

# Chapter 181

2013 EDITION

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**STATE POLICE; CRIME REPORTING; TRAINING**

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**EXECUTIVE BRANCH; ORGANIZATION**

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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) “Criminal justice agency” means:
- (a) The Governor;
  - (b) Courts of criminal jurisdiction;
  - (c) The Attorney General;
  - (d) District attorneys, city attorneys with criminal prosecutorial 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 Oregon Youth Authority;
  - (h) The State Board of Parole and Post-Prison Supervision;
  - (i) The Department of Public Safety Standards and Training;
  - (j) The Oregon Liquor Control Commission;
  - (k) Regional information systems that share programs to track, identify and remove cross-jurisdictional criminal and terrorist conspiracies; and
- (L) Any other state or local agency with law enforcement authority.

(2) “Criminal offender information” includes records and related data as to physical description and vital statistics, fingerprints received and compiled 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.

(3) “Department” means the Department of State Police established under ORS 181.020.

(4) “Deputy superintendent” means the Deputy Superintendent of State Police appointed under ORS 181.220.

(5) “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.

(6) “Disposition report” means a form or process prescribed or furnished by the department, containing a description of the ultimate action taken subsequent to an arrest.

(7) “Law enforcement agency” means:

(a) County sheriffs, municipal police departments, police departments established by a university under ORS 352.383 or 353.125 and State Police;

(b) Other police officers of this state or another state, including humane special agents as defined in ORS 181.435;

(c) A tribal government as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011; and

(d) Law enforcement agencies of the federal government.

(8) “State police” means the sworn members of the state police force appointed under ORS 181.250.

(9) “Superintendent” means the Superintendent of State Police appointed under ORS 181.200. [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; 2001 c.962 §42; 2007 c.71 §54; 2011 c.506 §26; 2011 c.547 §1; 2011 c.644 §26; 2012 c.54 §18; 2012 c.67 §11; 2013 c.180 §29]

**Note:** The amendments to 181.010 by section 49, chapter 644, Oregon Laws 2011, become operative July 1, 2015. See section 58, chapter 644, Oregon Laws 2011, as amended by section 77, chapter 644, Oregon Laws 2011. The text that is operative on and after July 1, 2015, including amendments by section 19, chapter 54, Oregon Laws 2012, section 12, chapter 67, Oregon Laws 2012, and section 30, chapter 180, Oregon Laws 2013, 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) “Criminal justice agency” means:

- (a) The Governor;
- (b) Courts of criminal jurisdiction;
- (c) The Attorney General;

(d) District attorneys, city attorneys with criminal prosecutorial 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 Oregon Youth Authority;

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

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

(j) The Oregon Liquor Control Commission;

(k) Regional information systems that share programs to track, identify and remove cross-jurisdictional criminal and terrorist conspiracies; and

(L) Any other state or local agency with law enforcement authority.

(2) “Criminal offender information” includes records and related data as to physical description and vital statistics, fingerprints received and compiled 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.

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

(4) "Deputy superintendent" means the Deputy Superintendent of State Police appointed under ORS 181.220.

(5) "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.

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

(7) "Law enforcement agency" means:

(a) County sheriffs, municipal police departments, police departments established by a university under ORS 352.383 or 353.125 and State Police;

(b) Other police officers of this state or another state, including humane special agents as defined in ORS 181.435; and

(c) Law enforcement agencies of the federal government.

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

(9) "Superintendent" means the Superintendent of State Police appointed under ORS 181.200.

**181.020 Department of State Police established.** (1) There is established a Department of State Police.

(2) The department shall consist of sworn members of the state police force appointed under ORS 181.250 and nonsworn professional personnel necessary to carry out the department's public safety functions. [Amended by 1963 c.547 §8; 1971 c.467 §2; 2011 c.547 §2]

**181.030 Powers and duties of department and its members.** (1) The Department of State Police and the members of the Oregon State Police are charged with the enforcement of:

(a) All criminal laws; and

(b) All laws applicable to highways and the operation of vehicles on highways.

(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 ensure the conviction of the offenders in the courts.

(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.

(3) Each member of the state police has the same general powers and authority as those conferred by law upon sheriffs, police officers, constables and peace officers. A member of the state police may be appointed as a deputy medical examiner.

(4) The members of the state police are subject to the call of the Governor and are empowered to cooperate with any other instrumentality or authority of this state, or any political subdivision, in detecting crime, apprehending criminals and preserving law and order throughout this state, but the state police may 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; 2009 c.11 §16; 2011 c.547 §3]

**181.035 Amber Plan; rules.** (1) The Department of State Police shall work with Oregon law enforcement agencies, the Department of Transportation, local media and broadcasters and others to fully implement a state Amber Plan.

(2) The Department of State Police shall adopt rules establishing the criteria to be applied in determining whether to issue an alert under the Amber Plan.

(3) A broadcaster participating in an Amber Plan implemented under this section is immune from civil liability for any act or omission of the broadcaster in the course and scope of that participation. The immunity provided under this subsection:

(a) Applies regardless of the method of transmission used by the broadcaster.

(b) Does not apply to intentional misconduct or to conduct that was grossly negligent. [2003 c.314 §1; 2005 c.441 §1]

**Note:** 181.035 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.

**181.036 National Crime Prevention and Privacy Compact; rules.** (1) The Legislative Assembly of the State of Oregon hereby ratifies the National Crime Prevention and Privacy Compact, 42 U.S.C. 14616, as it existed on January 1, 2005, and the compact remains in effect until legislation is enacted rescinding the compact. The Superintendent of State Police shall execute the compact.

(2) The superintendent, or the superintendent's designee, is the state's compact officer and shall administer and implement the compact on behalf of the state and may adopt rules as necessary for the exchange of criminal history records between

the state and other states and the federal government for noncriminal justice purposes.

(3) This section does not alter the duties of the superintendent regarding the dissemination of criminal history records within the state. [2005 c.479 §1]

**Note:** 181.036 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.

**181.040** [Amended by 1967 c.175 §5; 1971 c.467 §4; 1983 c.338 §899; repealed by 2011 c.547 §48]

**181.045 Targeted enforcement program; rules.** (1) The Department of State Police shall develop a targeted enforcement program for the purpose of improving public safety. The program shall be designed to reduce fatalities, physical injury and property damage by allocating patrol resources based on motor vehicle accident data compiled by the Department of Transportation.

(2) The Department of Transportation shall provide motor vehicle accident data to the Department of State Police for use in the targeted enforcement program.

(3) The Department of State Police may adopt rules to carry out the provisions of this section. [2009 c.660 §44]

**Note:** 181.045 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.

**181.050 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 Department responsible for criminal identification information.** The Department of State Police shall:

(1) 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;

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

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

(4) Undertake other projects as 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; 2011 c.547 §4]

**181.070 Criminal investigations division.** (1) The Superintendent of State Police may:

(a) Maintain a criminal investigations division for the purpose of preventing, detecting and investigating criminal activity.

(b) Enter into partnerships with local criminal justice agencies to provide expertise in the investigation and resolution of crimes and criminal activity.

(2) For purposes of subsection (1) of this section, the superintendent may use the services of such members of the state police as detectives as the superintendent considers necessary. [Amended by 1963 c.547 §9; 1971 c.467 §22; 2011 c.547 §5]

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

(2) Subject to available funding, the forensic laboratories shall furnish generally accepted types of forensic services to criminal justice agencies in this state. The services of the forensic laboratories must also be available to a defendant in a criminal case upon order of the court in which the criminal case is pending. [Amended by 1953 c.5 §3; 1963 c.218 §1; 1971 c.467 §23; 2001 c.870 §12; 2011 c.547 §6]

**181.085 Authority over blood and buccal samples and analyses; rules; 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) Aggravated vehicular homicide, as defined in ORS 163.149;

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

(M) 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 475.752, 475.806 to 475.894, 475.904, 475.906 or 475.914.

(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 per-



son 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, 419A.260 and 419C.473 (1) and this section 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; 2005 c.708 §51; 2007 c.867 §7]

**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.** (1) The Superintendent of State Police may establish headquarters and patrol stations at such places as the superintendent

considers advisable for the patrol and protection of this state and the enforcement of the laws.

(2) For purposes of this section, 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; 2011 c.547 §7]

**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.** (1) The State of Oregon shall provide the members of the state police with standard uniforms.

(2) The Superintendent of State Police shall specify a standard pattern and distinctive design for the uniforms required under this section. [Amended by 1971 c.467 §7; 1979 c.30 §1; 2011 c.547 §8]

**181.130 Service without wearing uniform.** The Superintendent of State Police may direct members of the state police to serve without wearing uniform when, in the judgment of the superintendent, serving without uniform makes law enforcement more efficient. [Amended by 1971 c.467 §8; 2011 c.547 §9]

**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.** (1) The State of Oregon shall provide the members of the state police with emergency outfits, weapons and motor vehicles and all other emergency and first-aid supplies and equipment necessary to carry out the public safety functions of the Department of State Police.

(2)(a) The property described in subsection (1) of this section remains the property of this state with the exception of a retiring or deceased officer’s department-issued service weapon, 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.

(b) A service weapon sold pursuant to this subsection must be sold for its fair market value.

(c) A badge given to an officer or an officer’s family member pursuant to this subsection must be marked to indicate the officer’s retirement status and may not be used for official police identification other than as a memento of service to the department.

(3) Surplus, obsolete or unused property, supplies or equipment must be disposed of by the Oregon Department of Administrative Services as provided in ORS 279A.280.

(4)(a) For purposes of ORS chapters 279A and 279B, the sale of a service weapon to a retiring officer by the department is not a public contract and is not subject to the competitive bidding requirements of ORS chapters 279A and 279B.

(b) 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; 2003 c.794 §202; 2011 c.547 §10]

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

**181.170** [Repealed by 2011 c.547 §48]

**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 of superintendent and deputy superintendent.** Before assuming their duties, the Superintendent of State Police and the Deputy Superintendent of State Police shall take and subscribe an oath of office as prescribed by ORS 181.390. [Amended by 1971 c.467 §13; 2011 c.547 §11]

**181.220 Appointment of Deputy Superintendent of State Police.** (1) The Superintendent of State Police may, with the approval of the Governor as to person and

salary, appoint a Deputy Superintendent of State Police.

(2) The deputy superintendent must have served as a captain or in higher rank in the Oregon State Police not less than one year prior to appointment as deputy superintendent. [Amended by 1971 c.467 §12; 2011 c.547 §12]

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

**181.240 Powers and duties of deputy superintendent.** The Deputy Superintendent of State Police shall:

(1) Act as the head of the Department of State Police in the absence or incapacity of the Superintendent of State Police; and

(2) Perform such duties as the superintendent prescribes. [Amended by 2011 c.547 §13]

**181.250 Oregon State Police.** The Superintendent of State Police shall:

(1) Appoint a state police force to be known as the Oregon State Police, consisting of commissioned officers, noncommissioned officers and troopers;

(2) Arrange for the examination and enlistment of applicants to the state police; and

(3) Establish ranks or grades in the state police. [Amended by 1971 c.467 §6; 2011 c.547 §14]

**181.260 Qualifications for appointment and reappointment of state police; special officers; neighboring states.** (1) A person appointed a member of the state police must be:

(a) A citizen of the United States.

(b) Of good health and good moral character.

(c) Over the age of 21 years.

(2)(a) Except as provided in paragraph (b) of this subsection, a person may not be appointed a member of the state police if the person has not established satisfactory evidence of qualifications by passing a physical examination based on the standard provided by the rules and regulations of the United States Army and such psychological testing and mental examinations as the Superintendent of State Police considers necessary as a condition of employment.

(b) When, in the judgment of the superintendent, the good of the state police requires it, the superintendent may waive the physical standard described in paragraph (a) of this subsection.

(3) A member who voluntarily withdraws from the state police without the consent of the superintendent and members removed from the state police for cause are ineligible for reappointment, except as expressly authorized by the superintendent.

(4) The superintendent may appoint police officers from a neighboring state to serve as special state police officers subject to the following conditions:

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

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

(c) The officers do not receive separate compensation from the State of Oregon for their services.

(d) There is a reciprocal agreement pursuant to which the Superintendent of State Police authorizes a member of the Oregon State Police to assist the neighboring state's police officers under the same 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 state law enforcement agencies in neighboring states for the purpose of providing assistance to the Oregon State Police and the state law enforcement agency in the neighboring state in carrying out major operations and responding to law enforcement emergencies in areas near the Oregon border with the neighboring state. [Amended by 1985 c.411 §1; 1993 c.594 §5; 2011 c.547 §15]

**181.263 Appointment of employees of department as special state police officers.** (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** [1971 c.467 §25b; 1977 c.258 §1; 1993 c.594 §2; repealed by 2011 c.547 §48]

**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** [Amended by 1971 c.467 §16; repealed by 2011 c.547 §48]

**181.300** [Amended by 1971 c.467 §17; repealed by 2011 c.547 §48]

**181.310** [Amended by 1971 c.467 §18; repealed by 2011 c.547 §48]

**181.320** [Amended by 1971 c.467 §19; repealed by 2011 c.547 §48]

**181.330** [Amended by 1989 c.980 §10; repealed by 2011 c.547 §48]

**181.340** [Amended by 1971 c.467 §20; repealed by 2011 c.547 §48]

**181.350** [Amended by 1979 c.772 §14; repealed by 2011 c.547 §48]

**181.360** [Amended by 1971 c.467 §24; 2001 c.870 §13; repealed by 2011 c.547 §48]

**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 activities and time spent in performance of duties.** The Oregon State Police shall:

(1) Keep records of the activities engaged in and the time spent in the performance of their duties; and

(2) Report the activities and time to the Superintendent of State Police at such times as the superintendent directs. [Amended by 1957 c.521 §4; 1959 c.480 §3; 2011 c.547 §16]

**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]

**181.428 State Police Tobacco Law Enforcement Fund.** The State Police Tobacco Law Enforcement Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the State Police Tobacco Law Enforcement Fund shall be credited to the State Police Tobacco Law Enforcement Fund. Moneys in the State Police Tobacco Law Enforcement Fund are continuously appropriated to the Department of State Police for use in carrying out the program described in ORS 181.430. [2012 c.50 §1]

**Note:** 181.428 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.

**181.430 Department to administer program to enforce laws discouraging use of tobacco products by minors; rules.** (1) As used in this section, "tobacco products" has the meaning given that term in ORS 431.840.

(2) The Oregon Health Authority may apply for and accept moneys from the United States Government or other public or private sources for utilization of those moneys by the Department of State Police in accordance with any federal restrictions or other funding source restrictions to carry out the duties, functions and powers of the department under this section. Moneys received as provided under this subsection shall be deposited into the State Treasury to the credit of the State Police Tobacco Law Enforcement Fund. Moneys that are subject to funding source conditions or restrictions shall be placed in separate subaccounts of the fund and accounted for separately from other fund moneys.

