children clearinghouse.** (1) The Oregon State Police shall establish and maintain a missing children clearinghouse that receives from and distributes to local law enforcement agencies, school districts, state and federal agencies and the general public information regarding missing children.

(2) The information shall include technical and logistical assistance, pictures, bulletins, training sessions, reports and biographical materials that assist local efforts to locate missing children.

(3) The Oregon State Police shall maintain a regularly updated computerized link with national and other statewide missing person reporting systems or clearinghouses. [1989 c.1059 §1]

**Note:** 181.505 and 181.506 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.506 Duties of administrator of clearinghouse.** The administrator of the clearinghouse established pursuant to ORS 181.505 shall:

(1) Provide information and training to local law enforcement and child welfare agencies and to other state agencies having child welfare duties.

(2) Appoint an advisory committee consisting of persons with interest and training related to missing children to advise on operation of the clearinghouse and to serve without compensation or expense reimbursement.

(3) Seek public and private grants and gifts for purposes of the clearinghouse and the duties required by this section.

(4) Maintain a 24-hour hotline to receive and provide information on missing children. [1989 c.1059 §2]

**Note:** See note under 181.505.

**181.507** [1993 c.807 §1; renumbered 181.585 in 1995]

**181.508** [1993 c.807 §2; renumbered 181.586 in 1995]

**181.509** [1993 c.807 §3; renumbered 181.587 in 1995]

**181.510** [1963 c.547 §3; repealed by 1975 c.548 §4 (181.511 enacted in lieu of 181.510)]

## CRIME REPORTING

**181.511 Fingerprints, identifying data, disposition report required upon arrest.** (1) A law enforcement agency immediately upon the arrest of a person for a crime for which criminal offender information must be provided under ORS 181.515 shall:

(a) Place the arrested person's fingerprints and identifying data on forms prescribed or furnished by the Department of State Police Bureau of Criminal Identification, photograph the arrested person, and promptly transmit the form and photograph to the bureau.

(b) If the arrest is disposed of by the arresting agency, cause the disposition report to be completed and promptly transmitted to the bureau.

(c) If the arrest is not disposed of by the agency, cause the disposition report to be forwarded, except as otherwise provided in section 3, chapter 553, Oregon Laws 1987, to the court that will dispose of the charge, for further action in accordance with ORS 181.521.

(2) A law enforcement agency may record, in addition to fingerprints, the palm prints, sole prints, toe prints, or other personal identifiers when, in the discretion of the agency, it is necessary to effect identification of the persons or to the investigation of the crime charged.

(3) A law enforcement agency, for the purpose of identification, may record and submit to the bureau the fingerprints of persons arrested for crimes for which criminal offender information is not required under ORS 181.515. [1975 c.548 §5 (enacted in lieu of 181.510); 1983 c.763 §55; 1987 c.475 §6; 1987 c.553 §1]

**181.515 Crimes for which criminal offender information is required.** The following crimes are crimes for which criminal offender information must be provided:

(1) Any felony;

(2) Any misdemeanor or other offense which involves criminal sexual conduct; or

(3) Any crime which involves a violation of the Uniform Controlled Substances Act. [1987 c.475 §4]

**181.517** [1989 c.984 §1; 1991 c.386 §10; 1991 c.389 §1; 1993 c.147 §1; 1995 c.422 §59; 1995 c.429 §1; 1995 c.768 §11; renumbered 181.594 in 1995]

**181.518** [1989 c.984 §2; 1991 c.389 §2; 1993 c.147 §2; 1995 c.422 §60; renumbered 181.595 in 1995]

**181.519** [1989 c.984 §3; 1991 c.389 §3; 1993 c.147 §3; 1995 c.422 §61; renumbered 181.596 in 1995]

**181.520** [1963 c.547 §4; repealed by 1975 c.548 §6 (181.521 enacted in lieu of 181.520)]

**181.521 Transmittal of disposition report.** When a court receives a disposition report from a law enforcement agency pursuant to ORS 181.511, the court shall transmit disposition information to the Department of State Police Bureau of Criminal Identification in a manner and format determined by the State Court Administrator after consultation with the bureau. [1975 c.548 §6a (enacted in lieu of 181.520); 1983 c.763 §56; 1987 c.553 §2]

**181.525 Copy of certain disposition reports to Teacher Standards and Practices Commission and Department of Education.** Whenever any court or district attorney receives a disposition report and the court or district attorney has cause to believe that the arrested person who is the subject of the report is an employee of a school district or is licensed as a school teacher or administrator and that the charge involves a violation of any crime listed in ORS 342.143 (3) or 342.175 (2), the court or district attorney shall cause the Teacher Standards and Practices Commission and the Department of Education to be sent a copy of the completed disposition report. [1987 c.503 §4; 1993 c.674 §2]

**181.530 Report of release or escape from state institution of certain inmates.** (1) The superintendent of any institution of this state shall notify the Department of State Police Bureau of Criminal Identification prior to the release or immediately after the escape from such institution, of any person committed to such institution, for a crime for which a report is required or under civil commitment as a sexually dangerous person. The notice shall state the name of the person to be released or who has escaped, the county in which the person was convicted or from which the

person was committed and, if known, the address or locality at which the person will reside.

(2) Promptly upon receipt of the notice required by subsection (1) of this section, the bureau shall notify all law enforcement agencies in the county in which the person was convicted or from which the person was committed and in the county, if known, in which the person will reside. [1963 c.547 §5]

**181.533 Criminal records check; qualified entities; fitness determinations; rules.** (1) As used in this section:

(a) “Authorized agency” means the Department of State Police or other governmental agency designated by the state to report, receive or disseminate criminal offender information.

(b) “Qualified entity” means a business or organization that:

(A) Provides care or placement services, or licenses or certifies others to provide care or placement services, for children, elderly persons or dependent persons;

(B) Is not governed by a state regulatory or licensing agency; and

(C) Has been determined by an authorized agency to meet the criteria established by the authorized agency by rule under subsection (9) of this section.

(c) “Subject individual” means a person who is employed or seeks to be employed by a qualified entity or who is providing services or seeks to provide services to a qualified entity on a contractual or volunteer basis.

(2) An entity may request from an authorized agency a criminal records check for purposes of evaluating the fitness of a subject individual as an employee, contractor or volunteer. The authorized agency may access state and federal criminal records under this subsection only through use of the subject individual’s fingerprints.

(3) Before an authorized agency may conduct a criminal records check under this section:

(a) The authorized agency shall determine whether the entity requesting the criminal records check is a qualified entity;

(b) The qualified entity must establish criteria to be used by the authorized agency in reviewing the criminal offender information for a final record check determination;

(c) The qualified entity must provide the criteria established under paragraph (b) of this subsection to the authorized agency; and

(d) The qualified entity must have informed the subject individual that the qualified entity might request a fingerprint-based criminal records check and that the subject individual may obtain a copy of the record check report from, or challenge the accuracy or completeness of the record check report through, the authorized agency or the Federal Bureau of Investigation.

(4)(a) Upon receipt of a subject individual’s criminal offender information, the authorized agency shall make a final record check determination by comparing the criminal offender information with the criteria provided to the authorized agency by the qualified entity under subsection (3)(c) of this section. In making the final record check determination, the authorized agency may consider only information that the Department of State Police may disclose under ORS 181.560.

(b) An authorized agency is immune from civil liability that might otherwise be incurred or imposed for making the final record check determination under this subsection.

(5) An authorized agency may not transfer a fingerprint card used to conduct the criminal records check unless the public agency or person receiving the fingerprint card agrees to destroy or return the fingerprint card to the authorized agency.

(6) If the public agency or person returns a fingerprint card to the authorized agency, the authorized agency shall destroy the fingerprint card. The authorized agency may not keep a record of the fingerprints.

(7) The authorized agency shall permit a subject individual to inspect the individual’s Oregon and Federal Bureau of Investigation criminal offender information after positive identification has been established based upon fingerprints.

(8) Challenges to the accuracy or completeness of information provided by the authorized agency, the Federal Bureau of Investigation and agencies reporting information to the authorized agency or bureau must be made through the authorized agency or bureau.

(9) The authorized agency shall adopt rules to implement this section. The rules may include but are not limited to:

(a) Criteria to be used by the authorized agency to determine whether an entity is a qualified entity; and

(b) Fees to be charged for conducting criminal records checks under this section in amounts not to exceed the actual costs of acquiring and furnishing criminal offender information. [2001 c.871 §1]

**Note:** 181.533 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS

chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.535 Criminal identification information available to Executive Secretary of Oregon Racing Commission.**

(1) The Department of State Police may, upon request of the Oregon Racing Commission, furnish to the Executive Secretary of the Oregon Racing Commission such information as the department may have in its possession from its central bureau of criminal identification, including but not limited to manual or computerized information and data.

(2) For the purposes of requesting and receiving the information and data described in subsection (1) of this section, the Oregon Racing Commission is a “state agency” and a “criminal justice agency” and its enforcement agents are “peace officers” within this chapter and rules adopted thereunder. [1975 c.549 §19]

**181.536 Criminal records checks; current employees of providers.** (1) The Department of Human Services shall by rule set forth a timetable that does not exceed 12 months in length for providers, including qualified entities described in ORS 181.537 (1)(e), to obtain criminal records checks for subject individuals already employed by the provider if the individuals have not undergone a criminal records check process comparable to the one set forth in ORS 181.537.

(2) The Department of Human Services shall seek federal or other matching funds that will reduce the cost to providers of complying with the requirements of ORS 181.537. [1997 c.753 §§15,16; 1999 c.59 §37; 1999 c.1057 §2]

**Note:** 181.536 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.537 Criminal offender information available to Department of Human Services and Employment Department; fitness determinations; rules.** (1) The Department of Human Services or the Employment Department may request from the Department of State Police criminal offender information on subject individuals if the information is required in order to protect vulnerable Oregonians:

(a) To implement a federal or state statute, executive order or rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct;

(b) For departmental employment purposes;

(c) For the purposes of licensing, certifying, registering or otherwise regulating or administering programs, subject individuals or qualified entities that provide care, treatment, education, training, instruction, supervision, placement services, recreation or support to children, the elderly or persons with disabilities;

(d) For the purposes of employment decisions by qualified entities that are regulated or otherwise subject to oversight by the Department of Human Services or the Employment Department and that provide care, treatment, education, training, instruction, supervision, placement services, recreation or support to children, the elderly or persons with disabilities; or

(e) For the purposes of employment decisions made by a mass transit district or transportation district for qualified entities that, under contracts with the district or the Department of Human Services, employ individuals to operate motor vehicles for the transportation of medical assistance program clients.

(2) The Department of Human Services and the Employment Department may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the Department of State Police or a qualified vendor, if deemed necessary by the Department of Human Services or the Employment Department.

(3) If a nationwide criminal records check is necessary for a subject individual, the Department of Human Services or the Employment Department shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Department of State Police shall report the results to the Department of Human Services or the Employment Department. The Department of State Police shall also furnish such information as the Department of State Police may have in its possession from its central bureau of criminal identification, including but not limited to manual or computerized information.

(4) The Federal Bureau of Investigation shall either return or destroy the fingerprint cards used to conduct the criminal records check and shall not keep any record of the fingerprints. However, if the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of Human Services or the Employment Department shall cease to send the cards to the federal bureau but shall continue to process the information through other available resources.

(5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the department shall return the fingerprint cards to the Department of Human Services or the Employment Department.

The Department of Human Services or the Employment Department shall destroy the fingerprint cards and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(6) The Department of Human Services and the Employment Department may furnish to qualified entities, in accordance with the respective department's rules and the rules of the Department of State Police, information received from the Law Enforcement Data System or a qualified vendor. In addition, the Department of Human Services, the Employment Department and the Department of State Police shall permit a subject individual to inspect the individual's own Oregon criminal offender record. However, any criminal offender records and information furnished to the Department of Human Services and the Employment Department by the Federal Bureau of Investigation through the Department of State Police may not be disseminated to other qualified entities or subject individuals.

(7)(a) A qualified entity, using rules adopted by the Department of Human Services and the Employment Department, shall determine under this section whether a subject individual is fit to hold a position, provide services, be employed or, if the qualified entity has authority to make such a determination, be licensed, certified or registered, based on the criminal offender information obtained pursuant to this section, any false statements made by the individual regarding the criminal history of the individual and any refusal to submit or consent to a criminal records check including fingerprint identification. If a subject individual is determined to be unfit, then that person shall not hold the position, provide services or be employed, licensed, certified or registered.

(b) In making the fitness determination, the qualified entity shall consider:

(A) The nature of the crime;

(B) The facts that support the conviction or pending indictment or indicate the making of the false statement;

(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and

(D) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification or registration. Intervening circumstances include but are not limited to the passage of time since the commission of the crime, the age of the person at the time of the crime, the likelihood of a repetition of offenses, the subsequent commission of another relevant crime and a recommendation of an employer.

(c) The Department of Human Services and the Employment Department are the only qualified entities that may make fitness determinations based on criminal offender records and information furnished by the Federal Bureau of Investigation through the Department of State Police.

(d) A qualified entity shall have immunity from any civil liability that might otherwise be incurred or imposed for determining pursuant to this subsection that a subject individual is not fit to hold a position, provide services or be employed, licensed, certified or registered. A qualified entity and an employer or employer's agent who in good faith comply with this section and the decision of the qualified entity are not liable for the failure to hire a prospective employee or the decision to discharge an employee on the basis of the qualified entity's decision. No employee of the state, a business or an organization is liable for defamation, invasion of privacy, negligence or any other civil claim in connection with the lawful dissemination of information lawfully obtained under this section.

(8)(a) The Department of Human Services and the Employment Department shall each establish by rule a contested case process by which a subject individual may appeal the determination that the subject individual is disqualified for a position, services, employment, license, certification or registration pursuant to this section. Challenges to the accuracy or completeness of information provided by the Department of State Police, the Federal Bureau of Investigation and agencies reporting information to the department or bureau must be made through the department, bureau or agency and not through the contested case process required by this paragraph.

(b) A subject individual who is also employed by the Department of Human Services or the Employment Department and who is determined disqualified for a position may appeal the determination through either the contested case process adopted under this subsection or applicable personnel rules, policies and collective bargaining provisions. A subject individual's decision to appeal a determination through personnel rules, policies and collective bargaining provisions shall constitute an election of remedies as to the rights of the subject individual with respect to the disqualification determination, and shall constitute waiver of the contested case process.

(9) The Department of Human Services shall develop a system that maintains information regarding criminal records checks in order to minimize the administrative burden that criminal records check requirements impose upon subject individuals and providers. Records maintained under this subsection for subject individuals are confidential and shall not be disseminated except for the purposes of this section and in accordance with the rules of the Department of Human Services and the Department of State Police. Nothing in this subsection permits the Department of Human Services to retain fingerprint cards of subject individuals.

(10) The Department of Human Services and the Employment Department, in consultation with the Department of

State Police and affected provider, beneficiary and employee groups, shall adopt rules to implement this section and other statutes relating to criminal offender information. The rules may include but are not limited to:

- (a) Specifying which employees are authorized to make criminal record inquiries;
- (b) Specifying categories of subject individuals who are subject to criminal records checks;
- (c) Specifying the information, including fingerprints, that may be required from a subject individual to permit a criminal records check;
- (d) Specifying which programs, services or qualified entities are subject to this section;
- (e) Specifying which qualified entities may request criminal offender information;
- (f) Specifying which qualified entities are responsible for deciding whether a subject individual is not fit for a position, service, license, certification, registration or employment;
- (g) Specifying which crimes may be considered in reviewing criminal offender information for a subject individual;
- (h) Specifying when a nationwide criminal records check shall be conducted on a subject individual through the Department of State Police. The additional cost of obtaining a nationwide criminal records check and the risk to vulnerable Oregonians should be taken into consideration when adopting rules under this paragraph;
- (i) Specifying when a qualified entity, in lieu of conducting a completely new criminal records check, may proceed to make a fitness determination under this section using the information maintained by the Department of Human Services pursuant to subsection (9) of this section;
- (j) Determining when a subject individual may be hired on a probationary basis pending a criminal records check. At a minimum, if there is any indication of criminal behavior by the subject individual, the rules must require that, if the individual is hired, the individual can be hired only on a probationary basis and must be actively supervised at all times when the individual is in contact with children, the elderly or persons with disabilities; and
- (k) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

(11) The Department of Human Services shall appoint a criminal records check rules coordinator who shall be responsible for ensuring that the department's divisions and offices adopt appropriately consistent criminal records check processes that minimize adverse impacts to subject individuals and providers while accomplishing protection for children, the elderly and persons with disabilities.

(12) Criminal offender information is confidential. The Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information. Any qualified entity receiving information pursuant to this section is bound by the rules of disclosure adopted by the department.

(13) For purposes of receiving the information described in this section, the Department of Human Services and the Employment Department are each considered to be a "designated agency" under ORS 181.010 to 181.560 and 181.715 to 181.730 and the rules adopted under ORS 181.555.

(14) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the qualified entity shall deny or terminate the employment of the individual, or revoke or deny any applicable position, service, employment, license, certification or registration.

(15) The Department of Human Services and Employment Department shall define by rule the conditions under which subject individuals may participate in training, orientation and work activities pending completion of a criminal records check through the Law Enforcement Data System, qualified vendor or nationwide criminal records check. At a minimum, subject individuals shall be actively supervised at all times that they are in contact with children, the elderly and persons with disabilities during such periods of training, orientation and work. Subject individuals may continue probationary employment while awaiting the nationwide criminal records check as long as the individual's criminal records check through the Law Enforcement Data System or qualified vendor did not result in disqualification and there are no other indications of criminal behavior.

(16) If the qualified entity requires a criminal records check of employees or other persons, the application forms of the qualified entity must contain a notice that employment is subject to fingerprinting and a criminal records check as required by this section and ORS 181.539.

(17) As used in this section:

(a) "Care" means the provision of care, treatment, education, training, instruction, supervision, placement services, recreation or support to children, the elderly or persons with disabilities and developmental disabilities.

(b) "Qualified entity" means the Department of Human Services, the Employment Department, community mental health and developmental disability program, local health department or an individual or business or organization,

whether public, private, for-profit, nonprofit or voluntary, that provides care, including a business or organization that licenses, certifies or registers others to provide care.

(c) "Qualified vendor" means a supplier of criminal history backgrounds who is certified by the Department of Human Services or the Employment Department as having substantially the same criminal offender information as the Law Enforcement Data System.