(3) The department shall establish and administer a program employing retired state police officers who are active reserve officers for the purpose of enforcing laws designed to discourage the use of tobacco products by persons under 18 years of age. The department shall periodically consult with the authority to maximize program qualification for federal funds to enforce laws designed to

discourage the use of tobacco products by persons under 18 years of age, including but not limited to grants under P.L. 102-321, section 1926 (42 U.S.C. 300x-26). Service by a retired state police member under this section is subject to ORS 238.082. The department may not use the services of a retired state police officer under this section to displace an active state police member from the enforcement of laws concerning tobacco products.

(4) The department shall adopt rules for carrying out subsection (3) of this section. [2012 c.50 §2]

**Note:** 181.430 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.

**181.433 Commissioning of humane special agents; rules.** (1) At the request of a humane investigation agency, the Superintendent of State Police shall commission a designated employee of the humane investigation agency as a humane special agent, if:

(a) The employee is certified, or is eligible for certification, as a police officer under the provisions of ORS 181.610 to 181.712;

(b) The superintendent determines that the employee is fit and qualified to perform the duties of a humane special agent;

(c) The humane investigation agency agrees in writing to save harmless and indemnify the State of Oregon and its officers, employees and agents from and against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission of the employee or the humane investigation agency, that relates to or results from the authority granted by the commission; and

(d) The humane investigation agency furnishes to the superintendent a copy of an insurance policy, purchased and maintained by the humane investigation agency, that the superintendent determines is sufficient to satisfy any tort claim or demand described in paragraph (c) of this subsection.

(2) Before granting a commission under this section, the superintendent may require the employee to 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 of a humane special agent.

(3) The superintendent shall suspend or revoke a commission granted under this section if the superintendent determines that:

(a) The certification of the employee as a police officer has lapsed or been revoked pursuant to ORS 181.661, 181.662 and 181.664

(1), and has not been reissued under ORS 181.664 (2);

(b) The employee has been separated from employment with the humane investigation agency; or

(c) The employee has abused the commission.

(4) Except as otherwise provided in subsection (3) of this section, an employee of a humane investigation agency commissioned under this section holds the commission at the pleasure of the superintendent. The superintendent may suspend or revoke a commission granted under this section at any time for good cause, as determined by the superintendent. If the superintendent revokes a commission granted under this section, the employee of the humane investigation agency is entitled only to an informal opportunity to be heard by the superintendent, for the purposes of explaining any factual circumstances related to the revocation and attempting to persuade the superintendent to reverse the decision to revoke the commission.

(5) Humane special agents commissioned under this section serve at the expense of the humane investigation agency employing the agent.

(6) The superintendent may adopt rules to carry out the provisions of this section. The rules may include a description of the circumstances in which a humane special agent is prohibited from carrying a firearm while engaged in the enforcement of animal welfare laws.

(7) As used in this section:

(a) "Animal welfare laws" means:

(A) ORS 167.310 to 167.351, 167.352, 167.355, 167.360 to 167.372, 167.374, 167.376, 167.385, 167.388, 167.390 and 167.426 to 167.439; and

(B) ORS 164.043, 164.045, 164.055, 164.057, 164.075, 164.345, 164.354 and 164.365, if the subject of the crime is an animal.

(b) "Humane investigation agency" means a private, nonprofit animal care agency that has maintained an animal welfare investigation department for at least five years and has had officers employed as special agents under ORS 131.805. [2012 c.67 §1]

**Note:** 181.433 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.

**181.435 Humane special agents to enforce animal welfare laws under direction of law enforcement agency; notice required of allegation of abuse of commission.** (1) A humane special agent shall work cooperatively with law enforcement agencies

in enforcing animal welfare laws and shall defer to the direction of a law enforcement agency having jurisdiction over the commission of a violation of animal welfare laws.

(2) If a law enforcement agency or a humane investigation agency learns of an allegation that a humane special agent has abused the agent's commission, or otherwise has reasonable cause to believe that the commission of a humane special agent is subject to suspension or revocation under ORS 181.433 (3), the agency shall promptly notify the Superintendent of State Police.

(3) As used in this section:

(a) "Animal welfare laws" and "humane investigation agency" have the meanings given those terms in ORS 181.433.

(b) "Humane special agent" means a person who is commissioned under ORS 181.433 and is engaged in the enforcement of animal welfare laws.

(c) "Law enforcement agency" includes the Department of State Police, a county sheriff's office, a district attorney's office and a municipal police department. [2012 c.67 §2]

**Note:** 181.435 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.

**181.440 Eligibility of towing business to be placed on department list; rules.** 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]

**(Temporary provisions relating to authorized tribal police officers)**

**Note:** Sections 1 to 4 and 58, chapter 644, Oregon Laws 2011, provide:

**Sec. 1.** As used in sections 1 to 4 of this 2011 Act:

(1) "Authorized tribal police officer" means a tribal police officer who is acting:

(a) In accordance with sections 1 to 4 of this 2011 Act; and

(b) While employed by a tribal government that is in compliance with sections 1 to 4 of this 2011 Act.

(2) "Tribal government" means a federally recognized sovereign tribal government whose borders lie within this state or an intertribal organization formed by two or more of those governments.

(3) "Tribal police officer" means an employee of a tribal government whose duties include the enforcement of criminal law. [2011 c.644 §1; 2011 c.644 §7]

**Sec. 2.** A tribal police officer is eligible to act as an authorized tribal police officer if the officer:

(1) Is acting within the scope of employment as a tribal police officer;

(2) Is certified as a police officer under the provisions of ORS 181.610 to 181.712;

(3) Is in compliance with any rules adopted by the Department of Public Safety Standards and Training under sections 1 to 4 of this 2011 Act; and

(4) Is employed by a tribal government that:

(a) Is in compliance with the requirements of ORS 181.610 to 181.712 applicable to a law enforcement unit as defined in ORS 181.610;

(b) Is in compliance with sections 1 to 4 of this 2011 Act and any rules adopted by the department under sections 1 to 4 of this 2011 Act;

(c) Has submitted to the department the resolution and documents described in section 3 of this 2011 Act;

(d) Has adopted a provision of tribal law:

(A) That requires the tribal government to participate in, and be bound by, a deadly physical force plan approved under ORS 181.781 to 181.796, to the same extent that the county sheriff is required to participate in, and be bound by, the plan;

(B) That requires the tribal government to retain records related to the exercise of the authority granted to authorized tribal police officers under sections 1 to 4 of this 2011 Act in a manner substantially similar to the manner in which the provisions of ORS 192.005 to 192.170 require the Department of State Police to retain public records;

(C) That provides members of the public with the right to inspect records of the tribal government related to the exercise of the authority granted to authorized tribal police officers under sections 1 to 4 of this 2011 Act in a manner substantially similar to the manner in which the provisions of ORS 192.410 to 192.505 provide members of the public with the right to inspect public records of the Department of State Police;

(D) That requires the tribal government to preserve biological evidence in a manner substantially similar to sections 2 to 6, chapter 275, Oregon Laws 2011 [133.705 to 133.717], when the biological evidence:

(i) Is collected as part of a criminal investigation, conducted by an authorized tribal police officer, into a covered offense as defined in section 2, chapter 275, Oregon Laws 2011 [133.705]; or

(ii) Is otherwise in the possession of the tribal government and reasonably may be used to incriminate or exculpate any person for a covered offense as defined in section 2, chapter 275, Oregon Laws 2011; and

(E) That waives sovereign immunity, in a manner similar to the waiver expressed in ORS 30.260 to 30.300, as to tort claims asserted in the tribal government's court that arise from the conduct of an authorized tribal police officer. The waiver described in this subparagraph:

(i) Must apply to the conduct of an authorized tribal police officer that occurs while the provision of tribal law is in effect;

(ii) Must allow for recovery against the tribal government in an amount equal to or greater than the amounts described in ORS 30.260 to 30.300 that are applicable to a local public body;

(iii) May require that the claim be asserted in accordance with any applicable tort claims procedures of the tribal government; and

(iv) May exclude claims that could be brought in federal court under the Federal Tort Claims Act; and

(e) Has adopted or is exempt from adopting, in accordance with this paragraph, a written pretrial discovery policy that describes how a tribal government and its authorized tribal police officers will assist the district attorney, in criminal prosecutions conducted in state court in which an authorized tribal police officer arrested or cited the defendant, in meeting the pretrial discovery obligations imposed on the state by ORS 135.805 to 135.873. The process for adopting, and deter-

mining whether a tribal government is exempt from adopting, a written pretrial discovery policy is as follows:

(A) A tribal government may request in writing that the sheriff of a county with land that is contiguous to the land of the tribal government provide the tribal government with a copy of any written pretrial discovery policy adopted by the sheriff that describes how the sheriff's office assists the district attorney in meeting the pretrial discovery obligations imposed by ORS 135.805 to 135.873. Not later than 30 days after receiving the request, the sheriff shall provide the tribal government with a copy of the policy or notify the tribal government that the sheriff has not adopted the policy.

(B) If a tribal government fails to submit a written request to each sheriff of a county that is contiguous to the land of the tribal government or if each sheriff has adopted a written pretrial discovery policy described in subparagraph (A) of this paragraph, the tribal government shall, not later than 90 days after the effective date of this 2011 Act [July 22, 2011], adopt a written pretrial discovery policy.

(C) A tribal government may create and adopt a written pretrial discovery policy or may adopt the written pretrial discovery policy adopted by the sheriff of a county with land that is contiguous to the land of the tribal government.

(D) If the sheriff of any county with land that is contiguous to the land of the tribal government has not, on the date the sheriff receives a request described in subparagraph (A) of this paragraph, adopted a written pretrial discovery policy, the tribal government is exempt from adopting a written pretrial discovery policy. [2011 c.644 §2]

**Sec. 3.** (1) The Legislative Assembly finds and declares that the purpose of sections 1 to 4 of this 2011 Act is to provide authorized tribal police officers with the ability to exercise the powers of, and to receive the same authority and protections provided to, law enforcement officers under the laws of this state, without incurring any additional costs or loss of revenue to the State of Oregon or a political subdivision of the State of Oregon.

(2) When an authorized tribal police officer issues a citation for the commission of an offense for which the State of Oregon has jurisdiction and the tribal government employing the officer does not have jurisdiction, the citation must:

(a) Summon the person cited to appear in the circuit court of the county in which the offense was committed; and

(b) Be submitted to the district attorney of the county in which the offense was committed.

(3) A tribal government that employs tribal police officers may submit to the Department of Public Safety Standards and Training a resolution declaring that the tribal government is self-insured or has purchased and maintains in force:

(a) Public liability and property damage insurance for vehicles operated by authorized tribal police officers; and

(b) Police professional liability insurance from a company licensed to sell insurance in this state.

(4) The tribal government shall attach the following documents to the resolution submitted to the department under subsection (3) of this section:

(a) A declaration that the tribal government has complied with the requirements of sections 1 to 4 of this 2011 Act; and

(b)(A) A full copy of the public liability and property damage insurance policy for vehicles operated by the tribal government's authorized tribal police officers and a full copy of the police professional liability in-

urance policy from a company licensed to sell insurance in this state; or

(B) A description of the tribal government's self-insurance program.

(5) A self-insurance program or insurance policy described in subsections (3) and (4) of this section must provide:

(a) That the self-insurance program or insurance policy is available to satisfy settlements and judgments arising from the tortious conduct of authorized tribal police officers in an amount equal to or greater than the amounts described in ORS 30.260 to 30.300 that are applicable to a local public body; and

(b) That the tribal government and the insurance carrier will not raise the defense of sovereign immunity for claims that are asserted in the tribal government's court and involve the tortious conduct of an authorized tribal police officer, provided that the claims:

(A) Are asserted in accordance with any applicable tort claims procedures of the tribal government; and

(B) Could not be brought in federal court under the Federal Tort Claims Act.

(6) If, after submitting the resolution and documents described in subsections (3) and (4) of this section, there is a material change in the tribal government's self-insurance program or insurance policy, the tribal government shall file with the department a written description of the change within 30 days of the effective date of the change.

(7) The department shall maintain a file of submissions made by tribal governments under this section. The department shall permit inspection and copying of the submissions in accordance with ORS 192.410 to 192.505.

(8) For purposes of ORS 30.260 to 30.300, an authorized tribal police officer is not an officer, employee or agent of the State of Oregon or of any other public body as defined in ORS 174.109. A public body or an officer, employee or agent of a public body is not liable for certifying a tribal police officer under ORS 181.610 to 181.712, for accepting for filing the resolution and documents described in subsections (3) and (4) of this section or for the acts or omissions of an authorized tribal police officer.

(9) Nothing in sections 1 to 4 of this 2011 Act:

(a) Affects the authority of a county sheriff to appoint duly commissioned police officers as deputy sheriffs authorized to enforce the criminal and traffic laws of the State of Oregon;

(b) Affects the existing status and sovereignty of tribal governments whose traditional lands and territories lie within the borders of the State of Oregon as established under the laws of the United States; or

(c) Authorizes a tribal government to receive funds from, or in lieu of, the State of Oregon or a political subdivision of the State of Oregon.

(10) A tribal government or tribal police department is not a seizing agency for purposes of ORS 131.550 to 131.600 or ORS chapter 131A.

(11) The department may adopt rules to carry out the provisions of sections 1 to 4 of this 2011 Act and shall require tribal governments that employ authorized tribal police officers to reimburse the department for any costs incurred in carrying out the provisions of sections 1 to 4 of this 2011 Act. [2011 c.644 §3; 2011 c.644 §6]

**Sec. 4.** (1) Not later than 90 days after the effective date of this 2011 Act [July 22, 2011], the Superintendent of State Police, the sheriff of any county with land that is contiguous to the land of a tribal government, or the chief executive officer of any other local law enforcement unit whose political boundaries are contiguous to the land of a tribal government, may submit a written

application requesting that the tribal government authorize nontribal police officers employed by the applicant to exercise all or a portion of the powers of a tribal police officer while on tribal land. The application shall be addressed to the tribal government and shall propose terms and conditions under which the nontribal police officers employed by the applicant would be eligible to exercise all or a portion of the powers of a tribal police officer while on tribal lands. The application:

(a) Must name each proposed nontribal police officer employed by the applicant;

(b) Must describe how the nontribal police officers employed by the applicant will comply with requirements established by the tribal government that are substantially similar to the requirements necessary for a tribal police officer to act as an authorized tribal police officer under sections 1 to 4 of this 2011 Act;

(c) Must describe how the political entity that employs the nontribal police officers will comply with requirements established by the tribal government that are substantially similar to the requirements necessary for a tribal government to employ authorized tribal police officers under sections 1 to 4 of this 2011 Act;

(d) May propose that the tribal government authorize nontribal police officers employed by the applicant to enforce state or tribal law while on tribal lands;

(e) May propose that the tribal government adopt provisions of state criminal law into the tribal code; and

(f) Must indicate that the nontribal police officers employed by the applicant will complete, before exercising all or a portion of the powers of a tribal police officer while on tribal land, any training and educational prerequisites specified by the tribal government, including instruction in the tribal government's history, culture, sovereign authority, tribal code and court procedures.