(d) "Subject individual" means a person subject to a criminal records check as specified by rule of the Department of Human Services or the Employment Department. [1979 c.732 §2; 1983 c.714 §1; 1985 c.792 §1; 1989 c.364 §4; 1989 c.439 §1; 1991 c.390 §1; 1993 c.344 §48; 1993 c.674 §10; 1995 c.446 §1; 1997 c.753 §1; 1999 c.1057 §1]

**181.538 Criminal identification information available to Native American tribe.** (1) Upon the request of a Native American tribe, and in compliance with procedures adopted by the Department of State Police under ORS 181.555, the Department of State Police shall furnish to the authorized staff of the Native American tribe such information on a subject individual or contractor as the Department of State Police may have in its possession from its central bureau of criminal identification, including but not limited to manual or computerized criminal offender information. With the approval of the Department of State Police, a local law enforcement agency may furnish the information described in this subsection to a Native American tribe.

(2)(a) Subsequent to furnishing the information required under subsection (1) of this section, the Department of State Police shall conduct nationwide criminal records checks of the subject individual or contractor through the Federal Bureau of Investigation by use of the subject individual's or contractor's fingerprints and shall report the results to the staff of the Native American tribe, who must be specifically authorized to receive the information. In accordance with the procedures of the Department of State Police, a local law enforcement agency may conduct the criminal records check described in this paragraph if the local law enforcement agency has received approval under subsection (1) of this section.

(b) The Department of State Police shall return the fingerprint cards to the Native American tribe.

(3) For purposes of requesting and receiving the information and data described in subsections (1) and (2) of this section, Native American tribes are designated agencies for purposes of ORS 181.010 to 181.560 and 181.715 to 181.730.

(4) As used in this section:

(a) "Contractor" means any natural person or corporation, trust, association, partnership, joint venture, subsidiary or other business entity with whom a Native American tribe intends to contract for the purpose of providing supplies or services related to tribal gaming, or any control person of a contractor.

(b) "Control person" means:

(A) In a privately owned corporation, the officers, directors and stockholders of the parent company and, if applicable, each of its subsidiaries.

(B) In a publicly owned corporation, the officers and directors of the parent company, each of its subsidiaries and stockholders owning at least 15 percent of the company's stock.

(C) In a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(D) In an association, the members, officers and directors.

(E) In a partnership or joint venture, the general partners, limited partners or joint venturers.

(F) A member of the immediate family of any of the persons listed in subparagraphs (A) to (E) of this paragraph if the person is involved in the business.

(G) A subcontractor of a contractor, if the subcontractor performs more than 50 percent of the contractor's contract with the Native American tribe.

(c) "Native American tribe" means any recognized Native American tribe or band of tribes:

(A) Authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., and the State of Oregon to conduct gambling operations on tribal land; or

(B) Eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(d) "Subject individual" means a person who is:

(A) Applying for employment at a tribal gaming facility as a key employee, high security employee, low security employee or management employee; or

(B) Employed or applying for employment with a tribal government or agency responsible for child care, child welfare, law enforcement, education, health care, housing or social services. [1995 c.723 §1; 2001 c.871 §4]

**Note:** 181.538 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.539 Criminal identification information available to Teacher Standards and Practices Commission, Department of Education and Oregon Military Department.** (1) Upon the request of the Teacher Standards and Practices Commission, the Department of Education or the Oregon Military Department, the Department of State Police shall furnish to the authorized staff of the Teacher Standards and Practices Commission, the Department of Education or the Oregon Military Department, whichever is appropriate, such information on a subject individual as the Department of State Police may have in its possession from its central bureau of criminal identification, including but not limited to manual or computerized criminal offender information.

(2)(a) Subsequent to furnishing the information required under subsection (1) of this section, the Department of State Police shall conduct nationwide criminal records checks of the subject individual through the Federal Bureau of Investigation by use of the subject individual's fingerprints and shall report the results to the staff of the requesting agency, who must be specifically authorized to receive the information.

(b) The Federal Bureau of Investigation shall either return or destroy the fingerprint cards used to conduct the criminal records check and shall not keep any record of the fingerprints. However, if the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the department shall cease to send the cards to the federal bureau but shall continue to process the information through other available resources.

(c) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the department shall return the fingerprint cards to the requesting agency. Upon receiving fingerprint cards under this paragraph, the requesting agency shall destroy the fingerprint cards and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(3) For purposes of requesting and receiving the information and data described in subsections (1) and (2) of this section, the Teacher Standards and Practices Commission, the Department of Education and the Oregon Military Department are designated agencies for purposes of ORS 181.010 to 181.560 and 181.715 to 181.730.

(4) Nothing in this section shall be considered to require a subject individual as described in subsection (5)(d)(D), (E) or (I) of this section to submit to fingerprinting until the individual has been offered employment or a contract by a school district or private school. Contractor employees shall not be required to submit to fingerprinting until the contractor has been offered a contract.

(5) As used in this section:

(a) "Private school" means a school that provides educational services as defined in ORS 345.505 and is registered as a private school under ORS 345.505 to 345.575.

(b) "Requesting agency" means whichever agency requested the criminal offender information under subsection (1) of this section.

(c) "School district" means:

(A) A school district as defined in ORS 330.003.

(B) The Oregon State School for the Blind.

(C) The Oregon State School for the Deaf.

(D) An educational program under the Youth Corrections Education Program.

(E) A public charter school as defined in ORS 338.005.

(F) An education service district.

(d) "Subject individual," for purposes of requests made by the Teacher Standards and Practices Commission or the Department of Education, means:

(A) An individual who is applying for initial issuance of a license under ORS 342.120 to 342.430 as a teacher, administrator or personnel specialist if the individual has not submitted to a criminal records check within the previous year with the Teacher Standards and Practices Commission.

(B) An individual who is applying for reinstatement of a license as a teacher, administrator or personnel specialist whose license has lapsed for at least three years.

(C) An individual who is applying for initial issuance of a certificate under ORS 342.475 as a school nurse.

(D) A school district or private school contractor, whether part-time or full-time, or an employee thereof, whether part-time or full-time, who has direct, unsupervised contact with students as determined by the district or private school.

(E) An individual newly hired, whether part-time or full-time, by a school district or private school in a capacity not described in subparagraphs (A) to (C) of this paragraph who has direct, unsupervised contact with children as

determined by the district or private school.

(F) An individual employee, whether part-time or full-time, of a school district or private school in a capacity not described in subparagraphs (A) to (C) of this paragraph who has direct, unsupervised contact with children as determined by the district or private school.

(G) An individual who is registering with the Teacher Standards and Practices Commission for student teaching, practicum or internship as a teacher, administrator or personnel specialist, if the individual has not submitted to a criminal records check within the previous year with the Teacher Standards and Practices Commission for student teaching, practicum or internship as a teacher, administrator or personnel specialist.

(H) An individual who is a community college faculty member providing instruction at a kindergarten through grade 12 school site during the regular school day.

(I) An individual who is an employee of a public charter school.

(J) An individual who is applying for initial issuance of a registration as a public charter school teacher under ORS 342.125.

(e) "Subject individual" does not include an individual described in paragraph (d)(D), (E), (F), (H) or (I) of this subsection if the individual or the individual's employer was checked in one school district or private school and is currently seeking to work in another district or private school unless the individual lived outside this state during the interval between the two periods of time of working in the district or private school.

(f) "Subject individual," for purposes of requests made by the Oregon Military Department, means an individual who is applying for or is employed in a position in a job category for which a statewide and nationwide criminal records check is a job qualifier and in which personnel:

(A) Are assigned to the at-risk youth alternative education program;

(B) Are issued firearms and munitions;

(C) Have fiscal and purchasing responsibilities as their primary responsibilities; or

(D) Have regular access to restricted areas within a military installation. [1993 c.674 §3; 1995 c.67 §39; 1995 c.446 §2; 1997 c.536 §3; 1999 c.199 §6; 1999 c.200 §24; 1999 c.1054 §3; 2001 c.407 §3]

**181.540 Confidentiality of some records.** (1) Notwithstanding the provisions of ORS 192.410 to 192.505 relating to public records the fingerprints, photographs, records and reports compiled under ORS 137.225, 181.010, 181.511, 181.521, 181.555, 805.060 and this section are confidential and exempt from public inspection except:

(a) As ordered by a court;

(b) As provided in rules adopted by the Department of State Police under ORS 183.310 to 183.550 to govern access to and use of computerized criminal offender information including access by an individual for review or challenge of the individual's own records;

(c) As provided in ORS 181.555 and 181.560;

(d) As provided in ORS 181.525; or

(e) As provided in ORS 418.747 (5).

(2) The records of the department of crime reports to the department and of arrests made by the department, however, shall not be confidential and shall be available in the same manner as the records of arrest and reports of crimes of other law enforcement agencies under ORS 192.501 (3). [1963 c.547 §7; 1973 c.794 §16; 1975 c.548 §7; 1979 c.518 §1; 1981 c.905 §3; 1983 c.338 §900; 1987 c.503 §5; 1995 c.134 §2]

**181.550 Reporting of crime statistics.** (1) All law enforcement agencies shall report to the Department of State Police statistics concerning crimes:

(a) As directed by the department, for purposes of the Uniform Crime Reporting System of the Federal Bureau of Investigation.

(b) As otherwise directed by the Governor concerning general criminal categories of criminal activities but not individual criminal records.

(c) Motivated by prejudice based on the perceived race, color, religion, national origin, sexual orientation, marital status, political affiliation or beliefs, membership or activity in or on behalf of a labor organization or against a labor organization, physical or mental handicap, age, economic or social status or citizenship of the victim.

(d) And other incidents arising out of domestic disturbances under ORS 133.055 (2) and 133.310 (3).

(2) The department shall prepare:

(a) Quarterly and annual reports for the use of agencies reporting under subsection (1) of this section, and others having an interest therein;

(b) An annual public report of the statistics on the incidence of crime motivated by prejudice based on the perceived race, color, religion, national origin, sexual orientation, marital status, political affiliation or beliefs, membership or activity in or on behalf of a labor organization or against a labor organization, physical or mental handicap, age, economic or social status or citizenship of the victim;

(c) Quarterly and annual reports of the statistics on the incidence of crimes and incidents of domestic disturbances; and

(d) Special reports as directed by the Governor. [1973 c.130 §2; 1989 c.1028 §1; 1991 c.552 §1; 1993 c.188 §11]

**181.555 Establishment of procedures for access to criminal record information.** The Department of State Police shall adopt rules under ORS 183.310 to 183.550 establishing procedures:

(1) To provide access to criminal offender information by criminal justice agencies and by other state and local agencies.

(2)(a) To permit a person or agency not included in subsection (1) of this section to inquire as to whether the department has compiled criminal offender information on an individual.

(b) To provide that any person making an inquiry under paragraph (a) of this subsection furnish the department with such information known to the inquirer as will assist the department in identifying and notifying the individual about whom the information is sought. If the information is sought by an employer for employment purposes, the employer first shall have advised the employee or prospective employee that such information might be sought and shall state upon making the request that the individual has been so advised and the manner in which the individual was so advised.

(3) To provide each individual about whom criminal offender information has been compiled the right to inspect and challenge that criminal offender information.

(4) Providing for purging or updating of inaccurate or incomplete information. [1975 c.548 §8; 1981 c.905 §6]

**181.556 Fee waiver.** (1) When the Department of State Police is asked to provide criminal offender information under ORS 181.533 or 181.555 (2), the department shall waive any fee otherwise charged by the department for providing the information if:

(a) The request is made by an organization; and

(b) The individual about whom the criminal offender information is sought is a volunteer, or prospective volunteer, of the organization.

(2) In addition to waiving any fee otherwise charged by the department, the department may not charge the individual or organization the fee charged by the Federal Bureau of Investigation for conducting nationwide criminal records checks.

(3) As used in this section:

(a) “Dependent person” means a person who, because of physical or mental disability, or medical disability due to alcohol or drug dependence, needs mentoring or tutoring programs.

(b) “Elderly person” means a person 65 years of age or older.

(c) “Mentoring program” means a program that provides a committed, sustained, one-to-one relationship between a volunteer and a youth, dependent person or elderly person that allows the youth, dependent person or elderly person to achieve that person’s greatest potential. A sustained relationship typically lasts nine months or longer.

(d) “Organization” means a qualified entity that:

(A) Is exempt from taxation under section 501(c) of the Internal Revenue Code, as amended and in effect on January 1, 2002; and

(B) Provides mentoring programs or tutoring programs.

(e) “Qualified entity” has the meaning given that term in ORS 181.533.

(f) “Tutoring program” means a program that provides a committed, sustained, one-to-one relationship between a volunteer and a youth, dependent person or elderly person based upon a specified activity that increases specific skills of the youth, dependent person or elderly person. A sustained relationship typically lasts nine months or longer.

(g) “Youth” means a person who has not attained 18 years of age. [1999 c.777 §2; 2001 c.871 §2]

**Note:** 181.556 was added to and made a part of 181.010 to 181.560 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

**181.557 Procedure when information requested by designated agency.** When a designated agency requests

criminal offender information about an individual from the Department of State Police under ORS 181.555 (1) for agency employment, licensing or other permissible purposes, the agency shall provide documentation that the individual:

- (1) Gave prior written consent for the agency to make a criminal offender record check through the department; or
- (2) Has received written notice from the agency that a criminal offender record check may be made through the department. Notice shall be provided prior to the time the request is made and shall include:
  - (a) Notice of the manner in which the individual may be informed of the procedures adopted under ORS 181.555
- (3) for challenging inaccurate criminal offender information; and
  - (b) Notice of the manner in which the individual may become informed of rights, if any, under Title VII of the Civil Rights Act of 1964, and notice that discrimination by an employer on the basis of arrest records alone may violate federal civil rights law and that the individual may obtain further information by contacting the Bureau of Labor and Industries. [1989 c.364 §2]

**181.560 Procedure when information requested by other than criminal justice agency.** (1) When a person or agency, other than a criminal justice agency or a law enforcement agency, pursuant to ORS 181.555 (2), requests from the Department of State Police criminal offender information regarding an individual, if the department's compiled criminal offender information on the individual contains records of any conviction, or of any arrest less than one year old on which there has been no acquittal or dismissal, the department shall respond to the request as follows:

(a) The department shall send prompt written notice of the request to the individual about whom the request has been made. The department shall address the notice to the individual's last address known to the department and to the individual's address, if any, supplied by the person making the request. However, the department has no obligation to insure that the addresses are current. The notice shall state that the department has received a request for information concerning the individual and shall identify the person or agency making the request. Notice to the individual about whom the request is made shall include:

- (A) A copy of all information to be supplied to the person or agency making the request;
- (B) Notice to the individual of the manner in which the individual may become informed of the procedures adopted under ORS 181.555 (3) for challenging inaccurate criminal offender information; and
- (C) Notice to the individual of the manner in which the individual may become informed of rights, if any, under Title VII of the Civil Rights Act of 1964, and notice that discrimination by an employer on the basis of arrest records alone may violate federal civil rights law and that the individual may obtain further information by contacting the Bureau of Labor and Industries.

(b) Fourteen days after sending notice to the individual about whom the request is made, the department shall deliver to the person or agency making the request the following information if held regarding any convictions and any arrests less than one year old on which the records show no acquittal or dismissal:

- (A) Date of arrest.
  - (B) Offense for which arrest was made.
  - (C) Arresting agency.
  - (D) Court of origin.
  - (E) Disposition, including sentence imposed, date of parole if any and parole revocations if any.
- (c) The department shall deliver only the data authorized under paragraph (b) of this subsection.

(d) The department shall inform the person or agency requesting the criminal offender information that the department's response is being furnished only on the basis of similarity of names and description and that identification is not confirmed by fingerprints.

(2) If the department holds no criminal offender information on an individual, or the department's compiled criminal offender information on the individual consists only of nonconviction data, the department shall respond to a request under this section that the individual has no criminal record and shall release no further information.

(3) The department shall keep a record of all persons and agencies making inquiries under ORS 181.555 (2) and shall keep a record of the names of the individuals about whom such persons or agencies are inquiring, regardless of whether the department has compiled any criminal offender information on the individuals. These records shall be public records and shall be available for inspection under ORS 192.410 to 192.505.

(4) Nothing in ORS 181.066, 181.540, 181.555 or this section is intended to prevent the department from charging a reasonable fee, pursuant to ORS 192.440, for responding to a criminal offender information inquiry or for making information available under ORS 181.555 or this section. [1981 c.905 §5]

**181.570** [1975 c.375 §1; repealed by 1979 c.485 §1]

**181.575 Specific information not to be collected or maintained.** No law enforcement agency, as defined in ORS 181.010, may collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct. [1981 c.905 §8]

**Note:** 181.575 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.580 Report of suspected criminal homicide; form and time of report; compilation; comparison.** (1) As used in this section, “criminal homicide” has the meaning provided in ORS 163.005.

(2) Any criminal justice agency within the State of Oregon having primary responsibility for investigation of the case shall provide information relating to any suspected criminal homicide to the Superintendent of State Police within 25 days after its discovery. The criminal justice agency shall submit the information on a form which shall be developed and provided by the Department of State Police. The form shall contain only information necessary to aid law enforcement personnel in comparing homicides and suspected homicides and discovering those exhibiting similar characteristics. The Department of State Police shall enter information submitted by an investigating agency into a file controlled by the Department of State Police and shall compare such information to information on other homicides or suspected homicides, for the purpose of discovering similarities in criminal methods and suspect descriptions. The Department of State Police shall advise the concerned investigating agencies if the Department of State Police finds homicides exhibiting similar criminal methods or suspect descriptions.

(3) When an investigating criminal justice agency terminates active investigation of a suspected criminal homicide due to an arrest having been made in the case, death of the primary suspect, or whatever other reason, the investigating agency shall so notify the Department of State Police within 30 days following such termination. Notification shall include the reason for terminating active investigation. [1985 c.609 §1; 1991 c.885 §5]

**Note:** 181.580 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## PREDATORY SEX OFFENDER NOTICE PROCEDURE

**181.585 “Predatory sex offender” defined; determination.** (1) For purposes of ORS 181.585 to 181.587, a person is a predatory sex offender if the person exhibits characteristics showing a tendency to victimize or injure others and has been convicted of a sex crime listed in ORS 181.594 (2)(a) to (d), has been convicted of attempting to commit one of those crimes or has been found guilty except for insanity of one of those crimes.

(2) In determining whether a person is a predatory sex offender, an agency shall use a sex offender risk assessment scale approved by the Department of Corrections or a community corrections agency. [Formerly 181.507; 1997 c.538 §10]

**Note:** 181.585 to 181.587 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.586 Notice to appropriate persons of supervised predatory sex offender; content; additional duties of supervising agency.** (1)(a) If the State Board of Parole and Post-Prison Supervision for a person on parole or post-prison supervision or the Department of Corrections or a community corrections agency for a person on probation makes a determination that the person under its supervision is a predatory sex offender, the agency supervising the person shall notify anyone whom the agency determines is appropriate that the person is a predatory sex offender.

(b) When a predatory sex offender has been subsequently convicted of another crime and is on supervision for that crime, the agency supervising the person may notify anyone whom the agency determines is appropriate that the person is a predatory sex offender, regardless of the nature of the crime for which the person is being supervised.

(2) In making a determination under subsection (1) of this section, the agency shall consider notifying:

- (a) The person's family;
- (b) The person's sponsor;
- (c) Residential neighbors and churches, community parks, schools, convenience stores, businesses and other places that children or other potential victims may frequent; and
- (d) Any prior victim of the offender.

(3) When an agency determines that notification is necessary, the agency may use any method of communication that the agency determines is appropriate. The notification may include, but is not limited to, distribution of the following information:

- (a) The person's name and address;
- (b) A physical description of the person including, but not limited to, the person's age, height, weight and eye and hair color;
- (c) The type of vehicle that the person is known to drive;
- (d) Any conditions or restrictions upon the person's probation, parole, post-prison supervision or conditional release;
- (e) A description of the person's primary and secondary targets;
- (f) A description of the person's method of offense;
- (g) A current photograph of the person; and
- (h) The name or telephone number of the person's parole and probation officer.

(4) Not later than 10 days after making its determination that a person is a predatory sex offender, the agency supervising the person shall:

- (a) Notify the Department of State Police of the person's status as a predatory sex offender;
- (b) Enter into the Law Enforcement Data System the fact that the person is a predatory sex offender; and
- (c) Send to the Department of State Police, by electronic or other means, all of the information listed in subsection (3) of this section that is available.

(5) When the Department of State Police receives information regarding a person under subsection (4) of this section, the Department of State Police, upon request, may make the information available to the public.

(6) Upon termination of its supervision of a person determined to be a predatory sex offender, the agency supervising the person shall:

- (a) Notify the Department of State Police:
  - (A) Of the person's status as a predatory sex offender;
  - (B) Whether the agency made a notification regarding the person under this section; and
  - (C) Of the person's level of supervision immediately prior to termination of supervision; and
- (b) Send to the Department of State Police, by electronic or other means, the documents relied upon in determining that the person is a predatory sex offender and in establishing the person's level of supervision.

(7) The agency supervising a person determined to be a predatory sex offender shall verify the residence address of the person every 90 days. [Formerly 181.508; 1997 c.538 §11; 1999 c.626 §10; 1999 c.843 §2; amendments by 1999 c.626 §33 and 1999 c.843 §3 repealed by 2001 c.884 §1; 2001 c.884 §11]

**Note:** Section 23, chapter 626, Oregon Laws 1999, provides:

**Sec. 23.** (1) Except as otherwise provided in subsection (2) of this section, sections 1 [181.592] and 22 [181.590] of this 1999 Act and the amendments to ORS 137.540, 144.102, 144.270, 181.586, 181.588, 181.589, 181.594, 181.595, 181.596, 181.597, 181.598, 181.599, 181.600, 181.601, 181.603, 181.604, 181.606, 419A.260 and 423.478 by sections 2 to 21 of this 1999 Act apply to persons convicted of crimes before, on or after the effective date of this 1999 Act [September 1, 1999].

(2) The amendments to ORS 137.540, 144.102, 144.270, 181.586, 181.588, 181.589, 181.594, 181.595, 181.596, 181.597, 181.598, 181.599, 181.600, 181.601, 181.603, 181.604, 181.606, 419A.260 and 423.478 by sections 2 to 21 of this 1999 Act apply to persons who, on or after the effective date of this 1999 Act, are:

(a) Convicted of a crime listed in ORS 181.594 (2)(L) to (p) or (s), an attempt to commit a crime listed in ORS 181.594 (2)(L) to (p) or burglary if committed with the intent to commit a crime listed in ORS 181.594 (2)(L) to (p) or (s) or convicted of an equivalent crime in another jurisdiction;

(b) Found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a crime listed in ORS 181.594 (2)(L) to (p) or (s), an attempt to commit a crime listed in ORS 181.594 (2)(L) to (p) or burglary if committed with the intent to commit a crime listed in ORS 181.594 (2)(L) to (p) or (s); or

(c) Found by a court in another jurisdiction to have committed an act while the person was under 18 years of age that if committed by an adult would constitute the equivalent of a crime listed in ORS 181.594 (2)(L) to (p) or (s), an attempt to commit a crime listed in ORS 181.594 (2)(L) to (p) or burglary if committed with the intent to commit a crime listed in ORS 181.594 (2)(L) to (p) or (s).

(3) The amendments to ORS 163.345 by section 24 of this 1999 Act apply to offenses committed on or after the effective date of this 1999 Act. [1999 c.626 §23; 1999 c.626 §23a]

**Note:** See note under 181.585.

**181.587 Availability of information on supervised predatory sex offender.** (1) Unless the agency determines that release of the information would substantially interfere with the treatment or rehabilitation of the supervised person, an agency that supervises a predatory sex offender shall make any information regarding the person that the agency determines is appropriate, including, but not limited to, the information listed in ORS 181.586 (3), available to any other person upon request.

(2) Notwithstanding subsection (1) of this section, the agency shall make the information listed in ORS 181.586 (3), or any other information regarding the supervised person that the agency determines is appropriate, available to any other person upon request if the person under supervision:

(a) Is a predatory sex offender; and

(b) Is neglecting to take treatment or participate in rehabilitation. [Formerly 181.509]

**Note:** See note under 181.585.

**181.588 Notice to public of unsupervised predatory sex offender; content.** (1) Notwithstanding any other provision of law, when a person who has been under supervision by the Department of Corrections or a community corrections agency is no longer under supervision, the Department of State Police, the chief of police of a city police department or a county sheriff may notify the public that the person is a predatory sex offender if:

(a) While the person was under supervision, the person was determined to be a predatory sex offender as provided in ORS 181.585 and notification under ORS 181.586 was made to someone other than the person's family; and

(b) The person's last primary supervising authority has notified the Department of State Police that the person was under a high level of supervision at the termination of the person's most recent period of supervision.

(2) The Department of State Police, the chief of police of a city police department or a county sheriff may notify the public that a person is a predatory sex offender if:

(a) The Department of State Police, the chief of police or the county sheriff determines that the person is a predatory sex offender as provided in ORS 181.585; and

(b) The person was not under supervision in this state or for some other reason was not subject to a determination under ORS 181.586.

(3) Notification under subsection (1) or (2) of this section may include distribution of any information listed in ORS 181.586 (3). [1995 c.429 §11; 1997 c.538 §12; 1999 c.626 §14; amendments by 1999 c.626 §37 repealed by 2001 c.884 §1; 2001 c.884 §10]

**Note:** See first note under 181.586.

**Note:** 181.588 and 181.589 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**Note:** Section 12, chapter 884, Oregon Laws 2001, provides:

**Sec. 12.** Notwithstanding ORS 181.588 (1), the Department of State Police, the chief of police of a city police department or a county sheriff may notify the public that a person who is no longer under supervision is a predatory sex offender if the department, chief of police or sheriff has determined, prior to the effective date of this 2001 Act [July 31, 2001], that the person is a predatory sex offender as provided in ORS 181.585. [2001 c.884 §12]

**181.589 Notice to public of unsupervised juvenile predatory sex offender; content.** (1) Notwithstanding any other provision of law, the Department of State Police, the chief of police of a city police department or a county

sheriff may notify the public that a person is a predatory sex offender if:

(a) The person is required to report under ORS 181.595, 181.596 or 181.597 after being found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a sex crime;

(b) The person is not under the supervision of the juvenile court; and

(c) The Department of State Police, chief of police or sheriff, after consulting with the person's last primary supervising agency, determines that the person is a predatory sex offender as provided in ORS 181.585.

(2) Notification under subsection (1) of this section may include any of the following information:

(a) The person's name and address;

(b) A physical description of the person including, but not limited to, the person's age, height, weight and eye and hair color;

(c) The type of vehicle the person is known to drive;

(d) Any conditions or restrictions upon the person's release;

(e) A description of the person's primary and secondary victims of choice;

(f) A description of the person's method of offense;

(g) A current photograph of the person; and

(h) The name or work telephone number of the person's parole or probation officer. [1995 c.422 §§62,62a; 1997 c.538 §15; 1999 c.626 §15; amendments by 1999 c.626 §38 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586 and second note under 181.588.

**181.590 Agreements to resolve concerns about community notification.** Upon the request of the Department of State Police, a chief of police, a county sheriff or a supervising agency, a supervising agency or an agency having responsibility for community notification shall enter into agreements to resolve concerns regarding community notification. As used in this section:

(1) "Community notification" means the disclosure of information to the public as provided in ORS 181.585 to 181.587, 181.588 and 181.589.

(2) "Supervising agency" means a governmental entity responsible for supervising a person required to report under ORS 181.595 or 181.596. [1999 c.626 §22]

**Note:** 181.590 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**Note:** See first note under 181.586.

## SEX OFFENDER REGISTRATION

**181.592 Sex offender information; release to public.** (1) The Department of State Police shall enter into the Law Enforcement Data System the sex offender information obtained from the sex offender registration forms submitted under ORS 181.595, 181.596 and 181.597. The department shall remove from the Law Enforcement Data System the sex offender information obtained from the sex offender registration form submitted under ORS 181.595, 181.596 or 181.597 if the conviction or adjudication that gave rise to the registration obligation is reversed or vacated or if the registrant is pardoned.

(2)(a) When a person is under supervision for the first time as a result of a conviction for an offense requiring reporting as a sex offender, the department, a chief of police or a county sheriff shall release, upon request, only the following information about the sex offender:

(A) The sex offender's name and date of birth;

(B) A physical description of the sex offender and a photograph, if applicable;

(C) The name and zip code of the city where the sex offender resides; and

(D) The name and telephone number of a contact person at the agency that is supervising the sex offender.

(b) Notwithstanding paragraph (a) of this subsection, if the sex offender is under the supervision of the Oregon Youth Authority or a county juvenile department, the Department of State Police, chief or police or county sheriff shall release only:

(A) The sex offender's name and year of birth;

(B) The name and zip code of the city where the sex offender resides; and

(C) The name and telephone number of a contact person at the agency that is supervising the sex offender.

(c) An agency that supervises a sex offender shall release, upon request, any information that may be necessary to protect the public concerning the sex offender.

(3) Except as otherwise limited by subsection (2)(a) and (b) of this section regarding persons who are under supervision for the first time as sex offenders, the Department of State Police, a chief of police or a county sheriff shall release, upon request, any information that may be necessary to protect the public concerning sex offenders who reside in a specific area or concerning a specific sex offender. However, the entity releasing the information may not release the identity of a victim of a sex crime.

(4)(a) The department may make the information described in subsections (2) and (3) of this section available to the public, without the need for a request, by electronic or other means. The department shall make information about a person who is under supervision for the first time as a result of a conviction for an offense that requires reporting as a sex offender accessible only by the use of the sex offender's name. For all other sex offenders, the department may make the information accessible in any manner the department chooses.

(b) Notwithstanding paragraph (a) of this subsection, the department may use the Internet to make the information described in subsections (2) and (3) of this section available to the public only if the information is about a person determined to be a predatory sex offender as provided in ORS 181.585 or found to be a sexually violent dangerous offender under ORS 144.635.

(5) The Law Enforcement Data System may send sex offender information to the National Crime Information Center as part of the national sex offender registry in accordance with appropriate state and federal procedures.

(6) As used in this section:

(a) "Sex crime" has the meaning given that term in ORS 181.594.

(b) "Sex offender" means a person who is required to report under ORS 181.595, 181.596 or 181.597. [1999 c.626 §1; 2001 c.884 §2]

**Note:** 181.592 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**Note:** See first note under 181.586.

**181.594 Definitions for ORS 181.595, 181.596, 181.597 and 181.603.** As used in ORS 181.595, 181.596, 181.597 and 181.603:

(1)(a) "Correctional facility" means any place used for the confinement of persons:

(A) Charged with or convicted of a crime or otherwise confined under a court order.

(B) Found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a crime.

(b) "Correctional facility" applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after being found guilty except for insanity under ORS 161.290 to 161.370.

(2) "Sex crime" means:

(a) Rape in any degree;

(b) Sodomy in any degree;

(c) Unlawful sexual penetration in any degree;

(d) Sexual abuse in any degree;

(e) Incest with a child victim;

(f) Using a child in a display of sexually explicit conduct;

(g) Encouraging child sexual abuse in any degree;

(h) Transporting child pornography into the state (1993 Edition);

(i) Paying for viewing a child's sexually explicit conduct (1993 Edition);

(j) Compelling prostitution;

(k) Promoting prostitution;

(L) Kidnapping in the first degree if the victim was under 18 years of age;

(m) Contributing to the sexual delinquency of a minor;

(n) Sexual misconduct if the offender is at least 18 years of age;

(o) Possession of materials depicting sexually explicit conduct of a child in the first degree;

- (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the juvenile court;
  - (q) Any attempt to commit any of the crimes set forth in paragraphs (a) to (p) of this subsection;
  - (r) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to (p) or (s) of this subsection; or
  - (s) Public indecency or private indecency, if the person has a prior conviction for a crime listed in paragraphs (a) to (r) of this subsection.
- (3) "Sex offender" means a person who:
- (a) Has been convicted of a sex crime;
  - (b) Has been found guilty except for insanity of a sex crime;
  - (c) Has been found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a sex crime; or
  - (d) Is paroled to this state under ORS 144.610 after being convicted in another jurisdiction of a crime that would constitute a sex crime if committed in this state. [Formerly 181.517; 1997 c.538 §2; 1997 c.709 §4; 1999 c.626 §§2,2a; amendments by 1999 c.626 §§25 and 26 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586.

**Note:** 181.594 to 181.596 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.595 Report by sex offender who is discharged, paroled or released on supervised release from correctional facility or another state; change of residence procedure.** (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency or official to whom a person reports under subsection (3) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (3) of this section.

(b) When a person who is under supervision reports to the agency supervising the person, the supervising agency may require the person to report instead to the Department of State Police, a chief of police or a county sheriff and provide the supervising agency with proof of the completed registration.

(2) Subsection (3) of this section applies to a person who:

(a) Is discharged, paroled or released on any form of supervised or conditional release from a jail, prison or other correctional facility or detention facility in this state at which the person was confined as a result of:

(A) Conviction of a sex crime;

(B) Having been found guilty except for insanity of a sex crime; or

(C) Having been found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a sex crime;

(b) Is paroled to this state under ORS 144.610 after being convicted in another jurisdiction of a crime that would constitute a sex crime if committed in this state;

(c) Is paroled to or otherwise placed in this state after having been found by a court in another jurisdiction to have committed an act while the person was under 18 years of age that would constitute a sex crime if committed in this state by an adult; or

(d) Is discharged by the court under ORS 161.329 after having been found guilty except for insanity of a sex crime.

(3)(a) Within 10 days following discharge, release on parole, post-prison supervision or other supervised or conditional release, the person shall report, in person, to the Department of State Police, a chief of police or a county sheriff or to the supervising agency, if any. Thereafter, the person shall report, in person:

(A) Within 10 days of a change of residence; and

(B) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence.

(b) The person shall make the reports required by paragraph (a)(A) and (B) of this subsection to the department, a chief of police, a county sheriff or the supervising agency, if any.

(c) If the person required to report under this subsection is a youth offender, as defined in ORS 419A.004, who is under supervision, the person shall make the reports required by paragraph (a) of this subsection to the agency supervising the person.

(d) The obligation to report under this section terminates if the conviction or adjudication that gave rise to the

obligation is reversed or vacated or if the registrant is pardoned.

(4) As part of the registration requirement under this section, the Department of State Police, the chief of police, the county sheriff or the supervising agency:

(a) Shall photograph the person and obtain the signature of the person; and

(b) May fingerprint the person. [Formerly 181.518; 1997 c.538 §3; 1997 c.709 §1; 1999 c.626 §3; amendments by 1999 c.626 §27 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586 and second note under 181.594.

**181.596 Report by sex offender released or discharged; change of residence procedure.** (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency or official to whom a person reports under subsection (4) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (4) of this section.

(b) When a person who is under supervision reports to the agency supervising the person, the supervising agency may require the person to report instead to the Department of State Police, a chief of police or a county sheriff and provide the supervising agency with proof of the completed registration.

(2) Subsection (4) of this section applies to a person who is discharged, released or placed on probation:

(a) By the court after being convicted in this state of a sex crime;

(b) By the juvenile court after being found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a sex crime;

(c) To this state under ORS 144.610 after being convicted in another jurisdiction of a crime that would constitute a sex crime if committed in this state; or

(d) To this state after having been found by a court in another jurisdiction to have committed an act while the person was under 18 years of age that would constitute a sex crime if committed in this state by an adult.

(3) The court shall ensure that the person completes a form that documents the person's obligation to report under ORS 181.595 or this section. No later than three working days after the person completes the form required by this subsection, the court shall ensure that the form is sent to the Department of State Police.

(4)(a) Within 10 days following discharge or release, the person shall report, in person, to the Department of State Police, chief of police or county sheriff or to the supervising agency, if any. Thereafter, the person shall report, in person:

(A) Within 10 days of a change of residence; and

(B) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence.

(b) The person shall make the reports required by paragraph (a)(A) and (B) of this subsection to the department, a chief of police, a county sheriff or the supervising agency, if any.

(c) If the person required to report under this subsection is a youth offender, as defined in ORS 419A.004, who is under supervision, the person shall make the reports required by paragraph (a) of this subsection to the agency supervising the person.

(d) The obligation to report under this section terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(5) As part of the registration requirement under this section, the Department of State Police, the chief of police, the county sheriff or the supervising agency:

(a) Shall photograph the person and obtain the signature of the person; and

(b) May fingerprint the person. [Formerly 181.519; 1997 c.538 §4; 1997 c.709 §2; 1997 c.727 §13; 1999 c.626 §4; amendments by 1999 c.626 §28 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586 and second note under 181.594.

**181.597 Certain persons required to report upon moving into state; certain nonresidents required to report.**

(1)(a) When a person listed in subsection (2) of this section moves into this state and is not otherwise required by ORS 181.595 or 181.596 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office:

(A) No later than 10 days after moving into this state;

(B) Within 10 days of a change of residence; and

(C) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence.