(2) When a citation for the commission of a tribal offense is issued by a nontribal police officer employed by an applicant and authorized by a tribal government to exercise all or a portion of the powers of a tribal police officer as to tribal members suspected of committing violations of tribal law while on tribal land, the citation must:

(a) Summon the person cited to appear in the tribal court of the tribal government on whose lands the offense was committed; and

(b) Be submitted to the prosecutor of the tribal government on whose lands the tribal offense was committed.

(3)(a) A tribal government may adopt a provision of tribal law providing that, for purposes of the Tort Claims Act of the tribal government, a nontribal police officer employed by an applicant and authorized by a tribal government to exercise all or a portion of the powers of a tribal police officer while on tribal land is not an officer, employee or agent of the tribal government.

(b) Unless the law of the tribal government provides otherwise, a tribal government is not liable for authorizing a nontribal police officer employed by an applicant to exercise all or a portion of the powers of a tribal police officer while on tribal land or for the acts or omissions of a nontribal police officer authorized under this section.

(4) Nothing in this section:

(a) Affects the authority of the tribal government to appoint any person as a tribal police officer for any purpose;

(b) Affects the existing status and sovereignty of the State of Oregon or the tribal government; or

(c) Authorizes the State of Oregon or any of its political subdivisions to receive funds from, or in lieu of, a tribal government.

(5) A tribal government that authorizes a nontribal police officer employed by an applicant to exercise all or a portion of the powers of a tribal police officer while on tribal land may require the applicant to reimburse the tribal government for any costs incurred in carrying out the provisions of this section.

(6)(a) A tribal government that employs, or seeks to employ, authorized tribal police officers under sections 1 to 4 of this 2011 Act, no later than 90 days after receiving an application under subsection (1) of this section, or within such additional time as the tribal government determines is appropriate, shall accept, accept with modifications or reject an application filed under this section.

(b) Before acting on an application, a tribal government that employs, or seeks to employ, authorized tribal police officers shall engage in good faith consultation with the applicant concerning the terms and conditions of the proposed authorization of nontribal police officers.

(7)(a) If the tribal government rejects the application, or accepts the application with modifications that are rejected by the applicant:

(A) The applicant and a tribal government that employs, or seeks to employ, authorized tribal police officers shall, from the date of rejection until June 1, 2012, collect individualized data on the frequency of instances known to the applicant or the tribal government in which nontribal police officers employed by the applicant encountered, but were forced to release without further action due to a lack of legal authority, persons suspected of committing violations of the law while on tribal lands;

(B) The applicant shall promptly report any such instance to the tribal government and the tribal government shall promptly report any such instance to the applicant;

(C) The applicant and tribal government shall classify the suspected offenses according to their potential to endanger public safety; and

(D) The tribal government and applicant shall engage in good faith consultation concerning the collection and classification of data; and

(b) No later than September 1, 2013, the tribal government shall report to the Legislative Assembly, in the manner provided in ORS 192.245, on the data collected under paragraph (a) of this subsection. The tribal government and the applicant shall engage in good faith consultation concerning the contents of the report. [2011 c.644 §4]

**Sec. 58.** (1) Sections 1 to 4 of this 2011 Act are repealed on July 1, 2015.

(2) The amendments to ORS 40.275, 90.440, 133.005, 133.525, 133.721, 133.726, 136.595, 147.425, 153.005, 161.015, 163.730, 165.535, 181.010, 181.610, 181.781, 181.783, 181.796, 348.270, 414.805, 419B.902, 420.905, 801.395, 811.720 and 830.005 by sections 37 to 57 and 69 to 75 of this 2011 Act become operative on July 1, 2015.

(3) The repeal of sections 1 to 4 of this 2011 Act by subsection (1) of this section and the amendments to ORS 40.275, 90.440, 133.005, 133.525, 133.721, 133.726, 136.595, 147.425, 153.005, 161.015, 163.730, 165.535, 181.010, 181.610, 181.781, 181.783, 181.796, 348.270, 414.805, 419B.902, 420.905, 801.395, 811.720 and 830.005 by sections 37 to 57 and 69 to 75 of this 2011 Act:

(a) Return the law applicable to tribal police officers to the state in which the law existed on the date immediately before the effective date of this 2011 Act [July 22, 2011]; and

(b) Do not deprive tribal police officers of any power, authority or protection provided to tribal police



officers by law on the date immediately before the effective date of this 2011 Act. [2011 c.644 §58; 2011 c.644 §77]

- 181.450** [1989 c.725 §2; repealed by 2011 c.547 §48]
- 181.455** [1989 c.725 §4; repealed by 2011 c.547 §48]
- 181.460** [1989 c.725 §5; repealed by 2011 c.547 §48]
- 181.465** [1989 c.725 §3; repealed by 2011 c.547 §48]
- 181.470** [1989 c.725 §6; repealed by 2011 c.547 §48]
- 181.475** [1989 c.725 §7; repealed by 2011 c.547 §48]
- 181.480** [1989 c.725 §8; repealed by 2011 c.547 §48]
- 181.485** [1989 c.725 §9; repealed by 2011 c.547 §48]
- 181.490** [1989 c.725 §10; repealed by 2011 c.547 §48]
- 181.495** [Formerly 184.413; repealed by 2011 c.547 §48]
- 181.496** [Formerly 184.415; repealed by 2011 c.547 §48]
- 181.497** [Formerly 184.417; repealed by 2011 c.547 §48]

### MISSING PERSONS CLEARINGHOUSE

#### **181.505 Establishment and maintenance of missing persons clearinghouse.**

(1) The Oregon State Police shall establish and maintain a missing children and adults 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 and adults.

(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 and adults.

(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; 2007 c.500 §8]

**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 missing children and adults clearinghouse established pursuant to ORS 181.505 shall:

(1) Provide information and training to local law enforcement agencies 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 and adults to advise the administrator 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 and adults. [1989 c.1059 §2; 2007 c.500 §9]

**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) Immediately upon the arrest of a person for a crime for which criminal offender information must be provided under ORS 181.515, a law enforcement agency shall:

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

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

(c) If the arrest is not disposed of by the agency, cause the disposition report to be forwarded 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 department 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; 2007 c.71 §55; 2011 c.547 §17]

**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]

**181.516 Electronic fingerprint capture technology required; exceptions; Oregon Department of Administrative Services to develop contract for electronic fingerprint capture services; rules.** (1)(a) Except as provided in subsection (2) of this section, the Department of State Police and any other governmental agency authorized to report, receive or disseminate criminal offender information shall use electronic fingerprint capture technology to take and submit a person's fingerprints for purposes of conducting criminal records checks under ORS 181.533, 181.534 or 267.237 or for any other purpose authorized by law.

(b) The department may adopt by rule exemptions from the requirement described in paragraph (a) of this subsection.

(2)(a) This section applies to the department only with respect to the administration of criminal records checks under ORS 181.533, 181.534 and 267.237.

(b) This section does not apply to a criminal justice agency, as defined in ORS 181.010, that is authorized by federal law to receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

(3) To meet the requirements of this section, the department and other governmental agencies described in subsection (1) of this section may:

(a) Directly provide electronic fingerprint capture services; or

(b) Enter into a contract described in subsection (4) of this section for the provision of electronic fingerprint capture services.

(4) The Oregon Department of Administrative Services shall develop a standard contract by which the Department of State Police and other governmental agencies described in subsection (1) of this section may contract for the provision of electronic fingerprint capture services. Contracts developed under this subsection must account for the variety of uses and levels of service necessary to accommodate the needs of the Department of State Police, other governmental agencies described in subsection (1) of this section, qualified entities as defined in ORS 181.533, qualified entities as defined in ORS 181.537, qualified entities as defined in ORS 267.237 and any other entity required by law or rule to conduct criminal records checks for purposes not related to the administration of the criminal justice system. [2013 c.693 §1]

**Note:** 181.516 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:** Sections 2 and 4, chapter 693, Oregon Laws 2013, provide:

**Sec. 2.** (1) For purposes of this section, "agency designated by the State of Oregon to report, receive or disseminate criminal offender information" means:

(a) An authorized agency, as defined in ORS 181.533;

(b) An authorized agency, as defined in ORS 181.534; and

(c) The Department of Human Services, the Oregon Health Authority and the Employment Department, as authorized by ORS 181.537.

(2) Each agency designated by the State of Oregon to report, receive or disseminate criminal offender information shall conduct a study of:

(a) The agency's processes related to fingerprint capture;

(b) Whether those processes require fingerprinting only:

(A) When required by federal law or regulation;

(B) For identity verification; or

(C) When equivalent verifying information is not available through other means; and

(c) Steps that the agency may take to reduce repetitive fingerprint capture.

(3) Each agency designated by the State of Oregon to report, receive or disseminate criminal offender information shall report the results of the study to the interim committees of the Legislative Assembly related to general government protection on or before October 1, 2014. [2013 c.693 §2]

**Sec. 4.** Section 2 of this 2013 Act is repealed on January 2, 2015. [2013 c.693 §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 in a manner and format determined by the State Court Administrator after consultation with the department. [1975 c.548 §6a (enacted in lieu of 181.520); 1983 c.763 §56; 1987 c.553 §2; 2007 c.71 §56; 2011 c.547 §18]

**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), 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; 2009 c.386 §2]

**181.530 Report of release or escape from state institution of certain inmates.**

(1)(a) The superintendent of any institution of this state shall notify the Department of State Police prior to the release or immediately after the escape from the institution of any person committed to the institution for a crime for which a report is required or under civil commitment as a sexually dangerous person.

(b) The notice required under this subsection must 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 under subsection (1) of this section, the department 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; 2007 c.71 §57; 2011 c.547 §19]

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

(a) "Authorized agency" means the Department of State Police or other governmental agency designated by the State of Oregon 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 must determine whether the entity requesting the criminal records check is a qualified entity;

(b) The qualified entity must establish criteria, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181.547, 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 use the criteria provided to the authorized agency by the qualified entity under subsection (3)(c) of this section and rules adopted by the Oregon Department of Administrative Services under ORS 181.547 to make a fitness determination. 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 the federal bureau must be made through the authorized agency or the federal 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; 2011 c.547 §20; 2013 c.285 §2]

**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.

**181.534 Criminal records check; authorized agencies; rules.** (1) As used in this section:

(a) “Authorized agency” means state government as defined in ORS 174.111 and the Oregon State Bar. “Authorized agency” does not include:

(A) The Oregon State Lottery Commission or the Oregon State Lottery; or

(B) A criminal justice agency, as defined in ORS 181.010, that is authorized by federal law to receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

(b) “Subject individual” means a person from whom an authorized agency may require fingerprints pursuant to statute for the purpose of enabling the authorized agency to request a state or nationwide criminal records check.

(2) An authorized agency may request that the Department of State Police conduct a criminal records check on a subject individual for non-criminal justice purposes. If a nationwide criminal records check of a subject individual is necessary, the authorized agency may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(3) The Department of State Police shall provide the results of a criminal records check conducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

(4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to conduct the criminal records check

and may not keep any record of the fingerprints. If the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of State Police 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 destroy the fingerprint cards and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(6) If only a state criminal records check is conducted, the Department of State Police shall destroy the fingerprint cards after the criminal records check is completed and the results of the criminal records check provided to the authorized agency and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(7) An authorized agency may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(8) An authorized agency and the Department of State Police shall permit a subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual’s own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual’s own state and national criminal offender records.

(9) Each authorized agency, in consultation with the Department of State Police, shall adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules shall include but need not be limited to:

(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181.547 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181.547.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

(10) The Department of State Police shall verify that an authorized agency has adopted the rules required by subsection (9) of this section.

(11)(a) Except as otherwise provided in ORS 181.612, 342.143, 342.223, 443.735 and 475.304 and paragraph (b) of this subsection, an authorized agency, using the rules adopted by the authorized agency under subsection (9) of this section and the rules adopted by the Oregon Department of Administrative Services under ORS 181.547, shall determine whether a subject individual is fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit, based on the criminal records check obtained pursuant to this section, on any false statements made by the individual regarding the criminal history of the individual and on any refusal to submit or consent to a criminal records check including fingerprint identification. If a subject individual is determined to be unfit, then the individual may not hold the position, provide services, be employed or be granted a license, certification, registration or permit.

(b) An individual prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to a determination of fitness as a subject individual under paragraph (a) of this subsection.

(c)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness determination of an individual under this subsection may request results of a previously made fitness determination from an authorized agency that has already made a fitness determination for the individual. An authorized agency that receives a request under this paragraph shall provide the requested information.

(B) An authorized agency may make a request under this paragraph only for individuals:

(i) Who are applying to hold a position, provide services, be employed or be granted a license, certification, registration or permit;

(ii) Who are in a category of individuals as specified by the Oregon Department of

Administrative Services under ORS 181.547; and

(iii) For whom a fitness determination has already been made.

(12) Except as otherwise provided in ORS 181.612, in making the fitness determination under subsection (11) of this section, the authorized agency shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that 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, registration or permit. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(13) An authorized agency and an employee of an authorized agency acting within the course and scope of employment are immune from any civil liability that might otherwise be incurred or imposed for determining, pursuant to subsection (11) of this section, that a subject individual is fit or not fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit. An authorized agency and an employee of an authorized agency acting within the course and scope of employment who in good faith comply with this section are not liable for employment-related decisions based on determinations made under subsection (11) of this section. An authorized agency or an employee of an authorized agency acting within the course and scope of employment is not liable for defamation or invasion of privacy in connection with the lawful dissemination of information lawfully obtained under this section.

(14)(a) Each authorized agency shall establish by rule a contested case process by which a subject individual may appeal the

determination that the individual is fit or not fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit on the basis of information obtained as the result of a criminal records check conducted 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 of State Police or Federal Bureau of Investigation must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process required by this paragraph.

(b) A subject individual who is employed by an authorized agency and who is determined not to be fit for a position on the basis of information obtained as the result of a criminal records check conducted pursuant to this section may appeal the determination through the contested case process adopted under this subsection or applicable personnel rules, policies and collective bargaining provisions. An individual's decision to appeal a determination through personnel rules, policies and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process.

(c) An individual prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to appeal a determination under paragraph (a) or (b) of this subsection.

(15) Criminal offender information is confidential. Authorized agencies and 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.

(16) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny any applicable position, authority to provide services, license, certification, registration or permit.