(b) When a person listed in subsection (2) of this section attends school or works in this state, resides in another state and is not otherwise required by ORS 181.595 or 181.596 to report, the person shall report, in person, to the department, a city police department or a county sheriff's office no later than 10 days after:

(A) The first day of school attendance or the 14th day of employment in this state; and

(B) A change in school enrollment or employment.

(c) As used in paragraph (b) of this subsection:

(A) "Attends school" means enrollment in any type of school on a full- or part-time basis.

(B) "Works" means full- or part-time employment, with or without compensation, for more than 14 days within a calendar year.

(d) When a person reports under paragraph (a) of this subsection, the agency or official to whom the person reports shall complete a sex offender registration form concerning the person.

(e) The obligation to report under this section terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(2) Subsection (1) of this section applies to:

(a) A person convicted in another jurisdiction of a crime if the elements of the crime would constitute a sex crime;

(b) A person found by a court in another jurisdiction to have committed an act while the person was under 18 years of age that would constitute a sex crime if committed in this state by an adult; and

(c) A person required to register in another state for having committed a sex offense in that state regardless of whether the crime would constitute a sex crime in this state.

(3) As part of the registration required under this section, the Department of State Police, a city police department or a sheriff's office:

(a) Shall photograph the person and obtain the signature of the person; and

(b) May fingerprint the person. [1995 c.429 §§2,4; 1997 c.538 §5; 1997 c.709 §3; 1999 c.626 §5; amendments by 1999 c.626 §29 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586.

**Note:** 181.597 to 181.602 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.598 Registration forms; State Police to provide.** (1) Agencies and officials required to register offenders under ORS 181.595, 181.596 and 181.597 shall use forms provided by the Department of State Police. The department shall include places on the form to list all the names used by the offender and the address of the offender. No later than three working days after registration, the agency or official completing the form shall:

(a) Send the original copy of the registration form to the department; or

(b) Forward the registration information to the department by any means and, within 10 working days after registration, send the original copy of the registration form to the department.

(2) If the person is no longer under supervision, the department shall verify the residence address of a person determined to be a sexually violent dangerous offender as defined in ORS 137.765 every 90 days by mailing a verification form to the person at the person's last reported residence address. No later than 10 days after receiving the form, the person shall sign and return the form to the department.

(3) The department shall assess a person who is required to report under ORS 181.595, 181.596 or 181.597 and who is not under supervision a fee of \$70 each year. Moneys received by the department under this subsection are continuously appropriated to the department for the purpose of carrying out the department's duties under ORS 181.585 to 181.587, 181.588, 181.589, 181.594 to 181.601, 181.602, 181.603, 181.604, 181.605 and 181.606. [1995 c.429 §3; 1999 c.626 §§6,7; amendments by 1999 c.626 §30 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586 and second note under 181.597.

**181.599 Failure to report as sex offender.** (1) A person who is required to report as a sex offender and who has knowledge of the reporting requirement commits the crime of failure to report as a sex offender if the person fails, as required by ORS 181.595, 181.596 or 181.597, to:

(a) Make the initial report to the appropriate agency or official;

- (b) Report following a change of residence, school enrollment or employment;
- (c) Make an annual report; or
- (d) Provide complete and accurate information.

(2) Except as otherwise provided in subsection (3) of this section, failure to report as a sex offender is a Class A misdemeanor.

(3) Failure to report as a sex offender is a Class C felony if the person violates:

- (a) Subsection (1)(a) of this section; or
- (b) Subsection (1)(b) of this section and the crime for which the person is required to report is a felony.

(4) A person who fails to sign and return an address verification form as required by ORS 181.598 (2) commits a violation. [1991 c.389 §4; 1995 c.429 §5; 1997 c.538 §6; 1999 c.626 §8; amendments by 1999 c.626 §31 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586 and second note under 181.597.

**181.600 Relief from reporting requirement; procedure.** (1)(a) No sooner than 10 years after termination of supervision on probation, conditional release, parole or post-prison supervision, a person required to report under ORS 181.595, 181.596 or 181.597 may file a petition in the circuit court of the county in which the person resides for an order relieving the person of the duty to report if:

- (A) The person has only one conviction for, or juvenile court finding of jurisdiction based on, a sex crime;
- (B) The sex crime was a misdemeanor or Class C felony or, if committed in another state, would have been a misdemeanor or Class C felony if committed in this state; and

(C) The person has not been determined to be a predatory sex offender as described in ORS 181.585.

(b) The district attorney of the county shall be named and served as the respondent in the petition.

(2) The court shall hold a hearing on the petition. In determining whether to grant the relief requested, the court shall consider:

- (a) The nature of the offense that required reporting;
- (b) The age and number of victims;
- (c) The degree of violence involved in the offense;
- (d) Other criminal and relevant noncriminal behavior of the petitioner both before and after the conviction that required reporting;
- (e) The period of time during which the petitioner has not reoffended;
- (f) Whether the petitioner has successfully completed a court-approved sex offender treatment program; and
- (g) Any other relevant factors.

(3) If the court is satisfied by clear and convincing evidence that the petitioner is rehabilitated and that the petitioner does not pose a threat to the safety of the public, the court shall enter an order relieving the petitioner of the duty to report. [1991 c.389 §5; 1993 c.147 §4; 1995 c.422 §§63,63a; 1999 c.626 §18; amendments by 1999 c.626 §41 repealed by 2001 c.884 §1; 2001 c.884 §3]

**Note:** See first note under 181.586 and second note under 181.597.

**181.601 Victim access to sex offender information; toll-free telephone number.** (1)(a) When information about a person is first entered into the Law Enforcement Data System under ORS 181.592, the person will be assigned a registry identification number.

(b) A victim shall be issued a victim identification number and shall be given the registry identification number of the person who committed the crime against the victim:

- (A) At any time, upon request by the victim; and
- (B) Upon verification of the identification of the victim.

(2) The Department of State Police shall establish a toll-free telephone number to provide victims with updates on the prison status, release information, parole status and any other information authorized for release in ORS 181.592 (2) and (3) regarding the person who committed the crime against the victim. The telephone line shall be operational within the state during normal working hours.

(3) Access of the victim to the telephone line shall be revoked if the victim makes public, or otherwise misuses, information received.

(4) When a victim receives notification under ORS 144.120 (7) of upcoming parole release hearings, or at any

other time that the victim is notified concerning the offender, the victim shall be provided a notice of rights under this section and information about the toll-free telephone number. [1991 c.389 §6; 1995 c.429 §7; 1997 c.538 §7; 1999 c.626 §9; amendments by 1999 c.626 §32 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586 and second note under 181.597.

**181.602 Purpose of sex offender reporting requirements.** The purpose of ORS 181.594 to 181.601 is to assist law enforcement agencies in preventing future sex offenses. [1991 c.389 §7; 1995 c.429 §8]

**Note:** See second note under 181.597.

**181.603 Notice of reporting requirement to be given at sentencing; procedure at intake.** (1) When the court imposes sentence upon a person convicted of a sex crime the court shall notify the person of the requirement to report as a sex offender under ORS 181.595 and 181.596.

(2) At the initial intake for incarceration or release on any type of supervised release, the sex offender shall complete a form that documents the offender's obligation to report under ORS 181.595 or 181.596. The Department of State Police shall develop and provide the form. No later than three working days after the sex offender completes the form, the person responsible for the intake process shall send the form to the Department of State Police. [1997 c.538 §1; 1999 c.626 §19; amendments by 1999 c.626 §42 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586.

**Note:** 181.603 to 181.606 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.604 Notice required when offender moves to another state.** When the Department of State Police learns that a person required to report under ORS 181.595, 181.596 or 181.597 is moving to another state, the department shall notify the appropriate criminal justice agency of that state of that fact. The department is not responsible for registering and tracking a person once the person has moved from this state. [1997 c.538 §8; 1999 c.626 §20; amendments by 1999 c.626 §43 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586 and second note under 181.603.

**181.605 Offender profiling.** (1) For those sex offenders designated as a predatory sex offender by a community corrections agency, the Department of Corrections and any other agency that is responsible for supervising or treating sex offenders, the agency or department shall provide the Department of State Police, by electronic or other means, at the termination of supervision, with the following information for the purpose of offender profiling:

- (a) Presentence investigations;
- (b) Violation reports;
- (c) Parole and probation orders;
- (d) Conditions of parole and probation and other corrections records;
- (e) Sex offender risk assessment tools; and
- (f) Any other information that the agency determines is appropriate disclosure of which is not otherwise prohibited by law.

(2) The Oregon Youth Authority and county juvenile departments shall provide access to information in their files to the Oregon State Police for the purpose of offender profiling.

(3)(a) Except as otherwise provided by law, the Oregon State Police may not disclose information received under subsection (1) or (2) of this section.

(b) The Department of State Police may release information on the methodology of offenses and behavior profiles derived from information received under subsection (1) or (2) of this section to local law enforcement agencies. [1997 c.538 §9]

**Note:** See second note under 181.603.

**181.606 Immunity.** A public agency and its employees are immune from liability, both civil and criminal, for the good faith performance of the agency's or employee's duties under ORS 181.585 to 181.587, 181.588, 181.589, 181.592, 181.594 to 181.601 and 181.602. [1997 c.538 §13; 1999 c.626 §16; amendments by 1999 c.626 §39 repealed by 2001 c.884 §1]

**Note:** See first note under 181.586 and second note under 181.603.

**181.607 Relief from reporting requirement; juvenile offenders.** (1)(a) No later than 90 days after the termination of juvenile court jurisdiction over a person required to report under ORS 181.595, 181.596 or 181.597, the person may file a petition for relief from the duty to report. The person must file the petition in the juvenile court in which the person was adjudicated for the act that requires reporting.

(b) The juvenile court in which a petition under this section is filed may transfer the matter to the juvenile court of the county that last supervised the person if the court determines that the convenience of the parties, the victim and witnesses require the transfer.

(c) The juvenile court has exclusive original jurisdiction in any proceeding under this section.

(d) The person, the district attorney and the juvenile department are parties to a hearing on a petition filed under this section.

(2) When a person files a petition under this section, the state has the burden of proving by clear and convincing evidence that the person is not rehabilitated and continues to pose a threat to the safety of the public. In determining whether the state has met its burden of proof, the juvenile court may consider but need not be limited to considering:

(a) The extent and impact of any physical or emotional injury to the victim;

(b) The nature of the act that subjected the person to the duty of reporting as a sex offender;

(c) Whether the person used or threatened to use force in committing the act;

(d) Whether the act was premeditated;

(e) Whether the person took advantage of a position of authority or trust in committing the act;

(f) The age of any victim at the time of the act, the age difference between any victim and the person and the number of victims;

(g) The vulnerability of the victim;

(h) Other acts committed by the person that would be crimes if committed by an adult and criminal activities engaged in by the person before and after the adjudication;

(i) Statements, documents and recommendations by or on behalf of the victim or the parents of the victim;

(j) The person's willingness to accept personal responsibility for the act and personal accountability for the consequences of the act;

(k) The person's ability and efforts to pay the victim's expenses for counseling and other trauma-related expenses or other efforts to mitigate the effects of the act;

(L) Whether the person has participated in and satisfactorily completed a sex offender treatment program or any other intervention, and if so the juvenile court may also consider:

(A) The availability, duration and extent of the treatment activities;

(B) Reports and recommendations from the providers of the treatment;

(C) The person's compliance with court or supervision requirements regarding treatment; and

(D) The quality and thoroughness of the treatment program;

(m) The person's academic and employment history;

(n) The person's use of drugs or alcohol before and after the adjudication;

(o) The person's history of public or private indecency;

(p) The person's compliance with and success in completing the terms of supervision;

(q) The results of psychological examinations of the person;

(r) The protection afforded the public by the continued existence of the records; and

(s) Any other relevant factors.

(3) If the person or, if the person is less than 18 years of age, the parent or guardian of the person requests counsel for the person but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition, the court may appoint suitable counsel to represent the person. Appointment of counsel under this subsection is subject to ORS 419C.200, 419C.203, 419C.206 and 419C.209.

(4) When a petition is filed under this section, the state has the right to have a psychosexual evaluation of the

person conducted. The state shall file notice with the juvenile court of its intention to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile court for good cause shown may direct the state to select a different evaluator.

(5) As soon as practicable after a petition has been filed under this section, the district attorney shall make a reasonable effort to notify the victim of the crime that the person has filed a petition seeking relief under this section.

(6) When a juvenile court enters an order relieving a person of the requirement to report under ORS 181.595, 181.596 or 181.597, the person is responsible for sending a certified copy of the juvenile court order to the Department of State Police. [2001 c.884 §3a]

**Note:** 181.607 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**Note:** Section 3c, chapter 884, Oregon Laws 2001, provides:

**Sec. 3c.** Section 3a of this 2001 Act [181.607] and the amendments to ORS 419A.260 by section 3b of this 2001 Act apply only to persons found to be within the jurisdiction of the juvenile court for having committed, on or after the operative date of this section [January 1, 2002], an act that requires reporting under ORS 181.595, 181.596 or 181.597. [2001 c.884 §3c]

## PUBLIC SAFETY STANDARDS AND TRAINING

**181.610 Definitions for ORS 181.610 to 181.712.** In ORS 181.610 to 181.712, unless the context requires otherwise:

(1) “Abuse” has the meaning given the term in ORS 107.705.

(2) “Board” means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.

(3) “Certified reserve officer” means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(4) “Commissioned” means an authorization granting the power to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) “Corrections officer” means an officer or member of a law enforcement unit who is employed full-time thereby and is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles.

(6) “Department” means the Department of Public Safety Standards and Training.

(7) “Director” means the Director of the Department of Public Safety Standards and Training.

(8) “Domestic violence” means abuse between family or household members.

(9) “Emergency medical dispatcher” means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) “Family or household members” has the meaning given that term in ORS 107.705.

(11) “Fire service professional” means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. “Fire service professional” does not include forest fire protection agency personnel.

(12)(a) “Law enforcement unit” means a police force or organization of the state, a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, Indian reservation, Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission or common carrier railroad whose primary duty, as prescribed by law, ordinance or directive, is any one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles;

or

(C) The control, supervision and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation.

(b) "Law enforcement unit" also means:

(A) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area whose employees are commissioned by a county sheriff; and

(B) A district attorney's office.

(13) "Parole and probation officer" means:

(a) Any officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation.

(b) Any officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation.

(14) "Police officer" means an officer, member or employee of a law enforcement unit who is employed full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a member of the Department of State Police and who is responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security or is an investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state.

(15) "Public or private safety agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, fire fighting, police, ambulance or emergency medical services.

(16) "Public safety personnel" and "public safety officer" include corrections officers, youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators and fire service professionals.

(17) "Reserve officer" means an officer or member of a law enforcement unit:

(a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a member of the Department of State Police;

(b) Who is armed with a firearm; and

(c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(18) "Telecommunicator" means any person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 401.710.

(19) "Youth correction officer" means an employee of the Oregon Youth Authority who is charged with and primarily performs the duty of custody, control or supervision of youth offenders confined in a youth correction facility. [1961 c.721 §1; 1963 c.371 §1; 1967 c.305 §2; 1973 c.420 §1; 1975 c.290 §1; 1975 c.392 §3; 1975 c.666 §4; 1977 c.382 §1; 1977 c.477 §1; 1977 c.737 §1; 1979 c.656 §4; 1981 c.449 §1; 1985 c.302 §9; 1985 c.565 §20; 1987 c.320 §137; 1989 c.1058 §1; 1991 c.742 §1; 1993 c.14 §22; 1993 c.185 §10; 1993 c.594 §1; 1993 c.623 §1; 1995 c.97 §1; 1995 c.128 §2; 1995 c.303 §1; 1995 c.422 §131q; 1995 c.624 §§1,1a; 1995 c.651 §8; 1997 c.249 §53; 1997 c.853 §1; 1999 c.360 §1; 1999 c.854 §1; 1999 c.867 §1]

**181.620 Board on Public Safety Standards and Training; term limit; confirmation.** (1) The Governor shall appoint a Board on Public Safety Standards and Training consisting of 23 members as follows:

(a) Two members shall be chiefs of police recommended to the Governor by the Oregon Association of Chiefs of

Police;

- (b) One member shall be a sheriff recommended to the Governor by the Oregon State Sheriffs' Association;
- (c) One member shall be a fire chief recommended to the Governor by the Oregon Fire Chiefs' Association;
- (d) One member shall be a representative of the fire service recommended to the Governor by the Oregon Fire

District Directors' Association;

(e) One member shall be a member of the Oregon State Fire Fighter's Council recommended to the Governor by the executive body of the council;

(f) One member shall be a representative of corrections personnel recommended to the Governor by the Oregon State Sheriffs' Association;

(g) One member shall be a representative of the fire service recommended to the Governor by the Oregon Volunteer Fire Fighters' Association;

(h) One member shall be a representative of public safety telecommunicators;

(i) One member shall be a district attorney recommended to the Governor by the Oregon District Attorneys Association;

(j) One member shall be the Superintendent of State Police;

(k) One member shall be the Chief of the Portland Police Bureau;

(L) One member shall be the State Fire Marshal;

(m) One member shall be the Chief of the Portland Fire Bureau;

(n) One member shall be the Director of the Department of Corrections;

(o) One member shall be the Special Agent in Charge of the Federal Bureau of Investigation for Oregon;

(p) One member shall represent forest protection agencies recommended to the Governor by the State Forestry Department;

(q) One member shall be an administrator of a municipality recommended to the Governor by the executive body of the League of Oregon Cities;

(r) Two members shall be nonmanagement representatives of law enforcement;

(s) One member shall be a public member. A person appointed as a public member under this section shall be a person:

(A) Who has no personal interest or occupational responsibilities in the area of responsibility given to the board; and

(B) Who represents the interests of the public in general; and

(t) Two members shall be representatives of the private security industry recommended to the Governor by the Advisory Committee on Private Security Services.

(2) The term of office of a member is three years, and no member may be removed from office except for cause. Before the expiration of the term of a member, the Governor shall appoint the member's successor to assume the member's duties on July 1 next following. In case of a vacancy for any cause, the Governor shall make an appointment, effective immediately, for the unexpired term.

(3) Except for members who serve by virtue of office, no member shall serve more than two terms. For purposes of this subsection, a person appointed to fill a vacancy consisting of an unexpired term of at least one and one-half years has served a full term.

(4) Appointments of members of the board by the Governor, except for those members who serve by virtue of office, are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

(5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495. [1961 c.721 §§4,5; 1967 c.305 §3; 1969 c.314 §12; 1973 c.599 §4; 1973 c.792 §2; 1975 c.290 §15; 1977 c.382 §12; 1979 c.410 §2; 1991 c.380 §1; 1993 c.185 §11; 1995 c.510 §19; 1999 c.139 §1]

**181.630 Organization of board; meetings; policy of state.** (1) The Board on Public Safety Standards and Training shall select one of its members as chairperson and another as vice chairperson. The vice chairperson shall act as chairperson when the chairperson is absent or unable to act.

(2) The board may appoint from among its members such subcommittees as it deems necessary or useful.

(3) The board shall prescribe such terms, powers and duties for the chairperson, vice chairperson and any subcommittees of the board as are convenient for the performance of the functions of the board.

(4) The board shall meet at least once every three months at a place and time determined by the board. The board shall also meet at such other times and places as the chairperson shall specify.

(5) It shall be the policy of the state that:

(a) The board and Department of Public Safety Standards and Training exist to develop talented individuals into public safety providers who are:

(A) Culturally competent;

(B) Ethically, physically and emotionally fit; and

(C) Well trained, highly skilled and responsive to the needs of their communities.

(b) The board and department shall promote the safety, efficiency, effectiveness, self-sufficiency and competence of public safety agencies and professionals.

(c) The board and department shall support collaboration among public and private security, law enforcement, fire service, telecommunications and corrections organizations, the related organizations with whom they work and the interests of the communities they serve.

(d) The board and department shall consult with and inform each other fully on matters of public safety standards, training and certification.

(e) The board may adopt or approve all policies, standards and minimum requirements for public safety certifications and training.

(f) The department may administer operations and procedures and shall implement or apply the policies and standards of the board.

(g) The department is and remains a full department of the state.

(6) The department, in consultation with the board, shall evaluate the training delivery systems used in other states, including self-sponsored training, electronic remote learning methods and regional training employing colleges and other organizations. The evaluation shall seek economical and effective methods that may be adapted and used in Oregon and shall be used in the development of the department's budget and facilities planning.

(7) A member of the board who serves by virtue of office may appoint a designee to represent the member at subcommittee and policy committee meetings. The designee may vote only at subcommittee and policy committee meetings. [1961 c.721 §6; 1997 c.853 §2; 1999 c.139 §2; 2001 c.734 §7]

**181.635 Appointment of director of department.** (1)(a) The Governor shall appoint the Director of the Department of Public Safety Standards and Training, who shall hold office at the pleasure of the Governor and not be subject to the State Personnel Relations Law.

(b) The person appointed as director shall be selected from among three or more candidates recommended to the Governor by the Board on Public Safety Standards and Training. The candidates shall be well qualified by training and experience to perform the functions of the office.

(c) An appointed director of the department shall receive such salary as is provided by law or, if not so provided, as is fixed by the Governor.

(2)(a) The director, with the approval of the Governor and after consulting the board for advice, shall organize and reorganize the department in the manner the director considers necessary to conduct the work of the department properly.

(b) With the approval of the Governor, the director may appoint a deputy director, who shall serve at the pleasure of the director, not be subject to the State Personnel Relations Law and have full authority to act for the director, subject to the control of the director. The appointment of the deputy director shall be by written order, filed with the Secretary of State.

(3) The director, subject to applicable provisions of the State Personnel Relations Law, shall appoint all subordinate officers and employees of the department, prescribe their functions and fix their compensation.

(4) The director or the director's designee shall serve as executive secretary to the board, but shall not be a member of the board.

(5) The board shall annually evaluate the director's implementation of policies, standards and minimum requirements for public safety certifications and training, reporting to the Governor the results of the evaluation. [1963 c.371 §3; 1997 c.853 §3]

**181.636 Training academy; title to real property.** In carrying out its duties, the Department of Public Safety Standards and Training may take title to real property needed for a training academy. [2001 c.718 §2]

**181.637 Policy committees; rules.** (1) The Board on Public Safety Standards and Training shall establish the following policy committees:

(a) Corrections Policy Committee;

- (b) Fire Policy Committee;
- (c) Police Policy Committee; and
- (d) Telecommunications Policy Committee.

(2) The members of each policy committee shall select a chairperson and vice chairperson for the policy committee. Only members of the policy committee who are also members of the board are eligible to serve as a chairperson or vice chairperson. The vice chairperson may act as chairperson in the absence of the chairperson.

(3) The Corrections Policy Committee consists of:

- (a) All of the board members who represent the corrections discipline;
- (b) The chief administrative officer of the training division of the Department of Corrections;
- (c) A security manager from the Department of Corrections; and
- (d) The following, who may not be current board members, appointed by the chairperson of the board:
  - (A) One person recommended by and representing the Oregon State Sheriffs' Association;
  - (B) Two persons recommended by and representing the Oregon Jail Managers' Association;
  - (C) One person recommended by and representing a statewide association of community corrections directors; and
  - (D) One nonmanagement corrections officer employed by the Department of Corrections.

(4) The Fire Policy Committee consists of:

- (a) All of the board members who represent the fire service discipline; and
- (b) The following, who may not be current board members, appointed by the chairperson of the board:
  - (A) One person recommended by and representing a statewide association of fire instructors;
  - (B) One person recommended by and representing a statewide association of fire marshals;
  - (C) One person recommended by and representing community college fire programs; and
  - (D) One nonmanagement firefighter recommended by a statewide organization of firefighters.

(5) The Police Policy Committee consists of:

- (a) All of the board members who represent the law enforcement discipline; and
- (b) The following, who may not be current board members, appointed by the chairperson of the board:
  - (A) One person recommended by and representing the Oregon Association of Chiefs of Police;
  - (B) Two persons recommended by and representing the Oregon State Sheriffs' Association;
  - (C) One command officer recommended by and representing the Oregon State Police; and
  - (D) One nonmanagement law enforcement officer.

(6) The Telecommunications Policy Committee consists of:

- (a) All of the board members who represent the telecommunications discipline; and
- (b) The following, who may not be current board members, appointed by the chairperson of the board:
  - (A) Two persons recommended by and representing a statewide association of public safety communications officers;
  - (B) One person recommended by and representing the Oregon Association of Chiefs of Police;
  - (C) One person recommended by and representing the Oregon State Police;
  - (D) Two persons representing telecommunicators;
  - (E) One person recommended by and representing the Oregon State Sheriffs' Association;
  - (F) One person recommended by and representing the Oregon Fire Chiefs' Association;
  - (G) One person recommended by and representing the Emergency Medical Services and Trauma Systems Program of the Department of Human Services; and
  - (H) One person representing paramedics and recommended by a statewide association dealing with fire medical issues.

(7) In making appointments to the policy committees under this section, the chairperson of the board shall seek to reflect the diversity of the state's population. An appointment made by the chairperson of the board must be ratified by the board before the appointment is effective. The chairperson of the board may remove an appointed member for just cause. An appointment to a policy committee that is based on the member's employment is automatically revoked if the member changes employment. The chairperson of the board shall fill a vacancy in the same manner as making an initial appointment. The term of an appointed member is two years. An appointed member may be appointed to a second term.

(8) A policy committee may meet at such times and places as determined by the policy committee in consultation with the board. A majority of a policy committee constitutes a quorum to conduct business. A policy committee may create subcommittees if needed.

(9)(a) Each policy committee shall develop policies, requirements, standards and rules relating to its specific

discipline. A policy committee shall submit its policies, requirements, standards and rules to the board for the board's consideration. When a policy committee submits a policy, requirement, standard or rule to the board for the board's consideration, the board shall:

- (A) Approve the policy, requirement, standard or rule;
- (B) Disapprove the policy, requirement, standard or rule; or
- (C) Defer a decision and return the matter to the policy committee for revision or reconsideration.

(b) The board may defer a decision and return a matter submitted by a policy committee under paragraph (a) of this subsection only once. If a policy, requirement, standard or rule that was returned to a policy committee is resubmitted to the board, the board shall take all actions necessary to implement the policy, requirement, standard or rule unless the board disapproves the policy, requirement, standard or rule.

(c) Disapproval of a policy, requirement, standard or rule under paragraph (a) or (b) of this subsection requires a two-thirds vote by the members of the board.

(10) At any time after submitting a matter to the board, the chairperson of the policy committee may withdraw the matter from the board's consideration. [2001 c.734 §2]

**181.638 Executive committee.** (1) An executive committee of the Board on Public Safety Standards and Training is created consisting of the chairperson of the board, the chairpersons of the policy committees created in ORS 181.637 and the chairperson of the Advisory Committee on Private Security Services established in ORS 181.889.

(2) If necessary, the executive committee shall reconcile inconsistencies in policies among the policy committees and the advisory committee. The executive committee shall recommend agenda items for meetings of the board and indicate if a board vote is requested on particular agenda items. The executive committee shall meet as necessary to consider legislative concepts, budgets, grants and other matters that arise between regular board meetings.

(3) Except as otherwise provided in this subsection, only those members of the executive committee who are chairpersons of a policy or advisory committee may vote. A majority of the executive committee constitutes a quorum to transact business. If the chairperson of the executive committee is not a chairperson of a policy committee, the chairperson may vote only in the case of a tie vote of the other members. [2001 c.734 §3]

**181.640 Minimum standards and training for certification; duties in improving public safety units; grants; rules.** (1) In accordance with any applicable provision of ORS 183.310 to 183.550, to promote enforcement of law and fire services by improving the competence of public safety personnel and their support staffs, and in consultation with the agencies for which the Board on Public Safety Standards and Training and Department of Public Safety Standards and Training provide standards, certification, accreditation and training:

(a) The department shall recommend and the board shall establish by rule reasonable minimum standards of physical, emotional, intellectual and moral fitness for public safety personnel and instructors.

(b) The department shall recommend and the board shall establish by rule reasonable minimum training for all levels of professional development, basic through executive, including but not limited to courses or subjects for instruction and qualifications for public safety personnel and instructors. Training requirements shall be consistent with the funding available in the department's legislatively approved budget.

(c) The department, in consultation with the board, shall establish by rule a procedure or procedures to be used by law enforcement units, public or private safety agencies or the Oregon Youth Authority to determine whether public safety personnel meet minimum standards or have minimum training.

(d) Subject to such terms and conditions as the department may impose, the department shall certify instructors and public safety personnel, except youth correction officers, as being qualified under the rules established by the board.

(e) The department shall revoke certification in the manner provided in ORS 181.661, 181.662 and 181.664 (1).

(f) The department shall cause inspection of standards and training for instructors and public safety personnel, except youth correction officers, to be made.

(g) The department may recommend and the board may establish by rule accreditation standards, levels and categories for mandated and nonmandated public safety personnel training or educational programs. The department and board, in consultation, may establish to what extent training or educational programs provided by an accredited university, college, community college or public safety agency may serve as equivalent to mandated training or as a prerequisite to mandated training. Programs offered by accredited universities, colleges or community colleges may be considered equivalent to mandated training only in academic areas.

(2) The department may:

(a) Contract or otherwise cooperate with any person or agency of government for the procurement of services or

property;

(b) Accept gifts or grants of services or property;

(c) Establish fees for determining whether a training or educational program meets the accreditation standards established under subsection (1)(g) of this section;

(d) Maintain and furnish to law enforcement units and public and private safety agencies information on applicants for appointment as instructors or public safety personnel, except youth correction officers, in any part of the state; and

(e) Establish fees to allow recovery of the full costs incurred in providing services to private entities or in providing services as experts or expert witnesses.

(3) The department, in consultation with the board, may:

(a) Upon the request of a law enforcement unit or public safety agency, conduct surveys or aid cities and counties to conduct surveys through qualified public or private agencies and assist in the implementation of any recommendations resulting from such surveys.

(b) Upon the request of law enforcement units or public safety agencies, conduct studies and make recommendations concerning means by which requesting units can coordinate or combine their resources.

(c) Stimulate research by public and private agencies to improve police, fire service, corrections and adult parole and probation administration and law enforcement.

(d) Provide grants from funds appropriated or available therefor, to law enforcement units, public safety agencies, special districts, cities and counties to carry out the provisions of this subsection.

(e) Provide optional training programs for persons who operate lockups. The term "lockup" has the meaning given it in ORS 169.005.

(f) Provide optional training programs for public safety personnel and their support staffs.

(g) Enter into agreements with federal, state or other governmental agencies to provide training or other services in exchange for receiving training, fees or services of generally equivalent value.

(h) Upon the request of a law enforcement unit or public safety agency employing public safety personnel, except youth correction officers, grant an officer, fire service professional, telecommunicator or emergency medical dispatcher a multidiscipline certification consistent with the minimum requirements adopted or approved by the board.

Multidiscipline certification authorizes an officer, fire service professional, telecommunicator or emergency medical dispatcher to work in any of the disciplines for which the officer, fire service professional, telecommunicator or emergency medical dispatcher is certified. The provisions of ORS 181.652, 181.653 and 181.667 relating to lapse of certification do not apply to an officer or fire service professional certified under this paragraph as long as the officer or fire service professional maintains full-time employment in one of the certified disciplines and meets the training standards established by the board.

(4) Pursuant to ORS 183.310 to 183.550, the board, in consultation with the department, shall adopt rules necessary to carry out the board's duties and powers.

(5) Pursuant to ORS 183.310 to 183.550, the department, in consultation with the board, shall adopt rules necessary to carry out the department's duties and powers.

(6) For efficiency, board and department rules may be adopted jointly as a single set of combined rules with the approval of the board and the department.

(7) The department shall obtain approval of the board before submitting its legislative concepts, Emergency Board request or budget requests to the Oregon Department of Administrative Services. [1961 c.721 §2; 1967 c.305 §4; 1969 c.609 §7; 1975 c.290 §2; 1975 c.605 §12; 1977 c.382 §2; 1979 c.410 §3; 1981 c.449 §2; 1983 c.606 §1; 1987 c.320 §138; 1987 c.901 §7; 1991 c.380 §2; 1991 c.742 §2; 1993 c.185 §12; 1995 c.79 §57; 1995 c.422 §131r; 1995 c.624 §2; 1997 c.853 §4; 1999 c.457 §1; 1999 c.867 §2]

**181.641 Vehicle pursuit training.** The Department of Public Safety Standards and Training shall include in the minimum training required for basic certification as a police officer under ORS 181.665 the law, theory, policies and practices related to vehicle pursuit driving and, as facilities and funding permit, vehicle pursuit training exercises. [2001 c.734 §8]

**Note:** 181.641 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.642 Training in identification of crimes motivated by prejudice or that constitute abuse.** The Board on Public Safety Standards and Training shall ensure that all police officers and certified reserve officers are trained to

investigate, identify and report crimes:

(1) Motivated by prejudice based on the perceived race, color, religion, national origin, sexual orientation, marital status, political affiliation or beliefs, membership or activity in or on behalf of a labor organization or against a labor organization, physical or mental handicap, age, economic or social status or citizenship of the victim; and

(2) That constitute abuse, as defined in ORS 419B.005, or domestic violence. [1989 c.1028 §3; 1995 c.128 §1; 1995 c.624 §3]

**181.643 Training in missing children cases.** Subject to the availability of funds, the Board on Public Safety Standards and Training shall ensure that all police officers and certified reserve officers are trained to investigate and report cases of missing children. When federal training programs are made available to the state at no cost to the state, the board shall offer the training to police officers and certified reserve officers. [2001 c.612 §2]

**181.644 Certification of telecommunicator or emergency medical dispatcher required; extension.** (1) Except for a person who has requested and obtained an extension from the Department of Public Safety Standards and Training pursuant to subsection (2) of this section, no person may be employed as a telecommunicator or emergency medical dispatcher by any public or private public safety agency for more than 18 months unless the person has been certified as being qualified as a telecommunicator or emergency medical dispatcher under the provisions of ORS 181.610 to 181.712 and the certification has neither lapsed nor been revoked pursuant to ORS 181.661, 181.662 and 181.664 (1) and not been reissued under ORS 181.664.

(2) The department, upon the facts contained in an affidavit accompanying the request for an extension, may find good cause for failure to obtain certification within the time period described in subsection (1) of this section. If the department finds that there is good cause for such failure, the department may extend for up to one year the period that a person may serve as a telecommunicator or an emergency medical dispatcher without certification. The grant or denial of such an extension is with the sole discretion of the department. [1991 c.742 §10; 1999 c.112 §1; 2001 c.687 §1]

**181.645 Police, corrections, parole and probation or certified reserve officers required to be at least 21 years of age.** No law enforcement unit in this state shall employ as a police officer, corrections officer or parole and probation officer, or utilize as a certified reserve officer, any person who has not yet attained the age of 21 years. [1987 c.901 §2; 1995 c.624 §4]

**181.650 Certification of instructors; accreditation of training programs.** (1) Upon application and payment of the appropriate fees, the Department of Public Safety Standards and Training or its authorized representative shall examine and evaluate any instructor or any public safety personnel training or educational program.

(2) If the department finds that an instructor is qualified under the minimum requirements established pursuant to ORS 181.640 (1)(a) and (b), the department in writing may certify the instructor as being qualified for such a term and upon such conditions as the department may prescribe.

(3) If the department finds that a public safety personnel training or educational program or any course, subject, facility or instruction thereof is qualified to satisfy any minimum training requirement established pursuant to ORS 181.640 (1)(a) and (b) or any accreditation standard established pursuant to ORS 181.640 (1)(g), the department may accredit the extent of that qualification to the executive authority of that public safety personnel training or educational program for such a term and upon such conditions as the department may prescribe.

(4) An individual complies with any minimum requirement of ORS 181.640 (1)(b) when the individual receives training that is accredited under ORS 181.640 (1)(g) or subsection (3) of this section as qualified to satisfy that requirement and the individual successfully meets any academic or proficiency standard or condition relating to that minimum requirement. [1961 c.721 §8; 1967 c.305 §6; 1975 c.290 §3; 1977 c.382 §3; 1991 c.742 §3; 1993 c.185 §13; 1995 c.624 §5; 1997 c.853 §5; 1999 c.867 §3]

**181.651 Certification of full-time department employees.** Notwithstanding any other provision of law, any full-time employee of the Department of Public Safety Standards and Training who possesses the requisite qualifications may be certified or recertified as a police officer, certified reserve officer, corrections officer, parole and probation officer, telecommunicator or emergency medical dispatcher. A department employee who is certified as a police, certified reserve, corrections or parole and probation officer may exercise the authority granted by law to such officers. This includes, but is not limited to, the authority to possess material that is otherwise contraband under the laws of this

state in the performance of official duties and the authority to carry a firearm or other weapon concealed. [1987 c.901 §3; 1991 c.742 §4; 1995 c.624 §6; 1997 c.853 §6]

**181.652 Certification of corrections officers required; extension; when training to commence.** (1) Except for a person who has requested and obtained an extension pursuant to subsection (2) of this section, no person may be employed as a corrections officer by any law enforcement unit for more than one year unless the person is a citizen of the United States, and:

(a) The person has been certified as being qualified as a corrections officer under the provisions of ORS 181.610 to 181.712 and the certification has neither lapsed nor been revoked pursuant to ORS 181.661, 181.662 and 181.664 (1) and not been reissued under ORS 181.664 (2); or

(b) The person is exempted from the certification requirement under ORS 181.660.