(17) If an authorized agency requires a criminal records check of employees, prospective employees, contractors, vendors or volunteers or applicants for a license, certification, registration or permit, the application forms of the authorized agency must contain a notice that the person is subject to fingerprinting and a criminal records check. [2005 c.730 §2; 2012 c.70 §18; 2013 c.285 §3]

**Note:** 181.534 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** [1975 c.549 §19; repealed by 2005 c.730 §77]

**181.536** [1997 c.753 §§15,16; 1999 c.59 §37; 1999 c.1057 §2; repealed by 2005 c.730 §77]

**181.537 Authority of Department of Human Services, Oregon Health Authority and Employment Department to require fingerprints; qualified entities; rules.** (1) 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.

(b) "Native American tribe" has the meaning given that term in ORS 181.538 (4).

(c) "Qualified entity" means a community mental health program, a community developmental disabilities program, a local health department, the government of a Native American tribe or an agency of a Native American tribe responsible for child welfare 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.

(2) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Human Services, the Oregon Health Authority and the Employment Department may require the fingerprints of a person:

(a) Who is employed by or is applying for employment with either department or the authority;

(b) Who provides or seeks to provide services to either department or the authority as a contractor, subcontractor, vendor or volunteer who:

(A) May have contact with recipients of care;

(B) Has access to personal information about employees of either department or the authority, recipients of care from either department or the authority or members of the public, including Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information or criminal background information;

(C) Has access to information the disclosure of which is prohibited by state or federal laws, rules or regulations, or information that is defined as confidential under state or federal laws, rules or regulations;

(D) Has access to property held in trust or to private property in the temporary custody of the state;

(E) Has payroll or fiscal functions or responsibility for:

(i) Receiving, receipting or depositing money or negotiable instruments;

(ii) Billing, collections, setting up financial accounts or other financial transactions; or

(iii) Purchasing or selling property;

(F) Provides security, design or construction services for government buildings, grounds or facilities;

(G) Has access to critical infrastructure or secure facilities information; or

(H) Is providing information technology services and has control over or access to information technology systems;

(c) For the purposes of licensing, certifying, registering or otherwise regulating or administering programs, persons or qualified entities that provide care;

(d) For the purposes of employment decisions by or for qualified entities that are regulated or otherwise subject to oversight by the Department of Human Services or the Oregon Health Authority and that provide care;

(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 Oregon Health Authority, employ persons to operate motor vehicles for the transportation of medical assistance program clients; or

(f) For the purposes of licensure, certification or registration of foster homes by the government of a Native American tribe or an agency of a Native American tribe responsible for child welfare.

(3) The Department of Human Services and the Oregon Health Authority may conduct criminal records checks on a person through the Law Enforcement Data System maintained by the Department of State Police, if deemed necessary by the Department of Human Services or the Oregon Health Authority to protect children, elderly persons, persons with disabilities or other vulnerable persons.

(4) The Department of Human Services and the Oregon Health Authority may furnish to qualified entities, in accordance with the rules of the Department of Human Services or the Oregon Health Authority and the rules of the Department of State Police, information received from the Law Enforcement Data System. However, any criminal offender records and information furnished to the Department of Human Services or the Oregon Health Authority by the Federal Bureau of Investigation through the Depart-

ment of State Police may not be disseminated to qualified entities.

(5)(a) Except as otherwise provided in ORS 443.735 and 475.304, a qualified entity, using rules adopted by the Department of Human Services or the Oregon Health Authority under ORS 181.534 (9) and rules adopted by the Oregon Department of Administrative Services under ORS 181.547, shall determine under this section whether a person 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 records check obtained pursuant to ORS 181.534, any false statements made by the person regarding the criminal history of the person and any refusal to submit or consent to a criminal records check including fingerprint identification. If a person is determined to be unfit, then that person may not hold the position, provide services or be employed, licensed, certified or registered.

(b) A person prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to a determination of fitness under paragraph (a) of this subsection.

(6) In making the fitness determination under subsection (5) of this section, 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 person'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.

(7) The Department of Human Services, the Oregon Health Authority and the Employment Department may make fitness determinations based on criminal offender records and information furnished by the Federal Bureau of Investigation through the Department of State Police only as described in ORS 181.534.

(8) A qualified entity and an employee of a qualified entity acting within the course

and scope of employment are immune from any civil liability that might otherwise be incurred or imposed for determining pursuant to subsection (5) of this section that a person is fit or not fit to hold a position, provide services or be employed, licensed, certified or registered. A qualified entity, employee of a qualified entity acting within the course and scope of employment and an employer or employer's agent who in good faith comply with this section and the decision of the qualified entity or employee of the qualified entity acting within the course and scope of employment 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. An employee of the state acting within the course and scope of employment is not liable for defamation or invasion of privacy in connection with the lawful dissemination of information lawfully obtained under this section.

(9) The Department of Human Services and the Oregon Health Authority, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181.547, shall develop systems that maintain information regarding criminal records checks in order to minimize the administrative burden imposed by this section and ORS 181.534. Records maintained under this subsection are confidential and may not be disseminated except for the purposes of this section and in accordance with the rules of the Department of Human Services, the Oregon Health Authority and the Department of State Police. Nothing in this subsection permits the Department of Human Services to retain fingerprint cards obtained pursuant to this section.

(10) In addition to the rules required by ORS 181.534, the Department of Human Services and the Oregon Health Authority, in consultation with the Department of State Police, shall adopt rules:

(a) Specifying which qualified entities are subject to this section;

(b) Specifying which qualified entities may request criminal offender information;

(c) Specifying which qualified entities are responsible for deciding, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181.547, whether a subject individual is not fit for a position, service, license, certification, registration or employment; and

(d) Specifying when a qualified entity, in lieu of conducting a completely new criminal records check, may proceed to make a fitness determination under subsection (5) of this section using the information maintained by

the Department of Human Services and the Oregon Health Authority pursuant to subsection (9) of this section.

(11) If a person refuses to consent to the criminal records check or refuses to be fingerprinted, the qualified entity shall deny or terminate the employment of the person, or revoke or deny any applicable position, authority to provide services, employment, license, certification or registration.

(12) 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. [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; 2003 c.14 §79; 2003 c.200 §1; 2005 c.730 §3; 2009 c.595 §159; 2009 c.828 §15; 2012 c.70 §19; 2013 c.57 §1; 2013 c.285 §4]

**Note:** Section 3 (1), chapter 57, Oregon Laws 2013, provides:

**Sec. 3.** (1) The amendments to ORS 181.537 by section 1 of this 2013 Act apply to foster homes licensed, certified or registered before, on or after the effective date of this 2013 Act [May 9, 2013]. [2013 c.57 §3(1)]

**181.538 Criminal identification information to be furnished 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, 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 an individual or entity with which a Native American tribe intends to contract for the purpose of providing supplies or services related to tribal gaming, or a 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 a 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 an individual who is:

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

(B) Employed or applying for employment with a tribal government or agency responsible for child care, child welfare, law en-

forcement, education, health care, housing or social services;

(C) Licensed, certified or registered, or applying to be licensed, certified or registered, by the government of a Native American tribe or an agency of a Native American tribe to provide foster care for children; or

(D) Living in the home of an individual described in subparagraph (C) of this paragraph. [1995 c.723 §1; 2001 c.871 §4; 2011 c.547 §21; 2013 c.57 §2]

**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.

**Note:** Section 3 (2), chapter 57, Oregon Laws 2013, provides:

**Sec. 3.** (2)(a) The amendments to ORS 181.538 by section 2 (4)(d)(C) of this 2013 Act apply to individuals who are licensed, certified or registered, or applying to be licensed, certified or registered, to provide foster care for children, before, on or after the effective date of this 2013 Act [May 9, 2013].

(b) The amendments to ORS 181.538 by section 2 (4)(d)(D) of this 2013 Act apply to an individual living in the home of an individual described in the amendments to ORS 181.538 by section 2 (4)(d)(C) of this 2013 Act before, on or after the effective date of this 2013 Act. [2013 c.57 §3(2)]

**181.539** [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; 2005 c.512 §27; 2005 c.730 §78; 2007 c.858 §59; repealed by 2007 c.35 §7]

**181.540** [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; renumbered 181.548 in 2003]

**181.541** [2003 c.250 §1; 2005 c.730 §5; renumbered 178.065 in 2005]

**181.545 Voluntary Central Criminal Records Check Registry.** (1) The Department of State Police shall establish a Voluntary Central Criminal Records Check Registry.

(2) An individual who is required to submit to a criminal records check pursuant to ORS 181.533, 181.534, 181.537 or 267.237 may enroll in the registry as provided in this section.

(3)(a) The department shall prescribe by rule the form and manner for enrolling in the registry. The department shall make print and electronic applications for enrollment in the registry available for use by qualified entities under ORS 181.533 and 181.537, authorized agencies under ORS 181.534 and districts under ORS 267.237.

(b) Upon receiving an application for enrollment in the registry, the department shall complete a criminal records check under ORS 181.534. The department shall enroll the individual in the registry if:

(A) The department determines the individual has no criminal history;

(B) The individual has paid the application fee established by the department under subsection (11) of this section; and

(C) The individual has complied with the rules of the department adopted under this section.

(4) The department may conditionally enroll an individual in the registry pending the results of a nationwide criminal records check through the Federal Bureau of Investigation if the individual has met other requirements of the department for enrollment in the registry.

(5) The department shall adopt by rule a process by which an individual may appeal denial of enrollment in the registry or removal from the registry.

(6)(a) A qualified entity under ORS 181.533 or 181.537 may accept evidence of enrollment in the registry from an individual who is enrolled in the registry in lieu of the qualified entity's own requirement of completing a criminal records check.

(b) An authorized agency under ORS 181.534 may accept evidence of enrollment in the registry from an individual who is enrolled in the registry in lieu of the authorized agency's own requirement of completing a criminal records check.

(c) A district under ORS 267.237 may accept evidence of enrollment in the registry from an individual who is enrolled in the registry in lieu of the district's own requirement of completing a criminal records check.

(7) If an individual is required to submit to a criminal records check under ORS 181.533, 181.534, 181.537 or 267.237 for the purpose of employment, the qualified entity, authorized agency or district may not inquire as to whether the individual is enrolled in the registry until after the qualified entity, authorized agency or district has offered the individual employment.

(8) Enrollment in the registry expires two years from the date of enrollment, but may be renewed upon:

(a) Application to the department;

(b) Payment of the renewal fee established by the department under subsection (11) of this section; and

(c) Compliance with rules adopted by the department under this section.

(9) An individual who enrolls in the registry established under this section may at any time request that the department remove the individual from the registry. Upon receiving a request under this subsection, the department shall remove the individual from the registry. The department shall prescribe by rule the form and manner of making a request under this subsection.

(10) The department shall conduct on an annual basis a criminal records check on individuals enrolled in the registry. If the criminal records check reveals information that would make the individual ineligible for enrollment, the department shall remove the individual from the registry and inform a qualified entity or an authorized agency that has accepted evidence of enrollment in the registry in lieu of completing a criminal records check of the removal.

(11) The department shall adopt all rules necessary and proper to carry out this section, including but not limited to rules establishing application and renewal fees. [2013 c.694 §1]

**Note:** 181.545 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.

**181.547 Oregon Department of Administrative Services to adopt rules relating to certain aspects of criminal records checks.** (1) As used in this section, "direct access" means access to an individual or the personal information of an individual.

(2) The Oregon Department of Administrative Services, in consultation with the Department of State Police, shall adopt rules specifying:

(a) Categories of individuals who are subject to criminal records checks that:

(A) An authorized agency, as defined in ORS 181.533 or 181.534, may use to make fitness determinations under ORS 181.533 (4)(a) and 181.534 (11); or

(B) Qualified entities may use to make fitness determinations under ORS 181.537 (10)(c).

(b) The information, for each category, that may be required from a subject individual to permit a criminal records check.

(c) The types of crimes that may be considered in reviewing criminal offender information of a subject individual for each category.

(d) When a nationwide fingerprint-based criminal records check must be conducted.

(3) The Oregon Department of Administrative Services shall consider the additional cost of obtaining a nationwide fingerprint-based criminal records check when adopting rules under subsection (2)(d) of this section.

(4) Categories adopted under subsection (2)(a) of this section shall separate individuals into categories comprising:

(a) Individuals who have direct access to or who provide services for children;

(b) Individuals who have direct access to or who provide services for the elderly;

(c) Individuals who have direct access to or who provide services for persons with disabilities;

(d) Individuals who have direct access to or who provide services for persons with a mental illness;

(e) Individuals who have direct access to or who provide services for the general public;

(f) Individuals licensed, registered, certified or otherwise authorized to practice a profession or trade in this state and individuals applying for licensure, registration, certification or authorization to practice a profession or trade in this state; and

(g) Any other population of individuals specified by the Oregon Department of Administrative Services by rule. [2013 c.285 §1]

**Note:** 181.547 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.

**181.548 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 chapter 183 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). [Formerly 181.540]

**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 disability, 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 disability, 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; 2007 c.70 §46]

**181.555 Establishment of procedures for access to criminal record information; rules.** The Department of State Police shall adopt rules under ORS chapter 183 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; exception for investigation of child abuse or neglect.** (1) 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:

(a) Gave prior written consent for the agency to make a criminal offender record check through the department; or

(b) 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) A statement that the individual may challenge the accuracy of criminal offender information and 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) A statement that Title VII of the Civil Rights Act of 1964 may apply to some individuals affected by this subsection, 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.

(2)(a) Notwithstanding subsection (1) of this section, the Department of Human Services may obtain criminal offender information from the Department of State Police about an individual without first obtaining the individual's written consent or giving written notice to the individual when:

(A) The criminal offender record check is requested for the purpose of investigating a report of child abuse or neglect; and

(B) The individual is either an alleged perpetrator of the reported child abuse or neglect or is an individual who resides in or frequents the alleged victim's residence.

(b) If criminal offender information is obtained under this subsection without the individual's written consent or written notice to the individual, the Department of Human Services shall provide written notice to the

(b) If criminal offender information is obtained under this subsection without the individual's written consent or written notice to the individual, the Department of Human Services shall provide written notice to the

individual as provided in subsection (3) of this section after the department obtains the criminal offender information.

(3)(a) Notwithstanding subsection (1) of this section, written notice as described in paragraph (b) of this subsection must be provided to an individual:

(A) In the circumstances described in subsection (2) of this section, whether the notice is provided before or after the criminal offender information about the individual is obtained.

(B) Before the criminal offender information about the individual is obtained, if the information is obtained after an investigation described in subsection (2) of this section is concluded.