(2) The Department of Public Safety Standards and Training, upon the facts contained in an affidavit accompanying the request for an extension, may find good cause for failure to obtain certification within the time period described in subsection (1) of this section. If the department finds that there is good cause for such failure, the department may extend for up to one year the period that a person may serve as a corrections officer without certification. The grant or denial of such an extension is within the sole discretion of the department.

(3) The certification of a corrections officer shall lapse upon the passage of more than three consecutive months during which period the officer is not employed as a corrections officer, unless the corrections officer is on leave from a law enforcement unit. Upon reemployment as a corrections officer, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

(4) Except as provided in subsection (5) of this section, a person employed as a corrections officer by any law enforcement unit shall commence the training necessary for certification under ORS 181.610 to 181.712 not later than the 90th day after the date of the officer's employment by the law enforcement unit at an academy operated or authorized by the department in consultation with the Board on Public Safety Standards and Training.

(5) A law enforcement unit may delay the commencement of training of a corrections officer for up to 120 days from the date of the officer's employment when it considers the delay necessary. When a law enforcement unit delays commencement of a corrections officer's training under this subsection, it shall file a written statement of its reasons with the department.

(6) When a delay in the commencement of training necessary for certification under ORS 181.610 to 181.712 at an academy operated or authorized by the department is caused by the inability of the department, for any reason, to provide that training, the period of such delay shall not be counted as part of the periods set forth in subsections (4) and (5) of this section within which the training must be commenced. [1975 c.290 §§11,12; 1987 c.901 §4; 1997 c.853 §7; 1999 c.112 §2]

**181.653 Certification of parole and probation officers required; extension.** (1) Except for a person who has requested and obtained an extension from the Department of Public Safety Standards and Training pursuant to subsection (2) of this section, no person may be employed as a parole and probation officer for more than 18 months unless the person is a citizen of the United States, and:

(a) The person has been certified as being qualified as a parole and probation officer under provisions of ORS 181.610 to 181.712 and the certification has neither lapsed nor been revoked pursuant to ORS 181.661, 181.662 and 181.664 (1) and not reissued under ORS 181.664 (2); or

(b) The person is exempted from the certification requirement under ORS 181.660.

(2) The department, upon the facts contained in an affidavit accompanying the request for an extension, may find good cause for failure to obtain certification within the time period described in subsection (1) of this section. If the department finds that there is good cause for such failure, the department may extend for up to one year the period that a person may serve as a parole and probation officer without certification. The grant or denial of such an extension is within the sole discretion of the department.

(3) The certification of a parole and probation officer shall lapse upon the passage of more than three consecutive months during which period the officer is not employed as a parole and probation officer, unless the officer is on leave from a law enforcement unit. Upon reemployment as a parole and probation officer, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

(4) In order to maintain certification, a parole and probation officer who is employed part-time must complete annually at least 20 hours of continuing education approved by the Department of Public Safety Standards and Training.

(5) The requirement of citizenship imposed under subsection (1) of this section does not apply to a person employed as a parole and probation officer on September 27, 1987, who continues to serve as a parole and probation officer. [1977 c.382 §§9,10; 1981 c.449 §3; 1987 c.320 §139; 1987 c.901 §5; 1999 c.112 §3; 1999 c.854 §2; 2001 c.687 §2]

**181.654 Certification of certain Law Enforcement Data System employees.** (1) A certified police officer or certified reserve officer who leaves police service to become a full-time employee of the Law Enforcement Data System under ORS 181.730 may retain certification, subject to satisfactory completion of any continuing training required by the Department of Public Safety Standards and Training to maintain certification.

(2) A full-time employee of the Law Enforcement Data System whose certification has lapsed, or who previously has had equivalent certification with another state or the federal government may, within 30 months following the lapse of certification or end of prior equivalent certification, apply to the department for certification as provided in ORS 181.660 (2). [1987 c.901 §11; 1993 c.188 §12; 1995 c.624 §7; 1997 c.853 §8]

**181.655 Reimbursement for training to local law enforcement units; rules.** (1) The Department of Public Safety Standards and Training, in consultation with the Board on Public Safety Standards and Training, shall provide a reimbursement program to local law enforcement units which send police officers or corrections officers to the training academy operated or authorized by the department. Such reimbursement shall be to defray the cost of salaries and other expenses incurred during the training of the officers.

(2) Such reimbursement program shall be supported entirely out of funds maintained in the Police Standards and Training Account after administrative and operational expenses of the board and department can be met from existing revenues.

(3) Reimbursement programs shall not apply to nongovernmental organizations.

(4) Pursuant to ORS 183.310 to 183.550, the department, in consultation with the board, shall adopt rules necessary to carry out the provisions of this section.

(5) Notwithstanding the provisions of subsection (1) of this section, a common carrier railroad law enforcement unit shall not be entitled to receive reimbursement of any kind from the department. [1971 c.328 §2; 1975 c.290 §4; 1977 c.382 §14; 1977 c.737 §2; 1979 c.410 §4; 1997 c.853 §9]

**181.657 Limitation on accreditation of training programs.** (1) Notwithstanding ORS 181.640 (1)(g) and 181.650 (3), the Department of Public Safety Standards and Training may not accredit any public safety personnel training program provided by a public safety agency or any educational program as equivalent to the minimum training required for basic certification as a police officer under ORS 181.665.

(2) Subsection (1) of this section does not apply to the Department of State Police. [2001 c.734 §4]

**Note:** 181.657 becomes operative July 1, 2004. See section 6, chapter 734, Oregon Laws 2001.

**181.660 Application of minimum standards and training to certain persons; certification based on experience, education or training.** (1) The minimum standards and minimum training requirements established pursuant to ORS 181.640 (1) do not apply to:

(a) The Superintendent of State Police.

(b) Any individual who is a constable of the justice court.

(c) Any sheriff's deputy appointed with authority only to receive and serve summons and civil process.

(d) Any municipal parole officer.

(e) Any dog control officer commissioned by a city or county.

(f) Any individual appointed by the Superintendent of State Police under ORS 181.265.

(g) An individual performing the duties of a reserve officer who has not been required by the law enforcement unit utilizing the individual to receive training for certification as a certified reserve officer.

(2) The Department of Public Safety Standards and Training may, upon application of an individual public safety officer, except a youth correction officer, at its discretion, certify the public safety officer as provided in ORS 181.640 (1)(d) upon a finding that the public safety officer's professional experience, education or training meets the standards required for certification. [1961 c.721 §§9, 10; 1967 c.305 §5; 1969 c.609 §8; 1975 c.290 §5; 1975 c.356 §1; 1977 c.382 §4; 1981 c.449 §4; 1987 c.901 §9; 1991 c.742 §5; 1993 c.185 §14; 1993 c.594 §3; 1995 c.624 §8; 1995 c.658 §90; 1997 c.853 §§10,11; 1999 c.867 §4]

**181.661 Procedure prior to denial or revocation of certification.** When the Department of Public Safety Standards and Training denies application or certification or the department or Board on Public Safety Standards and Training believes there is a reasonable basis for revoking the certification of an instructor or a public safety officer, except a youth correction officer or fire service professional, notice and opportunity for a hearing shall be provided in accordance with rules approved by the board and in accordance with ORS 183.415 prior to such revocation. [1973 c.612 §11 (enacted in lieu of 181.663); 1975 c.290 §6; 1977 c.382 §5; 1991 c.742 §6; 1995 c.624 §9; 1997 c.853 §13; 1999 c.867 §5]

**181.662 Grounds for denying or revoking certification of person or accreditation of program; rules.** (1) The Department of Public Safety Standards and Training may deny or revoke the certification of any instructor or public safety officer, except a youth correction officer or fire service professional, after written notice and hearing consistent with the provisions of ORS 181.661, based upon a finding that:

(a) The public safety officer or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board on Public Safety Standards and Training or the department.

(b) The public safety officer or instructor has been convicted of a crime in this state or any other jurisdiction.

(c) The public safety officer or instructor does not meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640 (1)(a) to (d).

(2) The department may deny or revoke the certification of any fire service professional after written notice and hearing consistent with the provisions of ORS 181.661, based upon a finding that:

(a) The fire service professional falsified any information submitted on the application for certification or on any documents submitted to the board or the department; or

(b) The fire service professional has been discharged for cause from employment in the fire service.

(3) The department shall deny or revoke the certification of any public safety officer or instructor, except a youth correction officer or fire service professional, after written notice and hearing consistent with the provisions of ORS 181.661, based upon a finding that the public safety officer or instructor has been discharged for cause from employment as a public safety officer.

(4) The department, in consultation with the board, shall adopt rules specifying those crimes for which a conviction requires the denial or revocation of the certification of a public safety officer or instructor.

(5) The department shall deny or revoke the accreditation of a training or educational program or any course, subject, facility or instruction thereof if the program, course, subject, facility or instruction is not in compliance with rules adopted or conditions prescribed under ORS 181.640 (1)(g) or 181.650 (3). [1969 c.609 §2; 1975 c.290 §7; 1977 c.382 §6; 1979 c.410 §5; 1981 c.449 §5; 1987 c.901 §8; 1991 c.742 §7; 1993 c.185 §15; 1993 c.301 §5; 1995 c.624 §10; 1995 c.768 §13; 1997 c.853 §14; 1999 c.867 §6; 2001 c.104 §61; 2001 c.654 §1]

**181.663** [1969 c.609 §3; repealed by 1973 c.612 §10 (181.661 enacted in lieu of 181.663)]

**181.664 Judicial review of department's final order; reapplication for certification.** (1) An instructor or a public safety officer, except a youth correction officer, aggrieved by the findings and order of the Department of Public Safety Standards and Training may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final order of the department.

(2) Any public safety officer or instructor who has had certification revoked pursuant to ORS 181.661, 181.662 and subsection (1) of this section may reapply for certification but not sooner than four years after the date on which the order of the department revoking certification became final. [1969 c.609 §§4, 5; 1973 c.612 §12; 1975 c.290 §8; 1977 c.382 §7; 1981 c.449 §6; 1991 c.742 §8; 1993 c.185 §16; 1995 c.624 §11; 1999 c.112 §5; 1999 c.867 §7]

**181.665 Certification as police officer or certified reserve officer required; extension.** (1) Except for a person who has requested and obtained an extension from the Department of Public Safety Standards and Training pursuant to subsection (2) of this section, no person may be employed as a police officer, or utilized as a certified reserve officer, by any law enforcement unit for more than 18 months unless:

(a) The person is a citizen of the United States; and

(b) The person has been certified as being qualified as a police officer or certified reserve officer under the provisions of ORS 181.610 to 181.712 and the certification has neither lapsed nor been revoked pursuant to ORS 181.661, 181.662 and 181.664 (1) and not been reissued under ORS 181.664 (2).

(2) The department, upon the facts contained in an affidavit accompanying the request for an extension, may find good cause for failure to obtain certification within the time period described in subsection (1) of this section. If the department finds that there is good cause for such failure, the department may extend for up to one year the period that a person may serve as a police officer or reserve officer without certification. The grant or denial of such an extension is within the sole discretion of the department.

(3) Except as provided in subsection (4) of this section, a person employed as a police officer by any law enforcement unit shall commence the training necessary for certification under ORS 181.610 to 181.712 at an academy operated or authorized by the department not later than the 90th day after the date of the officer's employment by the law enforcement unit.

(4) A law enforcement unit may delay the commencement of training of a police officer for up to 120 days from the date of the officer's employment when it considers the delay necessary. When a law enforcement unit delays commencement of a police officer's training under this subsection, it shall file a written statement of its reasons with the department.

(5) When a delay in the commencement of training necessary for certification under ORS 181.610 to 181.712 at an academy operated or authorized by the department is caused by the inability of the department, for any reason, to provide that training, the period of such delay shall not be counted as part of the periods set forth in subsections (3) and (4) of this section within which the training must be commenced.

(6) A person utilized as a certified reserve officer by a law enforcement unit must complete the training necessary for certification under ORS 181.610 to 181.712 at a site approved by the department. [1967 c.305 §1; 1969 c.609 §9; 1975 c.290 §9; 1975 c.356 §2; 1979 c.410 §6; 1987 c.901 §6; 1995 c.624 §12; 1997 c.853 §15; 1999 c.112 §4; 2001 c.687 §3]

**Note:** The amendments to 181.665 by section 5, chapter 734, Oregon Laws 2001, become operative July 1, 2004. See section 6, chapter 734, Oregon Laws 2001. The text that is operative on and after July 1, 2004, is set forth for the user's convenience.

**181.665.** (1) Except for a person who has requested and obtained an extension from the Department of Public Safety Standards and Training pursuant to subsection (2) of this section, a person may not be employed as a police officer, or utilized as a certified reserve officer, by any law enforcement unit for more than 18 months unless:

(a) The person is a citizen of the United States; and

(b) The person has been certified as being qualified as a police officer or certified reserve officer under the provisions of ORS 181.610 to 181.712 and the certification has neither lapsed nor been revoked pursuant to ORS 181.661, 181.662 and 181.664 (1) and not been reissued under ORS 181.664 (2).

(2) The department, upon the facts contained in an affidavit accompanying the request for an extension, may find good cause for failure to obtain certification within the time period described in subsection (1) of this section. If the department finds that there is good cause for such failure, the department may extend for up to one year the period that a person may serve as a police officer or reserve officer without certification. The grant or denial of such an extension is within the sole discretion of the department.

(3) Except as provided in subsection (4) of this section, a person employed as a police officer by any law enforcement unit shall commence the training necessary for certification under ORS 181.610 to 181.712 at an academy operated by the department not later than the 90th day after the date of the officer's employment by the law enforcement unit.

(4) A law enforcement unit may delay the commencement of training of a police officer for up to 120 days from the date of the officer's employment when it considers the delay necessary. When a law enforcement unit delays commencement of a police officer's training under this subsection, it shall file a written statement of its reasons with the department.

(5) When a delay in the commencement of training necessary for certification under ORS 181.610 to 181.712 at an academy operated by the department is caused by the inability of the department, for any reason, to provide that training, the period of such delay shall not be counted as part of the periods set forth in subsections (3) and (4) of this section within which the training must be commenced.

(6) A person utilized as a certified reserve officer by a law enforcement unit must complete the training necessary for certification under ORS 181.610 to 181.712 at a site approved by the department.

**181.667 Lapse of certification; reapplication for certification.** (1)(a) The certification of any police officer who does not serve as a police officer, or any certified reserve officer who is not utilized as a certified reserve officer, for

any period of time in excess of three consecutive months is lapsed. Upon reemployment as a police officer, or recommencing service as a reserve officer, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

(b) Notwithstanding paragraph (a) of this subsection, the certification of a police officer or certified reserve officer does not lapse if the officer:

(A) Is on leave from a law enforcement unit; or

(B) Is an honorably retired police officer who meets the requirements established by the Department of Public Safety Standards and Training under paragraph (c) of this subsection for maintaining certification.

(c) The department, in consultation with the Board on Public Safety Standards and Training, may adopt rules establishing:

(A) A program of continuing training for honorably retired police officers that would enable a police officer whose certification would otherwise lapse under paragraph (a) of this subsection to maintain certification for as long as the police officer meets the training requirements; and

(B) A fee to be paid by honorably retired police officers to maintain certification under this subsection. The fee may not exceed the costs incurred by the department and board in administering the training program.

(2) The certification of any fire service professional, telecommunicator or emergency medical dispatcher who is not utilized as a fire service professional, telecommunicator or emergency medical dispatcher for any period of time in excess of 12 consecutive months, unless the fire service professional, telecommunicator or emergency medical dispatcher is on leave from a public or private safety agency, is lapsed. Upon reemployment as a fire service professional, telecommunicator or emergency medical dispatcher, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712. [1969 c.609 §6; 1995 c.624 §13; 1997 c.315 §1; 1999 c.566 §1]

**181.670 Effect of minimum requirements under authority other than ORS 181.640.** Compliance with minimum standards or minimum training recommended pursuant to ORS 181.640 for public safety personnel, except youth correction officers, does not exempt any individual from any minimum requirement for selection or promotion as a police officer or certified reserve officer under ORS 181.260 or under any civil service law, charter or ordinance for a county or city. [1961 c.721 §11; 1975 c.290 §13; 1977 c.382 §13; 1991 c.742 §11; 1993 c.185 §17; 1995 c.624 §14; 1999 c.867 §8]

**181.680** [1961 c.721 §3; repealed by 1975 c.605 §33]

**181.690 Police Standards and Training Account.** (1) There is established in the General Fund of the State Treasury the Police Standards and Training Account. All contributions or other moneys received by the Board on Public Safety Standards and Training or Department of Public Safety Standards and Training shall be paid into the State Treasury and credited to the Police Standards and Training Account. Except as provided in subsection (2) of this section, all moneys in the Police Standards and Training Account are appropriated continuously for and shall be used by the department to carry out the functions of the department under the policies and standards for training and certification approved by the board.