(b) The written notice required under this subsection that a criminal offender record check will be or has been made must include a statement that the individual may challenge the accuracy of criminal offender information and 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. [1989 c.364 §2; 2007 c.543 §1; 2013 c.322 §1]

**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, 181.548, 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]

**181.580 Report of suspected criminal homicide; form and time of report; comparison; 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]

**181.585** [Formerly 181.507; 1997 c.538 §10; 2005 c.567 §16; 2009 c.713 §14; 2013 c.708 §9; renumbered 181.838 in 2013]

**181.586** [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; 2005 c.671 §11; 2013 c.708 §10; renumbered 181.839 in 2013]

**181.587** [Formerly 181.509; repealed by 2013 c.708 §34]

**181.588** [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; 2005 c.671 §12; repealed by 2013 c.708 §34]

**181.589** [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; 2005 c.264 §19; 2011 c.271 §7; renumbered 181.840 in 2013]

**181.590** [1999 c.626 §22; 2011 c.271 §8; 2013 c.708 §21; renumbered 181.845 in 2013]

**181.592** [1999 c.626 §1; 2001 c.884 §2; 2005 c.567 §13; 2005 c.812 §1; 2011 c.271 §9; 2013 c.708 §8; renumbered 181.837 in 2013]

**181.593** [2005 c.812 §2; 2013 c.708 §18; renumbered 181.836 in 2013]

**181.594** [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; 2005 c.483 §1; 2005 c.567 §5; 2005 c.685 §11; 2007 c.876 §6; 2009 c.713 §1; 2011 c.271 §10; 2011 c.531 §1; 2013 c.293 §2; 2013 c.437 §1; 2013 c.708 §17; 2013 c.720 §10; renumbered 181.805 in 2013]

**181.595** [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; 2005 c.567 §6; 2005 c.843 §34; 2009 c.204 §1; 2009 c.713 §20; 2011 c.547 §35; 2011 c.675 §§1,6; 2013 c.437 §2; renumbered 181.806 in 2013]

**181.596** [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; 2005 c.567 §7; 2009 c.204 §2; 2009 c.713 §21; 2011 c.547 §36; 2011 c.675 §§2,7; 2013 c.437 §3; renumbered 181.807 in 2013]

**181.597** [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; 2005 c.567 §15; 2009 c.34 §1; 2009 c.204 §3; 2009 c.713 §22; 2011 c.271 §13; 2011 c.547 §37; 2011 c.675 §3; 2013 c.437 §4; renumbered 181.808 in 2013]

**181.598** [1995 c.429 §3; 1999 c.626 §§6,7; amendments by 1999 c.626 §30 repealed by 2001 c.884 §1; 2009 c.204 §8; 2009 c.713 §15; 2011 c.271 §14; 2013 c.708 §19; renumbered 181.810 in 2013]

**181.599** [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; 2005 c.567 §11; 2009 c.204 §4; 2009 c.713 §§5,5a; 2011 c.675 §§4,8; 2013 c.708 §20; renumbered 181.812 in 2013]

**181.600** [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; 2005 c.567 §1; renumbered 181.820 in 2007]

**181.601** [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; 2010 c.89 §14; 2013 c.708 §22; renumbered 181.843 in 2013]

**181.602** [1991 c.389 §7; 1995 c.429 §8; 2010 c.51 §1; 2011 c.271 §16; 2013 c.708 §23; renumbered 181.814 in 2013]

**181.603** [1997 c.538 §1; 1999 c.626 §19; amendments by 1999 c.626 §42 repealed by 2001 c.884 §1; 2013 c.708 §24; renumbered 181.815 in 2013]

**181.604** [1997 c.538 §8; 1999 c.626 §20; amendments by 1999 c.626 §43 repealed by 2001 c.884 §1; 2011 c.271 §17; renumbered 181.816 in 2013]

**181.605** [1997 c.538 §9; 2013 c.708 §14; renumbered 181.817 in 2013]

**181.606** [1997 c.538 §13; 1999 c.626 §16; amendments by 1999 c.626 §39 repealed by 2001 c.884 §1; 2010 c.51 §2; 2011 c.271 §18; 2013 c.708 §25; renumbered 181.818 in 2013]

**181.607** [2001 c.884 §3a; 2003 c.530 §1; 2005 c.567 §2; 2005 c.843 §30; 2007 c.609 §§5,6; renumbered 181.823 in 2007]

**181.608** [2003 c.530 §2; 2005 c.567 §3; renumbered 181.826 in 2007]

**181.609** [2011 c.271 §1; 2011 c.675 §5; renumbered 181.809 in 2013]

**PUBLIC SAFETY  
STANDARDS AND TRAINING**

**181.610 Definitions for ORS 181.610 to 181.712.** As used in ORS 181.610 to 181.712, unless the context requires otherwise:

(1) "Abuse" has the meaning given that 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 being authorized 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 employed full-time by a law enforcement unit who:

(a) 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; or

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers described in paragraph (a) of this subsection.

(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 mean forest fire protection agency personnel.

(12) "Law enforcement unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is 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) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to liquor enforcement inspectors; or

(e) A humane investigation agency as defined in ORS 181.433.

(13) "Liquor enforcement inspector" has the meaning given that term in ORS 471.001.

(14) "Parole and probation officer" means:

(a) An 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; or

(b) An 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.

(15) "Police officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;

(c) A humane special agent commissioned under ORS 181.433;

(d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647; or

(e) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.

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

(17) "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, liquor enforcement inspectors and fire service professionals.

(18) "Reserve officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or 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, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police;

(b) Armed with a firearm; and

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

(19) "Telecommunicator" means a 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 403.105.

(20) "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; 2009 c.316 §1; 2009 c.417 §1; 2011 c.320 §1; 2011 c.506 §27; 2011 c.644 §27; 2012 c.54 §22; 2012 c.67 §13; 2012 c.88 §4; 2013 c.1 §17; 2013 c.154 §6; 2013 c.180 §31]

**Note:** The amendments to 181.610 by section 50, chapter 644, Oregon Laws 2011, become operative July 1, 2015. See section 58, chapter 644, Oregon Laws 2011, as amended by section 77, chapter 644, Oregon Laws 2011. The text that is operative on and after July 1, 2015, including amendments by section 23, chapter 54, Oregon Laws 2012, section 14, chapter 67, Oregon Laws 2012, section 5, chapter 88, Oregon Laws 2012, section 18, chapter 1, Oregon Laws 2013, section 7, chapter 154, Oregon Laws 2013, and section 32, chapter 180, Oregon Laws 2013, is set forth for the user's convenience.

**181.610.** As used in ORS 181.610 to 181.712, unless the context requires otherwise:

(1) "Abuse" has the meaning given that 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 being authorized 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 employed full-time by a law enforcement unit who:

(a) 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; or

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers described in paragraph (a) of this subsection.

(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 mean forest fire protection agency personnel.

(12) "Law enforcement unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is 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) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to liquor enforcement inspectors; or

(e) A humane investigation agency as defined in ORS 181.433.

(13) "Liquor enforcement inspector" has the meaning given that term in ORS 471.001.

(14) "Parole and probation officer" means:

(a) An 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 reformative 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; or

(b) An 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 reformative 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.

(15) "Police officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;

(c) A humane special agent commissioned under ORS 181.433; or

(d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647.

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

(17) "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, liquor enforcement inspectors and fire service professionals.

(18) "Reserve officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or 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, tribal government, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police;

(b) Armed with a firearm; and

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

(19) "Telecommunicator" means a 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 403.105.

(20) "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.

**181.612 Authority of Department of Public Safety Standards and Training to require fingerprints.** (1) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Public Safety Standards and Training may require the fingerprints of a person who:

(a) Is employed or applying for employment by the department;

(b) Provides services or seeks to provide services to the department as a contractor, vendor or volunteer; or

(c) Is applying for a license or certificate, or for reissuance of a license or certificate, that is issued by the department or is under investigation by the department.

(2) ORS 181.534 (11) and (12) does not apply to the department when the department makes denial or revocation decisions regarding persons described in subsection (1)(c) of this section or ORS 181.880 or 703.090.

(3) The department and an employee of the department acting within the course and scope of employment are immune from any civil liability that might otherwise be incurred or imposed for making denial or revocation decisions regarding persons described in subsection (1)(c) of this section or ORS 181.880 or 703.090. The department, an employee of the department acting within the course and scope of employment and an employer or employer's agent who in good faith comply with the requirements of ORS 181.662, 181.875 or 703.090, any rules adopted by the department and the decision of the department or employee of the department acting within the course and scope of employment are not liable for employment-related decisions based on decisions made

under ORS 181.662, 181.875 or 703.090. The department or an employee of the department acting within the course and scope of employment is not liable for defamation or invasion of privacy in connection with the lawful dissemination of information lawfully obtained under ORS 181.534. [2005 c.730 §6]

**Note:** 181.612 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.

**181.620 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 24 members as follows:

(a) Two members who are chiefs of police recommended to the Governor by the Oregon Association Chiefs of Police;

(b) One member who is a sheriff recommended to the Governor by the Oregon State Sheriffs' Association;

(c) One member who is a fire chief recommended to the Governor by the Oregon Fire Chiefs Association;

(d) One member who is a representative of the fire service recommended to the Governor by the Oregon Fire District Directors Association;

(e) One member who is a member of the Oregon State Fire Fighters Council recommended to the Governor by the executive body of the council;

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

(g) One member who is a representative of the fire service recommended to the Governor by the Oregon Volunteer Firefighters Association;

(h) One member who is a representative of public safety telecommunicators;

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

(j) One member who is the Superintendent of State Police;

(k) One member who is the Chief of the Portland Police Bureau;

(L) One member who is the State Fire Marshal;

(m) One member who is the Chief of the Portland Fire Bureau;

(n) One member who is the Director of the Department of Corrections;

(o) One nonvoting member who is the Special Agent in Charge of the Federal Bureau of Investigation for Oregon;

(p) One member who is an administrator of a municipality recommended to the Governor by the executive body of the League of Oregon Cities;

(q) Two members who are nonmanagement representatives of law enforcement;

(r) One member who is a public member. A person appointed as a public member under this section:

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

(B) Must represent the interests of the public in general;

(s) Two members recommended by and representing the private security industry;

(t) One member who is a representative of the collective bargaining unit that represents the largest number of individual workers in the Department of Corrections; and

(u) One member who is a nonmanagement parole and probation officer employed by a community corrections program.

(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; 2003 c.14 §80; 2003 c.546 §8; 2003 c.669 §1; 2005 c.447 §10; 2009 c.629 §1; 2012 c.29 §3]

**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]

**181.632 Leave to perform duties of board or policy committee.** At the request of an employee who is a public safety officer and who serves on the Board on Public Safety Standards and Training or on a policy committee established by the board, an employer shall grant leaves of absence to the employee for periods reasonably necessary for the employee to attend meetings and perform the duties of the board or committee. The employer shall grant the leaves with regular pay and benefits. [2005 c.279 §2]

**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 may be selected from 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; 2003 c.770 §9]

**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;
- (d) Telecommunications Policy Committee; and
- (e) Private Security 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 recommended by the Director of 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 Sheriff's Jail Command Council;

(C) One person recommended by and representing a statewide association of community corrections directors;

(D) One nonmanagement corrections officer employed by the Department of Corrections;

(E) One corrections officer who is a female, who is employed by the Department of Corrections at a women's correctional facility and who is a member of a bargaining unit; and

(F) Two nonmanagement corrections officers.

(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;

(D) One nonmanagement firefighter recommended by a statewide organization of firefighters; and

(E) One person representing the forest protection agencies and recommended by the State Forestry Department.

(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 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) Three nonmanagement law enforcement officers.

(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 Chiefs of Police;

(C) One person recommended by and representing the Oregon State Police;

(D) Two persons representing telecommunications;

(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 Oregon Health Authority; and

(H) One person representing emergency medical services providers and recommended by a statewide association dealing with fire medical issues.

(7) The Private Security Policy Committee consists of:

(a) All of the board members who represent the private security industry; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person representing unarmed private security professionals;

(B) One person representing armed private security professionals;

(C) One person representing the health care industry;

(D) One person representing the manufacturing industry;

(E) One person representing the retail industry;

(F) One person representing the hospital industry;

(G) One person representing private business or a governmental entity that utilizes private security services;

(H) One person representing persons who monitor alarm systems;

(I) Two persons who are investigators licensed under ORS 703.430, one of whom is recommended by the Oregon State Bar and one of whom is in private practice; and

(J) One person who represents the public at large and who is not related within the second degree by affinity or consanguinity to a person who is employed or doing business as a private security professional or executive manager, as defined in ORS 181.870, or as an investigator, as defined in ORS 703.401.

(8) 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.

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

(10)(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.

(11) 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; 2003 c.14 §81; 2003 c.546 §1; 2003 c.669 §2; 2005 c.447 §11; 2005 c.613 §28; 2009 c.595 §160; 2009 c.629 §2; 2011 c.703 §29]

**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 and the chairpersons of the policy committees created in ORS 181.637.

(2) If necessary, the executive committee shall reconcile inconsistencies in policies among the policy committees. 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, bud-

gets, 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 policy committees 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; 2003 c.14 §82; 2003 c.546 §11]

**181.639 Legislative findings.** (1) The Legislative Assembly finds that:

(a) Providing high quality training for public safety personnel enhances the quality of public safety services provided to communities, contributes significantly to the safety of public safety officers and reduces state, local and individual liability;

(b) Basic training for public safety personnel provides a consistent foundation of best practices knowledge and skills necessary for public safety officers throughout the state;

(c) Advanced, leadership and continuing training preserve and build on the knowledge and skills acquired during basic training, ensuring that communities continue to have well-trained professional public safety officers;

(d) Advanced, leadership and continuing training should be consistent with recognized best practices while meeting specific local needs; and

(e) Course and instructor accreditation help to ensure that advanced, leadership and continuing training programs are consistent with recognized best practices and are legally sufficient.

(2) The Department of Public Safety Standards and Training may continue to accredit advanced, leadership and continuing training courses and programs consistent with ORS 181.650. [2003 c.770 §8]

**181.640 Minimum standards and training for certification; duties in improving public safety units; grants; fees; rules.** (1) In accordance with any applicable provision of ORS chapter 183, 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 deny applications for training and deny, suspend and 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) Conduct and stimulate research to improve the police, fire service, corrections, adult parole and probation, emergency medical dispatch and telecommunicator professions.

(d) Provide grants from funds appropriated or available therefor, to law enforcement units, public safety agencies, special districts, cities, counties and private entities 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.

(i) Establish fees and guidelines for the use of the facilities of the training academy operated by the department and for nonmandated training provided to federal, state or other governmental agencies, private entities or individuals.

(4) Pursuant to ORS chapter 183, the board, in consultation with the department, shall adopt rules necessary to carry out the board's duties and powers.

(5) Pursuant to ORS chapter 183, 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.