(2) Moneys in the Police Standards and Training Account may be transferred to the Department of State Police and the Department of Corrections to defray the training costs of police officers and parole and probation officers and to defray the cost of the Law Enforcement Data System. The amounts transferred under this subsection shall be deposited in the cash accounts of such agencies in accordance with an allotment plan approved by the Oregon Department of Administrative Services. [1961 c.721 §7; 1979 c.410 §7; 1987 c.320 §140; 1993 c.188 §13; 1997 c.853 §16]

**181.700 Legislative intent.** It is the intent of the Legislative Assembly in creating the Board on Public Safety Standards and Training to provide for the coordination of training programs for police officers, certified reserve officers, corrections officers and parole and probation officers and to set standards. [1961 c.721 §14; 1975 c.290 §14; 1977 c.382 §11; 1995 c.624 §15; 1999 c.59 §39]

**181.705 Minimum standards and training requirements not applicable to certain police officers.** The minimum standards and training requirements established pursuant to ORS 181.640 (1) do not apply to police officers commissioned by the Governor under ORS 131.880 who have served in that capacity for at least two years immediately preceding October 4, 1977. [1977 c.737 §4]

**181.710** [1969 c.488 §§5, 6; 1973 c.130 §3; 1979 c.92 §5; 1981 c.59 §1; repealed by 1993 c.188 §15]

**181.711 Department not required to provide training for certification of reserve officers.** Nothing in ORS 181.610, 181.640, 181.642, 181.645, 181.650, 181.651, 181.654, 181.660, 181.661, 181.662, 181.664, 181.665, 181.667, 181.670, 181.700 and 181.711 requires:

- (1) A law enforcement unit to certify individuals who are utilized by the law enforcement unit to perform the duties of a reserve officer; or
- (2) The Department of Public Safety Standards and Training to provide the training for, or to fund, certification of reserve officers. [1995 c.624 §17; 1997 c.853 §17]

**181.712 Child abuse and domestic violence training; report.** No later than January 1 of each year, the Department of Public Safety Standards and Training, in consultation with the Board on Public Safety Standards and Training, shall submit to the Legislative Assembly, as provided in ORS 192.245, a report on the implementation of child abuse and domestic violence training provided by the department. [1995 c.128 §3; 1997 c.853 §18]

**181.714 Police Memorial Trust Fund; rules.** (1) The Police Memorial Trust Fund is created separate from the General Fund. The fund shall consist of moneys appropriated therefor and gifts and grants thereto and the interest thereon. The fund is continuously appropriated for the purposes of section 1 (2), chapter 508, Oregon Laws 1987.

(2) The fund shall be administered by the State Treasurer.

(3) The Board on Public Safety Standards and Training, in consultation with the Department of Public Safety Standards and Training, may adopt rules that designate the classifications of public safety personnel killed in the line of duty who may be honored at the memorial created pursuant to section 1, chapter 508, Oregon Laws 1987.

(4) The costs of maintenance and relocation of the memorial described in subsection (3) of this section and the costs of an annual memorial service honoring persons killed in the line of duty shall be paid out of the Police Memorial Trust Fund. [1987 c.508 §2; subsections (3) and (4) of 2001 Edition enacted as 2001 c.491 §1]

**Note:** 181.714 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## CRIMINAL JUSTICE INFORMATION STANDARDS

**181.715 Criminal Justice Information Standards program; duties.** (1) The Department of State Police or another criminal justice agency designated by the Director of the Oregon Department of Administrative Services shall operate a Criminal Justice Information Standards program that coordinates information among state criminal justice agencies. The program shall:

(a) Ensure that in developing new information systems, data can be retrieved to support evaluation of criminal justice planning and programs, including, but not limited to, the ability of the programs to reduce future criminal conduct;

(b) Ensure that maximum effort is made for the safety of public safety officers;

(c) Establish methods and standards for data interchange and information access between criminal justice information systems, in compliance with the technology standards and policies of the Oregon Department of Administrative Services;

(d) Design and implement improved applications for exchange of agency information; and

(e) Implement the capability to exchange images between criminal justice agencies.

(2) The program shall develop a plan to accelerate data sharing and information integration among criminal justice agencies. The plan shall include, but is not limited to, priorities, timelines, development costs, resources needed, the projected ongoing cost of support, critical success factors and any known barriers to accomplishing the plan.

Representatives of criminal justice agencies and public safety agencies, including but not limited to local law enforcement agencies, courts of criminal jurisdiction, district attorneys, city attorneys with criminal prosecutive functions, public defender organizations established under ORS chapter 151, community corrections directors, jail managers and county juvenile departments, shall be invited to participate in the planning process. The program shall present the plan to the Director of the Oregon Department of Administrative Services no later than May 30 of each even-numbered year for development of the Governor's budget report. The program shall submit the plan to the Joint

Legislative Committee on Information Management and Technology no later than December 31 of each even-numbered year.

(3) Notwithstanding the meaning given “criminal justice agency” in ORS 181.010, as used in this section and ORS 181.720, “criminal justice agency” includes, but is not limited to:

- (a) The Judicial Department;
- (b) The Attorney General;
- (c) The Department of Corrections;
- (d) The Department of State Police;
- (e) Any other state agency with law enforcement authority designated by order of the Governor;
- (f) The Department of Transportation;
- (g) The State Board of Parole and Post-Prison Supervision;
- (h) The Department of Public Safety Standards and Training;
- (i) The State Department of Fish and Wildlife;
- (j) The Oregon Liquor Control Commission;
- (k) The Oregon Youth Authority; and
- (L) The State Commission on Children and Families. [1993 c.188 §5; 1997 c.433 §4; 1997 c.853 §19; 2001 c.936

§4]

**181.720 Duties of state criminal justice agencies.** (1) State criminal justice agencies, as part of their biennial budget requests and information resource management plans, shall address the goals of the Criminal Justice Information Standards program with particular attention to:

- (a) Data access, availability and information sharing among criminal justice agencies; and
- (b) The plan developed under ORS 181.715.

(2) Information resource management plans must be based on industry standards for open systems to the greatest extent possible.

(3) A state criminal justice agency shall submit a copy of its information resource management plan to the Criminal Justice Information Standards Advisory Board. [1993 c.188 §7; 1997 c.433 §17; 2001 c.936 §5]

**181.725 Criminal Justice Information Standards Advisory Board; members; expenses.** (1) There is established a Criminal Justice Information Standards Advisory Board to advise the Department of State Police or the criminal justice agency designated by the Director of the Oregon Department of Administrative Services under ORS 181.715 (1) about the department’s or the agency’s duties under ORS 181.715. The board consists of the following members:

- (a) The State Court Administrator or the administrator’s designee;
- (b) The Director of the Department of Corrections or the director’s designee;
- (c) The Superintendent of State Police or the superintendent’s designee;
- (d) The executive director of the Oregon Criminal Justice Commission or the executive director’s designee;
- (e) The Director of Transportation or the director’s designee;
- (f) The chairperson of the State Board of Parole and Post-Prison Supervision or the chairperson’s designee;
- (g) The Director of the Department of Public Safety Standards and Training or the director’s designee;
- (h) A chief of police designated by the Oregon Association of Chiefs of Police;
- (i) A sheriff designated by the Oregon Sheriffs’ Association;
- (j) A jail manager designated by the Oregon Jail Managers’ Association;
- (k) A county juvenile department director designated by the Oregon Juvenile Department Directors’ Association;
- (L) A community corrections agency director designated by the Oregon Association of Community Corrections

Directors;

- (m) A district attorney designated by the Oregon District Attorneys Association;
- (n) The administrator of the information resource management division of the Oregon Department of Administrative Services or the administrator’s designee;
- (o) The Director of the Oregon Youth Authority or the director’s designee;
- (p) The State Fish and Wildlife Director or the director’s designee;
- (q) The administrator of the Oregon Liquor Control Commission or the administrator’s designee; and
- (r) The staff director of the State Commission on Children and Families or the staff director’s designee.

(2) The board shall meet at such times and places as the board deems necessary.

(3) The members of the board are not entitled to compensation but are entitled to expenses as provided in ORS 292.495. [1993 c.188 §6; 1997 c.433 §5; 1997 c.853 §20; 2001 c.936 §6]

**181.730 Law Enforcement Data System established; duties; rules.** (1) There is established in the Department of State Police a Law Enforcement Data System.

(2) The Law Enforcement Data System shall:

(a) Install and maintain a criminal justice telecommunication and information system for storage and retrieval of criminal justice information submitted by criminal justice agencies for the State of Oregon;

(b) Function as the control point for access to similar programs operated by other states and the federal government;

(c) Undertake other projects as are necessary or appropriate for the speedy collection and dissemination of information relating to crime and criminals; and

(d) Provide service as available to all qualified criminal justice agencies and designated agencies.

(3) The department may adopt rules establishing procedures for the submission, access and dissemination of information by the Law Enforcement Data System. [1993 c.188 §8]

## OREGON COMMUNITY CRIME PREVENTION INFORMATION CENTER

**181.750 Definitions for ORS 181.750 to 181.765.** As used in ORS 181.755 to 181.765, unless the context requires otherwise:

(1) "Center" means the Oregon Community Crime Prevention Information Center.

(2) "Coordinator" means the Coordinator of the Oregon Community Crime Prevention Information Center.

(3) "Department" means the Department of Public Safety Standards and Training.

(4) "Director" means the Director of the Department of Public Safety Standards and Training. [Formerly 184.405; 1997 c.853 §21]

**Note:** 181.750 to 181.765 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.755 Oregon Community Crime Prevention Information Center; duties.** The Oregon Community Crime Prevention Information Center is created within the Department of Public Safety Standards and Training. The center within the limits of available funds shall:

(1) Develop, plan and carry out a comprehensive, long-range, integrated program, implemented by local crime prevention councils, that will mobilize all Oregon residents, including the youth of this state, in a year-round preventive effort to reduce both crime and delinquency;

(2) Provide a mechanism to support, unify, promote, implement and evaluate crime prevention efforts;

(3) Act as a clearinghouse for crime prevention efforts;

(4) Provide a means by which law enforcement and prevention related agencies, civilian personnel and the education community may acquire the resource materials, technical assistance, knowledge and skills necessary to develop, implement and evaluate crime prevention and intervention programs;

(5) Provide ongoing, programmatic support to crime prevention efforts of law enforcement and crime prevention councils, enabling them to develop programs within their jurisdiction or community;

(6) Assist law enforcement agencies and crime prevention councils to increase the awareness of communities, businesses and governments regarding the need for crime prevention while offering information on current and future programming in their communities and in this state;

(7) Increase the availability of resource materials that may be utilized by local crime prevention programs, analyze data, evaluate needs and develop specific crime prevention strategies;

(8) Coordinate the efforts of law enforcement agencies and local crime prevention councils and programs to prevent the victimization of children by criminal acts and to prevent the occurrence of criminal behavior by children and young persons through educational programs; and

(9) Operate as a resource for local governments and upon the request of any local agency shall:

(a) Provide technical assistance and crime prevention programs in the form of on-site visits, resource development and distribution, consultation, community resource identification, utilization, training and promotion of crime prevention programs or activities;

- (b) Review master copies of materials and resources, with the concurrence of any Oregon crime prevention association, for the purpose of increasing program efficiency, effectiveness and consistency;
- (c) Provide assistance in increasing the knowledge of community, business and governmental leaders concerning the theory and operation of crime prevention and how their involvement will assist in efforts to prevent crime;
- (d) Provide resource materials to and assistance in developing the skills of law enforcement personnel, which materials and skills are necessary to create successful crime prevention strategies that meet the needs of specific regions and communities throughout the state;
- (e) Act as a liaison between local, state and national agencies concerning crime prevention issues; and
- (f) Coordinate efforts with any statewide crime prevention association and receive from the association advice and direction for the operation of the center and related activities. [Formerly 184.407; 1997 c.853 §22]

**Note:** See note under 181.750.

- 181.760 Coordinator; appointment; duties.** (1) The Oregon Community Crime Prevention Information Center is under the supervision and control of the coordinator who is responsible for the performance of the duties, functions and powers of the center.
- (2) The Director of the Department of Public Safety Standards and Training shall appoint the coordinator who shall have experience and knowledge in the area of crime prevention.
- (3) The coordinator shall receive a salary as provided by law or, if not so provided, as prescribed by the director.
- (4) The coordinator is authorized to solicit, receive and expend grants, including matching grants, from private sources to aid in carrying out the provisions of ORS 181.750 to 181.765. [Formerly 184.409]

**Note:** See note under 181.750.

- 181.765 Advisory committee; meetings; expenses.** (1) To aid and advise the coordinator in the performance of the functions of the Oregon Community Crime Prevention Information Center, an advisory committee may be established.
- (2) The committee shall meet at such times and places as shall be determined by the coordinator.
- (3) Legislative members shall receive no compensation or per diem for services as members but may receive actual and necessary travel and other expenses under ORS 171.072 from funds appropriated to the Legislative Assembly. Other members of the committee shall be entitled to expenses as provided in ORS 292.495. [Formerly 184.411]

**Note:** See note under 181.750.

## PUBLIC SAFETY PERSONNEL GENERALLY

- 181.850 Enforcement of federal immigration laws.** (1) No law enforcement agency of the State of Oregon or of any political subdivision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship residing in the United States in violation of federal immigration laws.
- (2) Notwithstanding subsection (1) of this section, a law enforcement agency may exchange information with the United States Immigration and Naturalization Service in order to:
- (a) Verify the immigration status of a person if the person is arrested for any criminal offense; or
  - (b) Request criminal investigation information with reference to persons named in service records.
- (3) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a law enforcement agency. [1987 c.467 §1]

**Note:** 181.850 was enacted into law by the Legislative Assembly but was not added to and made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

- 181.852 Disclosure of information about certain employees of law enforcement agencies.** (1) As used in this section:
- (a) “Designated agency” has the meaning given that term in ORS 181.010.
  - (b) “Information” includes, but is not limited to, an address, telephone number, date of birth and photograph.

(c) “Law enforcement agency” has the meaning given that term in ORS 181.010.

(2) Unless a law other than ORS 192.410 to 192.505 requires disclosure or the employee consents in writing to the disclosure, a law enforcement agency may not disclose information about an employee of the agency while the employee is assigned duties the agency considers undercover investigative duties and for a period of six months after the conclusion of those duties.

(3) Subsection (2) of this section does not apply to disclosure of information to:

(a) A district attorney.

(b) The Attorney General.

(c) A law enforcement agency.

(d) A court.

(e) The Department of Public Safety Standards and Training.

(f) A designated agency.

(g) A citizen review body designated by a law enforcement agency.

(4) A person injured by a violation of subsection (2) of this section may bring a civil action for damages against the law enforcement agency. [1999 c.855 §2]

**181.854 Disclosure of information about certain public safety employees.** (1) As used in this section:

(a) “Public body” has the meaning given that term in ORS 192.410.

(b) “Public safety employee” means a certified reserve officer, corrections officer, parole and probation officer, police officer or youth correction officer as those terms are defined in ORS 181.610.

(2) A public body may not disclose a photograph of a public safety employee of the public body without the written consent of the employee. This subsection does not apply to the use by the public body of a photograph of a public safety employee.

(3) A public body may not disclose information about a personnel investigation of a public safety employee of the public body if the investigation does not result in discipline of the employee.

(4) Subsection (3) of this section does not apply:

(a) When the public interest requires disclosure of the information.

(b) When the employee consents to disclosure in writing.

(c) When disclosure is necessary for an investigation by the public body, the Department of Public Safety Standards and Training or a citizen review body designated by the public body.

(d) When the public body determines that nondisclosure of the information would adversely affect the confidence of the public in the public body.

(5) If an investigation of a public safety employee of a public body results from a complaint, the public body may disclose to the complainant the disposition of the complaint and, to the extent the public body considers necessary to explain the action of the public body on the complaint, a written summary of information obtained in the investigation.

(6) A public body must notify a public safety employee of the public body if the public body receives a request for:

(a) A photograph of the employee.

(b) Information about the employee that is exempt from disclosure under ORS 192.502 (2) or (3).

(c) Information about the employee that is prohibited from disclosure by subsection (3) of this section. [1999 c.855 §3]

**181.860 Peer support counseling sessions; confidentiality; admissibility as evidence.** (1) For the purposes of this section:

(a) “Emergency services provider” means any public employer that employs persons to provide firefighting services.

(b) “Emergency services personnel” means any employee of an emergency services provider who is engaged in providing firefighting services.

(c) “Employee assistance program” means a program established by a law enforcement agency or emergency services provider to provide counseling or support services to employees of the law enforcement agency or emergency services provider.

(d) “Law enforcement agency” means any county sheriff, municipal police department, the Oregon State Police and any state or local public body that employs public safety personnel.

(e) “Public safety personnel” means a sheriff, deputy sheriff, municipal police officer, state police officer, parole officer or probation officer, corrections employee, certified reserve officer, telecommunicator or emergency medical

dispatcher.

(2) Any communication made by a participant or counselor in a peer support counseling session conducted by a law enforcement agency or by an emergency services provider for public safety personnel or emergency services personnel, and any oral or written information conveyed in the peer support counseling session, is confidential and may not be disclosed by any person participating in the peer support counseling session.

(3) Any communication relating to a peer support counseling session made confidential under subsection (2) of this section that is made between counselors, between counselors and the supervisors or staff of an employee assistance program, or between the supervisors or staff of an employee assistance program, is confidential and may not be disclosed.

(4) The provisions of this section apply only to peer support counseling sessions conducted by an employee or other person who:

(a) Has been designated by a law enforcement agency or emergency services provider, or by an employee assistance program, to act as a counselor; and

(b) Has received training in counseling and in providing emotional and moral support to public safety personnel or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.

(5) The provisions of this section apply to all oral communications, notes, records and reports arising out of a peer support counseling session. Any notes, records or reports arising out of a peer support counseling session are not public records for the purpose of ORS 192.410 to 192.505.

(6) Any communication made by a participant or counselor in a peer support counseling session subject to this section, and any oral or written information conveyed in a peer support counseling session subject to this section, is not admissible in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. Communications and information made confidential under this section may not be disclosed by the participants in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. The limitations on disclosure imposed by this subsection include disclosure during any discovery conducted as part of an adjudicatory proceeding.

(7) Nothing in this section limits the discovery or introduction in evidence of knowledge acquired by any public safety personnel or emergency services personnel from observation made during the course of employment, or material or information acquired during the course of employment, that is otherwise subject to discovery or introduction in evidence.

(8) This section does not apply to:

(a) Any threat of suicide or homicide made by a participant in a peer support counseling session, or any information conveyed in a peer support counseling session relating to a threat of suicide or homicide;

(b) Any information relating to abuse of children or of the elderly, or other information that is required to be reported by law; or

(c) Any admission of criminal conduct.

(9) This section does not prohibit any communications between counselors who conduct peer support counseling sessions, or any communications between counselors and the supervisors or staff of an employee assistance program. [1999 c.455 §1; 2001 c.687 §4]

**Note:** 181.860 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## REGULATION OF PRIVATE SECURITY SERVICE PROVIDERS

**181.870 Definitions.** As used in ORS 181.620, 181.870 to 181.889, 181.991 and 203.090:

(1) “Advisory committee” means the private security advisory committee created in ORS 181.889.

(2) “Certification” means recognition by the department that a private security officer meets all of the qualifications listed in ORS 181.875.

(3) “Department” means the Department of Public Safety Standards and Training.

(4) “Contract security services” means the performance of at least one of the following:

(a) The observation and reporting of any unlawful activity.

(b) The prevention of theft or misappropriation of any goods, money or other items of value.

(c) The protection of individuals or property, including, but not limited to, proprietary information, from harm or

misappropriation.

(d) The control of access to premises being protected.

(e) The secure movement of prisoners.

(f) The taking of enforcement action by detaining persons or placing persons under arrest under ORS 133.225.

(g) Providing canine services for guarding premises or for the detection of unlawful devices or substances.

(5) "Director" means the director of the department.

(6) "Employee" means an individual who renders personal services wholly or partly in this state to an employer who pays or agrees to pay the individual at a fixed rate. "Employee" includes an applicant for employment to perform security services.

(7) "Employer" means a proprietary security manager or a security contractor.

(8) "Instructor" means any person who has been certified by the department as meeting the requirements to provide instruction to private security providers or applicants.

(9) "License" means recognition by the department that an employer or supervisory manager meets the requirements adopted by the Board on Public Safety Standards and Training as necessary to provide security services.

(10) "Primary responsibility" means an activity that is fundamental to, and required or expected in, the regular course of employment and is not merely incidental to employment.

(11)(a) "Private security officer" means an individual who performs, as the individual's primary responsibility:

(A) Contract security services for consideration as an independent contractor or as an employee of an independent contractor, whether armed or unarmed, full-time or part-time or in uniform or plainclothes; or

(B) Proprietary security services for consideration.

(b) "Private security officer" does not include:

(A) An individual while on active duty as a member of the armed services or while performing duties as a law enforcement officer; or

(B) An employee of a financial institution who has been designated as a security officer for the financial institution pursuant to the Bank Protection Act of 1968 (12 U.S.C. 1881, et seq.) and regulations adopted thereunder or pursuant to ORS 723.276 (5).

(12) "Private security provider" means any person who performs contract security services or proprietary security services or who performs the functions of an employer, supervisory manager or instructor.

(13) "Proprietary security manager" means an individual employed by a person or entity, other than a security contractor, whose responsibilities include implementing proprietary security services provided by a private security officer.

(14) "Proprietary security services" means the performance of at least one of the activities listed in subsection (4) of this section if the person performing the activity:

(a) Wears a uniform readily identifiable by a member of the public as that worn by a private security officer or a law enforcement officer;

(b) Wears clothing that bears words, such as "security," or emblems that would cause a member of the public to reasonably believe that the person is a private security officer; or

(c) Carries a dangerous or deadly weapon, as those terms are defined in ORS 161.015, or a stun gun, pepper mace or nightstick.

(15) "Security contractor" means any person that provides the services of one or more private security officers for consideration.

(16) "Supervisory manager" means an employee of a proprietary security manager or security contractor who has as a primary responsibility the supervision of certified private security officers but who does not have authority to hire and terminate personnel. [1995 c.510 §1a; 1997 c.588 §1; 1997 c.853 §23; 1999 c.198 §1; 2001 c.498 §1]

**Note:** 181.870 to 181.889 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181.871 Applicability.** (1) ORS 181.870 to 181.889 and 181.991 do not apply to:

(a) A person certified by the Department of Public Safety Standards and Training as a police officer or a parole and probation officer.

(b) A law enforcement officer of the United States.

(c) An officer or employee of this state, Oregon Health and Science University established by ORS 353.020 or the

United States.

(d) A person appointed or commissioned by the Governor to perform law enforcement or security services.

(e) An attorney admitted to practice law in this state.

(f) An insurance adjuster licensed in this state and performing duties authorized by the license.

(g) A person who monitors fire alarm systems and other alarm systems that are not designed to detect unauthorized intrusions.

(h) A person while protecting the person's property.

(i) A person who repairs and installs intrusion alarms.

(j) A person acting as an investigator as defined in ORS 703.401.

(k) A person performing crowd management or guest services, including, but not limited to, a person described as a ticket taker, an usher, a parking attendant or event staff, who is not armed, does not wear a uniform or clothing described in ORS 181.870 (14)(a) or (b) and is not hired with the primary responsibility of taking enforcement action as described in ORS 181.870 (4)(f).

(L) A person who performs security services at a facility regulated by the United States Nuclear Regulatory Commission and the facility is operated by the person's employer.

(2) The exemption provided by subsection (1)(k) of this section applies only:

(a) If there is at least one person on-site who is certified or licensed under ORS 181.878 for every 10 or fewer uncertified persons performing the services described in subsection (1)(k) of this section;

(b) If any enforcement action, as described in ORS 181.870 (4)(f), other than incidental or temporary action, is taken by or under the supervision of a person certified or licensed under ORS 181.878; and

(c) During the time when a crowd has assembled for the purpose of attending or taking part in an organized event, including pre-event assembly, event operation hours and post-event departure activities. [1995 c.510 §2; 1997 c.588 §2; 1997 c.853 §24; 1997 c.870 §25; 1999 c.198 §6; 1999 c.291 §29; 2001 c.498 §2; 2001 c.838 §22]

**Note:** See note under 181.870.

**181.873 Prohibited acts; temporary assignment of person not certified allowed.** (1) It is unlawful:

(a) For a person to engage in the business of, or perform any service as a private security officer, or to offer services in such capacity unless the person has obtained a certificate under ORS 181.878.

(b) For a person to engage in the business of, or perform any service as a proprietary security manager, security contractor or supervisory manager, or to offer services in such capacities unless the person has obtained a license under ORS 181.878.

(c) For a person to perform supervisory duties over persons performing crowd management or guest services, as described in ORS 181.871, unless the person has obtained a license or certificate under ORS 181.878.

(d) Except as otherwise provided in subsection (2) of this section, for a proprietary security manager or security contractor to permanently assign a person to perform security services unless the person is certified as a private security officer under ORS 181.878.

(2) A proprietary security manager or security contractor may temporarily assign a person who is not certified as required by this section to perform security services within this state for a period of time not to exceed 90 days if:

(a) The person is employed in another state;

(b) The person holds a private security officer's certification or license from the other state; and

(c) The certification or licensing standards of the other state meet or exceed the standards of this state. [1995 c.510 §3; 2001 c.498 §3]

**Note:** See note under 181.870.

**181.875 Qualifications for private security officer; rules.** (1) An applicant for certification as a private security officer:

(a) Must be:

(A) At least 18 years of age, if an applicant for certification as an unarmed private security officer; or

(B) At least 21 years of age, if an applicant for certification as an armed private security officer;

(b) Must have satisfactorily completed the training requirements as specified in ORS 181.883; and

(c) Must not be required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597.

(2) The Department of Public Safety Standards and Training, in consultation with the Board on Public Safety

Standards and Training, shall adopt rules specifying those crimes for which a conviction requires the denial or revocation of certification as a private security officer or instructor. [1995 c.510 §4; 1997 c.588 §5; 1999 c.198 §3; 2001 c.288 §1; 2001 c.654 §2a]

**Note:** See note under 181.870.

**181.876 Application procedure.** (1) An applicant for certification as a private security officer shall submit an application to the Department of Public Safety Standards and Training. The application must be in writing under oath to the department:

(a) Stating the applicant's:

(A) Name;

(B) Birthdate;

(C) Citizenship;

(D) Physical description;

(E) Current residence;

(F) Residence for the preceding 10 years;

(G) Current employment; and

(H) Employment for the preceding 10 years;

(b) Including a statement listing all offenses of which the applicant has been convicted;

(c) Including a statement that the applicant is not required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597;

(d) Including a statement affirming the truth of all information contained in the application; and

(e) Including such other information as required by the Board on Public Safety Standards and Training.

(2) The application must be accompanied by:

(a) Written verification from the providers of the training of satisfactory completion of the training required by ORS 181.883; and

(b) Character references from at least three reputable citizens, each of whom has known the applicant for at least five years preceding the application and none of whom are related to the applicant by blood or marriage. [1995 c.510 §5; 1997 c.588 §6; 1997 c.853 §25; 1999 c.198 §4; 2001 c.654 §3]

**Note:** See note under 181.870.

**181.877 Qualifications for proprietary security manager, security contractor or supervisory manager.** An applicant for licensure as a proprietary security manager, security contractor or supervisory manager must meet the qualifications set forth in ORS 181.875. [2001 c.288 §3; 2001 c.498 §4a]

**Note:** See note under 181.870.

**181.878 Board on Public Safety Standards and Training to establish standards; department to establish procedures and fees; rules.** (1) The Board on Public Safety Standards and Training shall establish standards for:

(a) Issuing, denying, reviewing and revoking licenses for proprietary security managers, security contractors and supervisory managers; and

(b) Reviewing the security services of proprietary security managers and security contractors in relation to the licensing and certification standards set forth in ORS 181.870 to 181.889, 181.991 and 203.090.

(2) In accordance with any applicable provision of ORS 183.310 to 183.550, to promote consistent standards for private security services by improving the competence of private security providers, the board, in conjunction with the Advisory Committee on Private Security Services, shall establish reasonable minimum standards of physical, emotional, intellectual and moral fitness for private security providers.

(3) The Department of Public Safety Standards and Training shall:

(a) Establish and carry out procedures for issuing, denying, renewing and revoking, subject to terms and conditions imposed by the department, a private security provider's certificate or license;

(b) Recommend for approval by the board standards for all training courses and testing required by ORS 181.883 and for all instructors providing the training;

(c) Establish procedures in consultation with the board for temporary assignment of persons performing security

services for a period of no longer than 120 days while an application for certification is being processed; and

(d) In collaboration with the Advisory Committee on Private Security Services, establish fees for issuing certificates and licenses to private security providers. The fees may not exceed the prorated direct costs of administering:

(A) The certification or licensing program required by this section;

(B) The criminal records checks required by ORS 181.880; and

(C) The training program required by ORS 181.883.

(4) The department shall investigate alleged violations of the provisions of ORS 181.870 to 181.889, 181.991 and 203.090 and of any rules adopted by the department or the board.

(5) The department and the board may adopt rules necessary to carry out their duties under ORS 181.870 to 181.889, 181.991 and 203.090. For efficiency, the department and board may adopt rules jointly as a single set of combined rules. [1995 c.510 §6; 1997 c.588 §7; 1997 c.853 §26; 1999 c.198 §5; 2001 c.498 §5]

**Note:** See note under 181.870.

**181.880 Licenses and certificates; issuance; duration.** (1) A license or certificate issued by the Department of Public Safety Standards and Training under ORS 181.878 expires two years following the date of issuance or on the assigned renewal date.

(2) The department shall offer certificates or licenses to private security providers in levels and categories as established by the Board on Public Safety Standards and Training in consultation with the department.

(3) Upon receipt of an application for certification under ORS 181.876, the department shall forward a copy of the application and a complete set of the applicant's fingerprints to the Department of State Police and request that the Department of State Police conduct a nationwide criminal records check of the applicant.

(4) Upon request of the department under subsections (1) to (3) of this section, the Department of State Police shall conduct nationwide criminal records checks through the Federal Bureau of Investigation of an applicant for certification as a private security officer, including the applicant's fingerprints, and shall report the results to the department. [1995 c.510 §§7,18; 1997 c.853 §27; 1999 c.198 §2]

**Note:** See note under 181.870.

**181.882 Hearing if license or certificate denied, suspended or revoked.** (1) If the Board on Public Safety Standards and Training or the Department of Public Safety Standards and Training denies a license or certificate or declines to renew a license or certificate or suspends or revokes a license or certificate, opportunity for a hearing consistent with the provisions of ORS 181.661 shall be afforded as provided in ORS 183.310 to 183.550.

(2) Judicial review of orders issued after a hearing under subsection (1) of this section shall be as provided in ORS 183.310 to 183.550. [1995 c.510 §8; 1997 c.853 §28]

**Note:** See note under 181.870.

**181.883 Training requirements.** (1) The training requirements for certification as an unarmed private security officer are:

(a) Eight hours of basic classroom instruction including, but not limited to:

(A) The legal powers and limitations of a private security officer including, but not limited to, the laws regarding arrest, search and seizure and the appropriate use of force;

(B) Fire detection and reporting and safety issues;

(C) When and how to notify public authorities;

(D) The techniques of observing and reporting incidents and how to prepare an incident report;

(E) The fundamentals of patrolling; and

(F) Department and ethics;

(b) Successful completion of a written examination covering the classroom materials described in paragraph (a)(A) to (E) of this subsection; and

(c) Four hours of an assessment module.

(2) The training requirements for certification as an armed private security officer are:

(a) The requirements in subsection (1) of this section;

- (b) Fifteen hours of weapons instruction and successful completion of a written examination covering:
  - (A) The legal limitations on the use of weapons;
  - (B) Weapons handling; and
  - (C) Weapon safety and maintenance; and
- (c) A minimum marksmanship qualification score of 70 percent on a firearms qualification course and target designated by the Department of Public Safety Standards and Training.
- (3) In addition to the basic requirements set out in subsections (1) and (2) of this section:
  - (a) Persons certified as unarmed or armed private security officers biennially shall complete a four-hour refresher course on the subjects listed in subsection (1)(a) of this section; and
  - (b) Persons certified as armed private security officers annually shall complete:
    - (A) A refresher course in the subjects listed in subsection (2)(b) of this section; and
    - (B) Qualification in the use of firearms as provided in subsection (2)(c) of this section.
- (4)(a) A person may challenge the eight-hour basic classroom instruction component of the training requirements as described in subsection (1)(a) of this section if the person:
  - (A) Has two or more years of experience in the field of law enforcement, military police or private security; or
  - (B) Has received any private security or law enforcement training.
- (b) The person may challenge the eight-hour basic classroom instruction component only once. To successfully challenge the classroom instruction component, the person must successfully complete the written examination and assessment required by the rules of the department and administered by a certified private security instructor. If the person fails to obtain a passing score on the written examination, the person is required to attend the eight-hour basic classroom instruction component of the training and pass the written examination.
- (c) A person who successfully challenges the basic classroom instruction component of the training:
  - (A) Is required to successfully complete the assessment module; and
  - (B) Must be given a private security student workbook that contains the curriculum of the basic classroom instruction component to serve as a resource for the person.
- (d) This subsection is intended to recognize formal education and work experience.
- (5) As used in this section, "assessment module" means a four-hour curriculum given to armed and unarmed private security officers that includes but is not limited to demonstration of task-related skills learned in the eight-hour basic classroom instruction as applied to hypothetical situations. [1995 c.510 §9; 1997 c.588 §3; 1997 c.853 §29a; 2001 c.288 §5]

**Note:** See note under 181.870.

**181.885 Effect of being charged with crime.** (1) If a private security officer is charged with a crime, the officer shall notify the officer's employer, or, if the officer is not employed, the Department of Public Safety Standards and Training, of that fact not later than 48 hours after the charge is filed.

(2) If an employer knows that an employee has been charged with a crime, the employer shall notify the department of that fact not later than 48 hours after the employer acquired the knowledge.

(3) The department may suspend the certificate of a private security officer charged with a crime pending disposition of the charge. [1995 c.510 §10; 1997 c.853 §30]

**Note:** See note under 181.870.

**181.886 Persons providing private security services on September 9, 1995.** Any person engaged in providing private security services on September 9, 1995, shall file an application for a license or certificate within 180 days after September 9, 1995. Such persons may continue providing private security services without a license or certificate until a license or certificate is issued or denied. [1995 c.510 §11]

**Note:** See note under 181.870.

**181.887 Disposition of funds received by department.** All moneys received by the Department of Public Safety Standards and Training under ORS 181.870 to 181.889, 181.991 and 203.090, including penalties recovered under ORS 181.991 (2) and (3), shall be paid into the General Fund in the State Treasury and placed to the credit of the Police Standards and Training Account established in ORS 181.690 and used exclusively by the department to carry

out the duties imposed by ORS 181.870 to 181.889, 181.991 and 203.090. [1995 c.510 §12; 1997 c.853 §31]

**Note:** See note under 181.870.

**181.889 Advisory Committee on Private Security Services.** (1)(a) The Advisory Committee on Private Security Services is established. The advisory committee consists of nine members appointed by the Board on Public Safety Standards and Training as follows:

(A) A representative of unarmed security officers;

(B) A representative of armed security officers;

(C) A representative of the health care industry;

(D) A representative of the manufacturing industry;

(E) A representative of the retail industry;

(F) A representative of the hospitality industry;

(G) A representative of private business or a governmental entity that utilizes private security services; and

(H) Two members of the public at large who are not related within the second degree by affinity or within the second degree by consanguinity to a person who is employed, or doing business, as a private security officer, proprietary security officer or security contractor.

(b) Notwithstanding paragraph (a) of this subsection, no more than four members of the advisory committee may represent proprietary security managers or security contractors.

(2) The term of office of each member is three years. If, during a member's term of office, the member changes occupations and no longer is employed in the category the member represented, the member shall resign. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.

(3) The advisory committee shall meet at such times and places as determined by the advisory committee. A majority of the advisory committee constitutes a quorum to transact business.

(4)(a) The advisory committee shall develop recommendations for the board's consideration prior to any final board action on policies, requirements, procedures, rules and any other matter relating to private security services.

(b) Notwithstanding paragraph (a) of this subsection, the advisory committee is not required to make recommendations prior to the adoption by the board or department of emergency or temporary rules.

(c) The advisory committee may submit a list of representatives of the private security industry to the Governor for the Governor's consideration in making the appointments required by ORS 181.620 (1)(t). [1995 c.510 §15; 1997 c.853 §32]

**Note:** See note under 181.870.

## PENALTIES

**181.990 Penalties.** Violation of ORS 181.140 is a Class A misdemeanor. [Amended by 1971 c.743 §343]

**181.991 Penalties relating to regulation of private security services; criminal and civil.** (1) A person commits a Class A misdemeanor if the person knowingly falsifies any information pertinent to an application for a license or certificate under ORS 181.870 to 181.889, 181.991 and 203.090.

(2) In addition to any other liability or penalty provided by law, the Board on Public Safety Standards and Training may impose a civil penalty not to exceed \$1,500 for a violation of any provision of ORS 181.870 to 181.889, 181.991 and 203.090 or any rule adopted by the Board on Public Safety Standards and Training or Department of Public Safety Standards and Training pursuant to ORS 181.870 to 181.889, 181.991 and 203.090.

(3) Judicial review of civil penalties imposed under subsections (2) and (3) of this section shall be as provided under ORS 183.480. [1995 c.510 §§13,14; 1997 c.853 §33]

**Note:** 181.991 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.