(8) The Department of Public Safety Standards and Training shall develop a training program for conducting investigations required under ORS 181.789. [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; 2005 c.446 §1; 2005 c.448 §3; 2005 c.524 §1a; 2007 c.842 §14; 2009 c.165 §1]

**181.641 Training in vehicle pursuit and mental illness recognition.** 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:

(1) The law, theory, policies and practices related to vehicle pursuit driving and, as facilities and funding permit, vehicle pursuit training exercises; and

(2) At least 24 hours of training in the recognition of mental illnesses utilizing a crisis intervention training model, at least one hour of which must include training on the appropriate use of the medical health database described in ORS 181.735. [2001 c.734 §8; 2007 c.377 §1; 2009 c.784 §2]

**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 relating to Vienna Convention and 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:

(1) Investigate, identify and report crimes:

(a) 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 disability, age, economic or social status or citizenship of the victim; and

(b) That constitute abuse, as defined in ORS 419B.005, or domestic violence.

(2) Understand the requirements of the Vienna Convention on Consular Relations and identify situations in which the officers are required to inform a person of the person's rights under the convention. [1989 c.1028 §3; 1995 c.128 §1; 1995 c.624 §3; 2003 c.109 §1; 2007 c.70 §47]

**181.643 Training in missing persons 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 and adults. 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; 2007 c.500 §10]

**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 Certain officers required to be at least 21 years of age.** A law enforcement unit in this state may not employ as a police officer, corrections officer, parole and probation officer or liquor enforcement inspector, 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; 2012 c.54 §24]

**181.646 Certification of liquor enforcement inspectors required.** (1) Except for a person who has requested and obtained an extension from the Department of Public Safety Standards and Training under subsection (2) of this section, subject to subsection (3) of this section the Oregon Liquor Control Commission may not employ a person as a liquor enforcement inspector for more than 18 months unless the person is a citizen of the United States who has been certified under ORS 181.640 as being qualified as a liquor enforcement inspector and the certification has not:

(a) Lapsed; or

(b) Been revoked under ORS 181.661, 181.662 and 181.664 (1) and not reissued under ORS 181.661 (2).

(2) The department, upon the facts contained in an affidavit accompanying the request for 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 the failure, the department may extend for up to one year the period that a person may serve as a liquor enforcement inspector without certification. The grant or denial of an extension is within the sole discretion of the department.

(3) The citizenship requirement in subsection (1) of this section does not apply to a person employed as a liquor enforcement inspector on March 16, 2012, who continues to serve as a liquor enforcement inspector without a lapse under subsection (4) of this section.

(4) The certification of a liquor enforcement inspector shall lapse after three or more consecutive months of not being employed as a liquor enforcement inspector unless the liquor enforcement inspector is on leave from the commission. Upon reemployment as a liquor enforcement inspector, the person whose certification has lapsed may apply to be certified under ORS 181.610 to 181.712.

(5) The commission shall pay the costs of training required for a liquor enforcement inspector to be certified by the department. [2012 c.54 §21]

**Note:** Section 32, chapter 54, Oregon Laws 2012, provides:

**Sec. 32.** (1) The Department of Public Safety Standards and Training shall make public safety personnel certification under ORS 181.640 as liquor enforcement inspectors available for qualified applicants no later than July 1, 2015.

(2) Notwithstanding section 21 of this 2012 Act [181.646] and the amendments to ORS 181.610 by sections 22 and 23 of this 2012 Act, an inspector or investigator employed by the Oregon Liquor Control Commission and not granted an extension under section 21 of this 2012 Act to obtain certification may perform the duties of a liquor enforcement inspector without certification under ORS 181.640 until January 1, 2017.

(3) An employee of the Oregon Liquor Control Commission who takes voluntary training for commission inspectors and investigators provided by the Department of Public Safety Standards and Training prior to the date that liquor enforcement inspector training is available from the department is deemed to have met the minimum basic training requirements for a liquor enforcement inspector and is exempt from any minimum physical standards for liquor enforcement inspectors developed under section 21 of this 2012 Act. [2012 c.54 §32]

**181.647 Certification of judicial marshals.** (1) Upon request of the Security and Emergency Preparedness Office of the Judicial Department, the Department of Public Safety Standards and Training shall certify individual judicial marshals appointed under ORS 1.177 as being qualified in the same manner as police officers pursuant to ORS 181.640.

(2) The provisions of ORS 181.610 to 181.712 relating to the training and certification of police officers apply to individual judicial marshals trained pursuant to subsection (1) of this section.

(3) Notwithstanding any other provision of law, the Security and Emergency Preparedness Office of the Judicial Department shall bear the expense of training pursuant to subsection (1) of this section. [2012 c.88 §3; 2013 c.1 §19; 2013 c.154 §8]

**181.648 Certification for certain purposes of individual employed by tribal government to perform duties of public safety officer.** (1) Notwithstanding any other provision of law, an individual who is employed full time by a tribal government to perform the duties of a public safety officer and who possesses the requisite qualifications may be certified or recertified as a police officer, certified reserve officer, corrections officer, parole and probation officer, fire service professional, telecommunicator or emergency medical dispatcher if the individual and the tribal government comply with the applicable provisions of ORS 181.610 to 181.712.

(2) An individual who is certified under subsection (1) of this section is considered to be employed as a full-time public safety officer in the discipline in which the certification is held for the following purposes:

(a) Denying, suspending or revoking certification under ORS 181.661, 181.662 and 181.664;

(b) Determining eligibility to apply for benefits from the Public Safety Memorial Fund under ORS 243.954 to 243.974; and

(c) Determining eligibility to be honored at the memorial created pursuant to section 1, chapter 508, Oregon Laws 1987. [2012 c.29 §2]

**181.649 Training in human trafficking.** The Board on Public Safety Standards and Training may require that all police officers and certified reserve officers are trained to recognize, investigate and report cases involving labor trafficking and sex trafficking of children and adults at any advanced training program operated or authorized by the Department of Public Safety Standards and Training. [2013 c.720 §13]

**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.** (1) 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, fire service professional, telecommunicator or emergency medical dispatcher.

(2) 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.

(3) A department employee who is certified as a police, certified reserve, corrections or parole and probation officer, a fire service professional, a telecommunicator or an emergency medical dispatcher is considered to be employed as a full-time public safety officer in the discipline in which certification is held under this section for the following purposes:

(a) Denying, suspending or revoking certification under ORS 181.661, 181.662 and 181.664;

(b) Determining eligibility to apply for benefits from the Public Safety Memorial Fund under ORS 243.954 to 243.974; and

(c) Determining eligibility to be honored at the memorial created pursuant to section 1, chapter 508, Oregon Laws 1987. [1987 c.901 §3; 1991 c.742 §4; 1995 c.624 §6; 1997 c.853 §6; 2007 c.361 §1]

**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]

**(Temporary provisions relating to training of corrections officers)**

**Note:** Sections 43, 44, 46b and 46d, chapter 885, Oregon Laws 2009, provide:

**Sec. 43.** Section 44 of this 2009 Act is added to and made a part of ORS 181.610 to 181.712. [2009 c.885 §43]

**Sec. 44.** Notwithstanding any contrary provision of ORS 181.610 to 181.712:

(1) The Department of Corrections shall provide training for basic certification of corrections officers employed by the Department of Corrections.

(2) The Department of Corrections shall develop proposed training standards for the basic certification of corrections officers employed by the Department of Corrections and provide the proposed standards to the Corrections Policy Committee. After reviewing the proposed standards provided by the Department of Corrections, the Corrections Policy Committee shall recommend, and the Board on Public Safety Standards and Training shall adopt by rule, minimum training standards for basic certification of corrections officers employed by the Department of Corrections. The minimum training standards adopted under this subsection must meet or exceed the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than the Department of Corrections.

(3) The Department of Public Safety Standards and Training shall conduct periodic audits of the training provided by the Department of Corrections to ensure compliance with the standards adopted under subsection (2) of this section. If the Department of Public Safety Standards and Training finds that the training complies with the standards, the department shall accredit the training for the same term and upon the same conditions as training programs for corrections officers that are employed by a law enforcement unit other than the Department of Corrections.

(4) Training provided in accordance with this section constitutes training necessary for certification as a corrections officer under ORS 181.610 to 181.712.

(5) Nothing in this section limits the ability of any law enforcement unit to employ a corrections officer who is provided training in accordance with this section. [2009 c.885 §44]

**Sec. 46b.** (1) Section 44, chapter 885, Oregon Laws 2009, applies to corrections officers hired by the Department of Corrections on or after August 4, 2009, and before January 2, 2026.

(2) Nothing in the repeal of section 44, chapter 885, Oregon Laws 2009, by section 46d, chapter 885, Oregon Laws 2009:

(a) Prohibits the Department of Corrections from completing the basic training of corrections officers who are hired on or after August 4, 2009, and before January 2, 2026.

(b) Affects the certification, or the eligibility for certification, of a corrections officer who is provided basic training by the Department of Corrections in accordance with section 44, chapter 885, Oregon Laws 2009. [2009 c.885 §46b; 2013 c.573 §1]

**Sec. 46d.** Sections 43, 44 and 46, chapter 885, Oregon Laws 2009, are repealed on January 2, 2026. [2009 c.885 §46d; 2013 c.573 §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 chapter 183, 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 Department of State Police training programs or the Oregon Police Corps training program.

(3) As used in this section, "Oregon Police Corps training program" means the residential, basic law enforcement training program that is required of Oregon participants in the scholarship program administered by the United States Department of Justice that is designed to address violent crime by helping state and local law enforcement agencies increase the number of officers with advanced education and training assigned to community patrol. [2001 c.734 §4; 2003 c.770 §6]

**181.660 Inapplicability of minimum standards and training to certain persons; certification based on experience, education or training.** (1) The minimum standards and minimum training require-

ments 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) 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; 2011 c.547 §38]

**181.661 Procedure for denial, suspension or revocation of application or certification.** (1) When the Department of Public Safety Standards and Training, the Board on Public Safety Standards and Training or a policy committee of the board established under ORS 181.637 believes there is a reasonable basis for denying, suspending or revoking, as applicable, the application or certification of an instructor or a public safety officer, except a youth correction officer, notice and opportunity for a hearing shall be provided in accordance with rules approved by the board and in accordance with ORS 183.415 and 183.417 prior to denial, suspension or revocation.

(2)(a) Pursuant to rules adopted under ORS 181.640 and 181.662, the policy committee in the relevant discipline and the board shall review denials, suspensions and revocations based on discretionary grounds.

(b) If a policy committee votes to recommend denial or revocation of the application or certification of an instructor or a public safety officer pursuant to paragraph (a) of this subsection, the notice and opportunity for a hearing required under subsection (1) of this section shall be provided after the committee has voted and before the board considers the committee's recommendation.

(c) If the board disapproves the policy committee's recommendation under paragraph (b) of this subsection, the department

shall withdraw the notice issued under subsection (1) of this section.

(d)(A) For cases originally considered by a policy committee, if the department proposes to amend an administrative law judge's proposed order issued in response to a request for a hearing by an instructor or a public safety officer under subsection (1) of this section, the committee shall consider the proposed amendment before the department may issue a final order pursuant to ORS 181.640.

(B) The department's final order may not incorporate the proposed amendment unless the policy committee approves the amendment. [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; 2005 c.524 §3; 2007 c.288 §8; 2009 c.629 §3]

**181.662 Grounds for denial, suspension or revocation of application or certification of person or accreditation of program; rules.** (1) The Department of Public Safety Standards and Training may deny the application for training, or deny, suspend 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:

(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 or violation 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).

(d) The public safety officer failed to comply with ORS 181.789 (3)(b).

(2) The department shall deny, suspend or revoke the certification of a fire service professional, after written notice and hearing consistent with the provisions of ORS 181.661, based upon a finding that the fire service professional has been convicted in this state of a crime listed in ORS 137.700 or in any other jurisdiction of a crime that, if committed in this state, would constitute a crime listed in ORS 137.700.

(3) The department may deny, suspend 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:

(a) That 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) Consistent with ORS 670.280, that the fire service professional is not fit to receive or hold the certification as a result of conviction of a crime in this state, or in any other jurisdiction, other than a crime described in subsection (2) of this section.

(4) The department shall deny, suspend or revoke the certification of any public safety officer or instructor, except a youth correction officer, 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.

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

(6) Notwithstanding the lapse, suspension, revocation or surrender of the certification of a public safety officer or instructor, the department may:

(a) Proceed with any investigation of, or any action or disciplinary proceedings against, the public safety officer or instructor; or

(b) Revise or render void an order suspending or revoking the certification.

(7) The department shall deny, suspend 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).

(8) When the department completes an investigation relating to a person's qualifications for employment, training or certification under this section, the department shall issue a report.

(9) In cases involving a proposed denial of training or certification of a public safety officer or instructor by the department, the department has jurisdiction to proceed with any action against the public safety officer or instructor notwithstanding a subsequent change in the employment status of the officer or instructor, if:

(a) The department has issued a notice of intent to deny training or certification; and

(b) The officer or instructor has requested a hearing. [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; 2003 c.770 §3; 2005 c.448 §1; 2005 c.524 §2; 2007 c.842 §8; 2009 c.135 §4; 2013 c.6 §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; rules.** (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) The department shall recommend and the Board on Public Safety Standards and Training shall establish by rule a policy and procedures governing the circumstances under which a public safety officer or instructor who has had certification denied or revoked pursuant to ORS 181.661 and 181.662 and subsection (1) of this section may reapply for certification and specifying the circumstances under which the public safety officer or instructor may not reapply. [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; 2005 c.448 §2]

**181.665 Certification of police officer and 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, 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.

(7) Notwithstanding any other provision of law, the law enforcement unit described in ORS 181.610 (12)(e) shall bear the expense of training necessary for certification under ORS 181.610 to 181.712. [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; 2001 c.734 §5; 2009 c.417 §2; 2011 c.320 §2; 2012 c.54 §29]

**181.667 Lapse of certification; reapplication for certification; rules; fees.** (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]

**181.675 Disclosure of information about public safety officer.** (1) The Board on Public Safety Standards and Training and the Department of Public Safety Standards and Training may not disclose a photograph of a public safety officer without the written consent of the public safety officer or the public safety officer's employer. This subsection does not apply to the use by the board or department of a photograph of a public safety officer.

(2) A public safety agency shall provide the department with access to personnel records of an employee or former employee of the public safety agency if:

(a) The department requests access to the records;

(b) The department is conducting an investigation under ORS 181.662 relating to the employee or former employee's qualifications for employment, training or certification as a public safety officer; and

(c) The records are related to the issue being investigated.

(3) A public safety agency that discloses information under subsection (2) of this section is presumed to be acting in good faith and, unless lack of good faith is shown by a preponderance of the evidence, is immune from civil liability from the disclosure or its consequences. For purposes of this subsection, the presumption of good faith is rebutted upon a showing that the public safety agency disclosed the information knowing that the information was false or deliberately misleading or disclosed the information with malicious purpose. [2003 c.770 §2]

**181.679 Civil penalties relating to certification; rules.** (1) The Department of Public Safety Standards and Training may impose a civil penalty on a public safety agency for violation of ORS 181.644, 181.652, 181.653 or 181.665.

(2) The department shall recommend and the Board on Public Safety Standards and Training by rule shall adopt a schedule establishing civil penalties that may be imposed under subsection (1) of this section. Civil penalties imposed under subsection (1) of this section may not exceed \$1,500 for each violation.

(3) When the department imposes a civil penalty under subsection (1) of this section, the department shall impose the penalty in the manner provided by ORS 183.745.

(4) All penalties recovered under subsection (1) of this section shall be paid into the State Treasury and credited to the General Fund and are available for general governmental expenses.

(5) When, for the purpose of complying with ORS 181.644, 181.652, 181.653 or 181.665 and after notice from the department that an employee has not met the certification requirements of ORS 181.644, 181.652, 181.653 or 181.665, a public safety agency terminates or reassigns the employee solely because the employee has not met the certification requirements of ORS 181.644, 181.652, 181.653 or 181.665, the public safety agency is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from civil liability for the termination or reassignment. [2005 c.586 §2]

**181.680** [1961 c.721 §3; repealed by 1975 c.605 §33]

**181.685 Oregon Center for Policing Excellence; purpose; rules.** (1) The Oregon Center for Policing Excellence is established within the Department of Public Safety Standards and Training.

(2) The primary purposes of the center are:

(a) To make policing in this state more effective and efficient by:

(A) Developing and promulgating updated skills in policing among officers, managers and administrators; and

(B) Making use of the body of knowledge of effective and efficient methods in the criminal justice system.

(b) To make communities safer.

(c) To reduce, through the use of police practices proven to be effective, the number of offenders entering the criminal justice system.

(3) To accomplish the purposes described in subsection (2) of this section, the center shall provide opportunities for:

(a) Practitioners to present actual problems to researchers in order to identify potential approaches to resolving the problems.

(b) Researchers to present to practitioners the results of research on effective and efficient methods of policing.

(c) Practitioners and researchers to form partnerships to test the effectiveness of practices and approaches.

(d) The development and delivery of training to public safety personnel in this state to enhance their skills related to:

(A) Problem solving;

(B) Leadership and facilitation;

(C) Effective application and use of information from reputable research; and

(D) Identifying and addressing future challenges affecting public safety.

(4) All agencies of state government, as defined in ORS 174.111, and local government, as defined in ORS 174.116, are directed to cooperate with the center in achieving the purposes described in subsection (2) of this section.

(5) The Director of the Department of Public Safety Standards and Training may adopt rules necessary to implement the provisions of this section. [2013 c.649 §49]

**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. All moneys in the Police Standards and Training Account are appropriated continuously to the department and, except as provided in subsection (2) of this section, 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.

(3) Notwithstanding subsection (1) of this section, moneys credited to the account under ORS 181.887 and 703.490 may be used only for the expenses of administration and enforcement of ORS 181.870 to 181.887, 181.991, 703.401 to 703.490, 703.993 and 703.995. [1961 c.721 §7; 1979 c.410 §7; 1987 c.320 §140; 1993 c.188 §13; 1997 c.853 §16; 2007 c.362 §1]

**181.695 Reimbursement of training costs.** (1) As used in this section:

(a) "Original employing governmental agency" means a governmental agency that first employs an employee in a position that requires training.

(b) "Parole and probation officer" has the meaning given that term in ORS 181.610.

(c) "Police officer" has the meaning given that term in ORS 181.610.

(d) "Training costs" means training expenses paid for by an employing governmental agency that include the cost of salary and benefits paid to an employee during training, the cost of salary and benefits paid to another employee to cover the workload of an employee in training and the cost of initial training courses required for employment.

(2) Subject to an employment agreement between an original employing governmental agency and an employee or to an applicable collective bargaining agreement, when an employee of a governmental agency who is employed in a position that requires training voluntarily leaves employment with that original employing governmental agency and is subsequently employed by a different governmental agency in a position that requires the same training as required for the position with the original employing governmental agency, the subsequent employing govern-

mental agency shall reimburse the original employing governmental agency for training costs incurred by the original employing governmental agency in accordance with the reimbursement schedule adopted under subsection (3) of this section.

(3) If an employing governmental agency requires employees to be trained, the agency shall adopt a policy providing for a pro rata reimbursement schedule for the reimbursement of training costs by a subsequent employing governmental agency to the original employing governmental agency as follows:

(a) If the training costs are for training provided to an employee who is employed as a state police officer, a police officer or a deputy sheriff, the required reimbursement shall be:

(A) 100 percent of training costs if the employee is employed by the subsequent employing governmental agency within 12 months from the date the employee completes training required by the original employing governmental agency.

(B) 66 percent of training costs if the employee is employed by the subsequent employing governmental agency more than 12 months but less than 24 months from the date the employee completes training required by the original employing governmental agency.

(C) 33 percent of training costs if the employee is employed by the subsequent employing governmental agency more than 24 months but less than 36 months from the date the employee completes training required by the original employing governmental agency.

(D) Waived if the employee is employed by the subsequent employing governmental agency more than 36 months from the date the employee completes training required by the original employing governmental agency.

(b) If the training costs are for training provided to an employee who is employed as a state or local corrections officer or as a parole and probation officer, the required reimbursement shall be:

(A) 100 percent of training costs if the employee is employed by the subsequent employing governmental agency within 10 months from the date the employee completes training required by the original employing governmental agency.

(B) 66 percent of training costs if the employee is employed by the subsequent employing governmental agency more than 10 months but less than 20 months from the date the employee completes training required by the original employing governmental agency.

(C) 33 percent of training costs if the employee is employed by the subsequent employing governmental agency more than 20 months but less than 30 months from the date the employee completes training required by the original employing governmental agency.

(D) Waived if the employee is employed by the subsequent employing governmental agency more than 30 months from the date the employee completes training required by the original employing governmental agency.

(4) Notwithstanding subsection (2) of this section, an original employing governmental agency may waive the reimbursement of training costs for an employee who voluntarily leaves employment with the original employing governmental agency and is subsequently employed by another governmental agency.

(5) When making employment decisions, a governmental agency may not take into consideration the possibility that the reimbursement of training costs specified in subsection (2) of this section will be required if a particular applicant is employed.

(6) A governmental agency that requires employees to complete training shall develop and implement policies that provide incentives to promote the retention of such employees. [2009 c.902 §1]

**Note:** 181.695 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.

**181.700 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]

## 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;

(L) The Youth Development Division; and

(m) A university that has established a police department under ORS 352.383 or 353.125. [1993 c.188 §5; 1997 c.433 §4; 1997 c.853 §19; 2001 c.936 §4; 2011 c.506 §28; 2012 c.37 §35; 2013 c.180 §33; 2013 c.623 §8]

**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 Chiefs of Police;

(i) A sheriff designated by the Oregon State Sheriffs' Association;

(j) A jail manager designated by the Oregon Sheriff's Jail Command Council;

(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 Enterprise Information Strategy and Policy 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 Youth Development Director or the 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; 2003 c.14 §83; 2009 c.601 §1; 2011 c.9 §11; 2012 c.37 §36; 2013 c.623 §9]

**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, ac-

cess and dissemination of information by the Law Enforcement Data System. [1993 c.188 §8]

**181.735 Medical health database.** (1)(a) The Department of State Police shall create and maintain a medical health database within the Law Enforcement Data System in order to provide law enforcement agencies with information to help the agencies assist persons with a qualifying illness or condition in obtaining medical, mental health and social services.

(b) The department shall provide each community mental health program director and each community developmental disabilities program director with the ability to input and remove data from the medical health database.

(c) The medical health database may not be accessible to any person who is not employed by a community mental health program, community developmental disabilities program or a law enforcement agency as defined in ORS 181.010.

(2) Not later than seven days after receiving a completed enrollment form described in subsection (6)(a) of this section, a director shall enter an individual's information into the medical health database if the director:

(a) Has verified that the individual has a qualifying illness or condition; and

(b) Has obtained the express written consent of:

(A) The individual;

(B) A person authorized to make medical decisions for the individual, if the individual is subject to a guardianship, advanced directive for health care, declaration for mental health treatment or power of attorney that authorizes the person to make medical decisions for the individual; or

(C) A parent of the individual, if the individual is under 14 years of age.

(3) To be valid, the express written consent described in subsection (2)(b) of this section must be witnessed by at least two adults as follows:

(a) Each witness shall witness either the signing of the instrument by the individual or the person described in subsection (2)(b)(B) or (C) of this section, or the individual's or person's acknowledgment of the signature of the individual or person.

(b) At least one witness shall be a person who is not:

(A) A relative of the individual by blood, marriage or adoption; or

(B) An owner, operator or employee of a health care facility in which the individual is a patient or resident.

(c) The individual's primary care physician or mental health service provider, or any relative of the physician or provider, may not be a witness.

(4) A director shall destroy the completed enrollment form and remove an individual's information from the medical health database:

(a) If the director receives a completed revocation of consent form described in subsection (6)(b) of this section, signed by the individual or a person described in subsection (2)(b)(B) or (C) of this section;

(b) If the individual or a person described in subsection (2)(b)(B) of this section provides the director with a court order or other document demonstrating that the person no longer has the authority to make medical decisions for the individual;

(c) When an individual for whom consent was obtained under subsection (2)(b)(C) of this section becomes 14 years of age; or

(d) Three years from the date on which the individual's information was entered into the database.

(5) Not less than 90 days prior to removing an individual from the medical health database under subsection (4)(c) or (d) of this section, a director shall provide notice of the impending removal to the individual and the person described in subsection (2)(b)(B) or (C) of this section.

(6) The Oregon Health Authority shall develop:

(a) An enrollment form that allows for the collection of information to be entered into the medical health database, and that clearly states that consent by the individual or a person described in subsection (2)(b)(B) or (C) of this section is voluntary, revocable and is not a precondition for receiving medical care or mental health treatment or for discharge from a facility or program.

(b) A revocation of consent form that allows an individual or a person described in subsection (2)(b)(B) or (C) of this section to revoke the consent to include the individual's information in the medical health database.

(7) The medical health database must contain the following information:

(a) The individual's name, date of birth, last known address and physical description;

(b) Any pertinent information related to the individual's illness or condition, including related symptoms, that may assist law enforcement agencies in carrying out the purposes of this section;

(c) The date on which the information was first entered into the medical health da-

tabase and the date of any subsequent updates; and

(d) Contact information for at least two of the following persons:

(A) The individual's primary care physician;

(B) The individual's case manager in the community mental health program or the community developmental disabilities program;

(C) A probation officer;

(D) A family member; or

(E) Any other person willing to serve as an emergency contact person for the individual.

(8) Each director shall provide the local public safety coordinating council described in ORS 423.560 with an annual report on the use of the medical health database. The report may not include personally identifiable information that is contained in the medical health database.

(9) As used in this section:

(a) "Community mental health program director" and "community developmental disabilities program director" include a designee of the director.

(b) "Dementia" means the progressive deterioration of intellectual functioning and other cognitive skills, including but not limited to aphasia, apraxia, memory, agnosia and executive functioning, that leads to a significant impairment in social or occupational function and that represents a significant decline from a previous level of functioning.

(c) "Developmental disability" has the meaning given that term in ORS 40.460 (18a)(d).

(d) "Qualifying illness or condition" means:

(A) Dementia;

(B) A developmental disability;

(C) An Axis I diagnosis that is described in the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(D) A physical or behavioral disorder that causes disorientation or otherwise may impede an individual's ability to interact effectively with a law enforcement officer. [2009 c.784 §1; 2011 c.720 §68]

**181.740 Certain information required from agencies; rules.** (1) The Department of Human Services, the Oregon Health Authority, the Psychiatric Security Review Board and the Judicial Department shall provide the Department of State Police with

the minimum information necessary to identify persons who:

(a) Have been committed by a court to the Oregon Health Authority under ORS 426.130, based on a finding that the person is dangerous to self or others;

(b) Are subject to a court order under ORS 426.130 prohibiting the person from purchasing or possessing a firearm;

(c) Have been committed by a court to the Department of Human Services under ORS 427.290, based on a finding that the person is dangerous to self or others;

(d) Have been found by a court to lack fitness to proceed under ORS 161.370;

(e) Have been found guilty except for insanity of a crime under ORS 161.295 to 161.370;

(f) Have been found responsible except for insanity for an act under ORS 419C.411;

(g) Have been placed under the jurisdiction of the Psychiatric Security Review Board or the Oregon Health Authority under ORS 161.315 to 161.351; or

(h) Have been committed to a state hospital or facility under ORS 161.315 to 161.351 or 419C.529 to 419C.544.

(2) Upon receipt of the information described in this section, the Department of State Police shall access and maintain the information and transmit the information to the federal government as required under federal law.

(3) The Department of Human Services, the Oregon Health Authority, the Psychiatric Security Review Board and the Judicial Department shall enter into agreements with the Department of State Police describing the access to information provided under this section.

(4) The Department of State Police shall adopt rules:

(a) After consulting with the Department of Human Services, the Oregon Health Authority, the Psychiatric Security Review Board and the Judicial Department, describing the type of information provided to the Department of State Police under this section; and

(b) Describing the method and manner of maintaining the information described in this section and transmitting the information to the federal government.

(5) As used in this section, "minimum information necessary" means data elements or nominal information that is necessary or required under federal law to accurately identify a person described in this section and includes the person's name, date of birth, gender and reference information that iden-

tifies the originating agency or court and enables the originating agency or court to locate an underlying record or file of a person described in this section. "Minimum information necessary" does not include any medical, psychiatric or psychological information, case histories or files of a person described in this section or any record or file of an originating agency or court. [2009 c.826 §1; 2009 c.826 §16; 2011 c.708 §23]

### **OREGON COMMUNITY CRIME PREVENTION INFORMATION CENTER**

**181.750 Definitions for ORS 181.755 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]

**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]

**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 ex-

perience 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]

**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]

#### PLAN ADDRESSING USE OF DEADLY PHYSICAL FORCE

**181.781 Definitions for ORS 181.781 to 181.796.** As used in ORS 181.781 to 181.796:

(1) "Employ," when used in the context of the relationship between a law enforcement agency and a police officer, includes the assignment of law enforcement duties on a volunteer basis to a reserve officer.

(2) "Law enforcement agency" means the Department of State Police, the Department of Justice, a district attorney, a political subdivision of the State of Oregon, a municipal corporation of the State of Oregon, a tribal government and a university, that maintains a law enforcement unit as defined in ORS 181.610 (12)(a)(A).

(3) "Police officer" means a person who is:

(a) A police officer or reserve officer as defined in ORS 181.610; and

(b) Employed by a law enforcement agency to enforce the criminal laws of this state.

(4) "Tribal government" means a tribal government as defined in section 1, chapter 644, Oregon Laws 2011:

(a) With land that is contiguous to the county in which the deadly physical force planning authority is created; and

(b) That has adopted the provision of tribal law described in section 2 (4)(d)(A),

chapter 644, Oregon Laws 2011. [2007 c.842 §1; 2011 c.506 §29; 2011 c.644 §27a]

**Note:** The amendments to 181.781 by section 50a, chapter 644, Oregon Laws 2011, become operative July 1, 2015. See section 58, chapter 644, Oregon Laws 2011, as amended by section 77, chapter 644, Oregon Laws 2011. The text that is operative on and after July 1, 2015, is set forth for the user's convenience.

**181.781.** As used in ORS 181.781 to 181.796:

(1) "Employ," when used in the context of the relationship between a law enforcement agency and a police officer, includes the assignment of law enforcement duties on a volunteer basis to a reserve officer.

(2) "Law enforcement agency" means the Department of State Police, the Department of Justice, a district attorney, a political subdivision of the State of Oregon, a municipal corporation of the State of Oregon and a university, that maintains a law enforcement unit as defined in ORS 181.610 (12)(a)(A).

(3) "Police officer" means a person who is:

(a) A police officer or reserve officer as defined in ORS 181.610; and

(b) Employed by a law enforcement agency to enforce the criminal laws of this state.

**181.783 Planning authority; development and approval of plan; compliance; notice upon challenge to plan.** (1) There is created in each county a deadly physical force planning authority consisting of the following members:

(a) The district attorney and sheriff of the county.

(b) A nonmanagement police officer selected by the district attorney and sheriff. If there are unions representing police officers within the county, the district attorney and sheriff shall select the police officer from among candidates nominated by any union representing police officers within the county.

(c) If at least one city within the county employs a police chief, a police chief selected by the police chiefs within the county.

(d) A representative of the public selected by the district attorney and sheriff. The person selected under this paragraph may not be employed by a law enforcement agency.

(e) A representative of the Oregon State Police selected by the Superintendent of State Police.

(f) A tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011, when requested by a tribal government.

(2) The district attorney and sheriff are cochairpersons of the planning authority.

(3) The law enforcement agency that employs the police officer selected under subsection (1)(b) of this section shall release the officer from other duties for at least 16 hours per year to enable the officer to serve on the planning authority. The agency shall compensate the officer at the officer's regular

hourly wage while the officer is engaged in planning authority activities.

(4) The planning authority shall develop a plan consisting of the following:

(a) An element dealing with education, outreach and training regarding the use of deadly physical force for police officers, attorneys employed by state or local government within the county and members of the community.

(b) An element dealing with the immediate aftermath of an incident in which a police officer used deadly physical force.

(c) An element dealing with the investigation of an incident in which a police officer used deadly physical force.

(d) An element dealing with the exercise of district attorney discretion to resolve issues of potential criminal responsibility resulting from a police officer's use of deadly physical force.

(e) An element dealing with collecting information regarding a police officer's use of deadly physical force, debriefing after an incident in which a police officer used deadly physical force and revising a plan developed under this subsection based on experience.

(f) An estimate of the fiscal impact on the law enforcement agencies to which the plan applies of each element described in paragraphs (a) to (e) of this subsection.

(5) The planning authority shall conduct at least one public hearing in the county before submitting a plan, or a revision of a plan, to the governing bodies in the county under subsection (7) of this section.

(6) The planning authority may consult with anyone the planning authority determines may be helpful in carrying out its responsibilities.

(7) The planning authority shall submit the plan developed under subsection (4) of this section, and revisions of the plan, to the governing body of each law enforcement agency within the county except for the Department of State Police and the Department of Justice.

(8) A governing body shall approve or disapprove the plan submitted to it under subsection (7) of this section within 60 days after receiving the plan. The governing body may not amend the plan.

(9) If the plan is not approved by at least two-thirds of the governing bodies to which the plan is submitted, the planning authority shall develop and submit a revised plan.

(10) If the plan is approved by at least two-thirds of the governing bodies to which the plan is submitted, the planning authority shall submit the approved plan to the Attor-



ney General. No later than 30 days after receiving the plan, the Attorney General shall review the plan for compliance with the minimum requirements described in ORS 181.786. If the Attorney General determines that the plan complies with the minimum requirements, the Attorney General shall approve the plan. Upon approval of the plan:

(a) Each law enforcement agency within the county to which the plan applies is subject to the provisions of the plan; and

(b) Each law enforcement agency subject to the plan is entitled to grants as provided in ORS 181.796.

(11) If the plan is not approved by the Attorney General, the planning authority shall develop and submit a revised plan.

(12) Notwithstanding subsection (10)(a) of this section, a law enforcement agency is not subject to a provision of a plan approved under subsection (10) of this section that:

(a) Conflicts with a provision of a city or county charter or a general ordinance that applies to the law enforcement agency; or

(b) Imposes an obligation not required by ORS 181.789 if complying with the provision would require the law enforcement agency to budget moneys, or submit a revenue measure for a vote of the people, in order to comply with the provision.

(13) The Attorney General shall periodically publish all approved plans.

(14) A law enforcement agency within a county has a duty to participate in good faith in the planning process of the planning authority for the county.

(15) A person bringing an action challenging the validity or enforceability of a plan approved under subsection (10) of this section shall serve the Attorney General with a copy of the complaint. If the Attorney General is not a party to the action, the Attorney General may intervene in the action. [2007 c.842 §2; 2011 c.644 §27b]

**Note:** The amendments to 181.783 by section 50b, chapter 644, Oregon Laws 2011, become operative July 1, 2015. See section 58, chapter 644, Oregon Laws 2011, as amended by section 77, chapter 644, Oregon Laws 2011. The text that is operative on and after July 1, 2015, is set forth for the user's convenience.

**181.783.** (1) There is created in each county a deadly physical force planning authority consisting of the following members:

(a) The district attorney and sheriff of the county.

(b) A nonmanagement police officer selected by the district attorney and sheriff. If there are unions representing police officers within the county, the district attorney and sheriff shall select the police officer from among candidates nominated by any union representing police officers within the county.

(c) If at least one city within the county employs a police chief, a police chief selected by the police chiefs within the county.

(d) A representative of the public selected by the district attorney and sheriff. The person selected under this paragraph may not be employed by a law enforcement agency.

(e) A representative of the Oregon State Police selected by the Superintendent of State Police.

(2) The district attorney and sheriff are cochairpersons of the planning authority.

(3) The law enforcement agency that employs the police officer selected under subsection (1)(b) of this section shall release the officer from other duties for at least 16 hours per year to enable the officer to serve on the planning authority. The agency shall compensate the officer at the officer's regular hourly wage while the officer is engaged in planning authority activities.

(4) The planning authority shall develop a plan consisting of the following:

(a) An element dealing with education, outreach and training regarding the use of deadly physical force for police officers, attorneys employed by state or local government within the county and members of the community.

(b) An element dealing with the immediate aftermath of an incident in which a police officer used deadly physical force.

(c) An element dealing with the investigation of an incident in which a police officer used deadly physical force.

(d) An element dealing with the exercise of district attorney discretion to resolve issues of potential criminal responsibility resulting from a police officer's use of deadly physical force.

(e) An element dealing with collecting information regarding a police officer's use of deadly physical force, debriefing after an incident in which a police officer used deadly physical force and revising a plan developed under this subsection based on experience.

(f) An estimate of the fiscal impact on the law enforcement agencies to which the plan applies of each element described in paragraphs (a) to (e) of this subsection.

(5) The planning authority shall conduct at least one public hearing in the county before submitting a plan, or a revision of a plan, to the governing bodies in the county under subsection (7) of this section.

(6) The planning authority may consult with anyone the planning authority determines may be helpful in carrying out its responsibilities.

(7) The planning authority shall submit the plan developed under subsection (4) of this section, and revisions of the plan, to the governing body of each law enforcement agency within the county except for the Department of State Police and the Department of Justice.

(8) A governing body shall approve or disapprove the plan submitted to it under subsection (7) of this section within 60 days after receiving the plan. The governing body may not amend the plan.

(9) If the plan is not approved by at least two-thirds of the governing bodies to which the plan is submitted, the planning authority shall develop and submit a revised plan.

(10) If the plan is approved by at least two-thirds of the governing bodies to which the plan is submitted, the planning authority shall submit the approved plan to the Attorney General. No later than 30 days after receiving the plan, the Attorney General shall review the plan for compliance with the minimum requirements described in ORS 181.786. If the Attorney General determines that the plan complies with the minimum requirements, the Attorney General shall approve the plan. Upon approval of the plan:

(a) Each law enforcement agency within the county to which the plan applies is subject to the provisions of the plan; and

(b) Each law enforcement agency subject to the plan is entitled to grants as provided in ORS 181.796.

(11) If the plan is not approved by the Attorney General, the planning authority shall develop and submit a revised plan.

(12) Notwithstanding subsection (10)(a) of this section, a law enforcement agency is not subject to a provision of a plan approved under subsection (10) of this section that:

(a) Conflicts with a provision of a city or county charter or a general ordinance that applies to the law enforcement agency; or

(b) Imposes an obligation not required by ORS 181.789 if complying with the provision would require the law enforcement agency to budget moneys, or submit a revenue measure for a vote of the people, in order to comply with the provision.

(13) The Attorney General shall periodically publish all approved plans.

(14) A law enforcement agency within a county has a duty to participate in good faith in the planning process of the planning authority for the county.

(15) A person bringing an action challenging the validity or enforceability of a plan approved under subsection (10) of this section shall serve the Attorney General with a copy of the complaint. If the Attorney General is not a party to the action, the Attorney General may intervene in the action.

**181.786 Components of plan.** In the plan required by ORS 181.783 (4), a deadly physical force planning authority shall, at a minimum:

(1)(a) Address, under ORS 181.783 (4)(a), the manner in which each law enforcement agency within the county will comply with ORS 181.789 (2); and

(b) Attach a copy of each policy adopted under ORS 181.789 (2) to the plan.

(2) Address, under ORS 181.783 (4)(b), the manner in which each law enforcement agency within the county will comply with ORS 181.789 (3)(a) and (4).

(3) Address, under ORS 181.783 (4)(c), the manner in which each law enforcement agency within the county will comply with ORS 181.789 (5)(a).

(4) Address, under ORS 181.783 (4)(d), the manner in which the district attorney of the county will exercise discretion to resolve issues of potential criminal responsibility.

(5) Address, under ORS 181.783 (4)(e), the manner in which each law enforcement agency within the county will comply with ORS 181.789 (6). [2007 c.842 §3]

**181.789 Policy relating to use of deadly physical force; collection of information; rules.** (1) As used in this section, “involved officer” means:

(a) A police officer whose official conduct, or official order to use deadly physical force, was a cause in fact of the death of a person. As used in this paragraph, “order to

use deadly physical force” means an order issued to another officer to use deadly physical force in a specific incident or an order or directive establishing rules of engagement for the use of deadly physical force for a specific incident.

(b) A police officer whose official conduct was not a cause in fact of the death of a person but whose official involvement in an incident in which the use of deadly physical force by a police officer resulted in the death of a person:

(A) Began before or during the use of the deadly physical force; and

(B) Was reasonably likely to have exposed the police officer to greater stresses or trauma than other police officers experienced as a result of their involvement in the incident before or during the use of the deadly physical force.

(2) A law enforcement agency shall adopt a policy dealing with the use of deadly physical force by its police officers. At a minimum, the policy must include guidelines for the use of deadly physical force.

(3)(a) For each involved officer employed by a law enforcement agency, the law enforcement agency shall pay the costs of at least two sessions with a mental health professional that are attended by the officer. The sessions must be held within six months after the incident in which the officer was involved.

(b) An involved officer shall attend at least one of the sessions described in paragraph (a) of this subsection.

(c) Sessions with a mental health professional under this subsection may not be substituted for a fitness for duty examination required or requested as a condition of employment by the law enforcement agency that employs the involved officer.

(4) For at least 72 hours immediately following an incident in which the use of deadly physical force by a police officer resulted in the death of a person, a law enforcement agency may not return an involved officer to duties that might place the officer in a situation in which the officer has to use deadly physical force. A law enforcement agency may not reduce an involved officer’s pay or benefits as a result of the law enforcement agency’s compliance with this subsection. Notwithstanding ORS 181.796 (1), a personnel cost incurred in complying with this subsection by a law enforcement agency employing 40 or fewer police officers is an expense for purposes of ORS 181.796.

(5)(a) A law enforcement agency employing an involved officer shall include at least one police officer from a different law enforcement agency in the investigation of the

incident in which the involved officer was involved.

(b) The failure of a law enforcement agency to comply with paragraph (a) of this subsection is not grounds for suppressing evidence obtained in the investigation.

(6)(a) A law enforcement agency shall collect at least the following information relating to incidents in which a police officer's use of deadly physical force resulted in the death of a person:

(A) The name, gender, race, ethnicity and age of the decedent.

(B) The date, time and location of the incident.

(C) A brief description of the circumstances surrounding the incident.

(b) A law enforcement agency shall promptly submit the information collected under paragraph (a) of this subsection to the Department of Justice.

(7) The department shall compile and periodically publish information submitted under subsection (6) of this section. The department, by rule, may specify a form to be used by law enforcement agencies in submitting information under subsection (6) of this section. [2007 c.842 §5]

**181.791 Admissibility of conclusions and recommendations.** Conclusions and recommendations for future action made by or for a law enforcement agency that result from activities conducted pursuant to the element of a plan described in ORS 181.783 (4)(e) are not admissible as evidence in any subsequent civil action or administrative proceeding. [2007 c.842 §6]

**181.793 Compliance.** Notwithstanding ORS 181.783, 181.786 and 181.789 (3) and (6), if sufficient moneys are not appropriated to the Department of Justice for purposes of making grants under ORS 181.796, a deadly physical force planning authority created by ORS 181.783 or a law enforcement agency is not required to comply with any requirement of ORS 181.783, 181.786 or 181.789 (3) or (6) for which the law enforcement agency is entitled to reimbursement under ORS 181.796. [2007 c.842 §7]

**181.796 Grants; rules.** (1) As used in this section, "expenses" does not include personnel costs.

(2) To the extent that funds are appropriated to it for such purposes, the Department of Justice shall make grants to law enforcement agencies to reimburse the law enforcement agencies for expenses incurred in implementing and revising the plans required by ORS 181.783. A grant under this section may not exceed 75 percent of the ex-

penses incurred by the law enforcement agency.

(3) The department may not make a grant under this section to a law enforcement agency unless the law enforcement agency is subject to a plan that has been approved by the Attorney General under ORS 181.783 (10).

(4) The department may not make a grant under this section to a tribal government.

(5) The department shall adopt rules necessary for the administration of this section. [2007 c.842 §4; 2011 c.644 §27c]

**Note:** The amendments to 181.796 by section 50c, chapter 644, Oregon Laws 2011, become operative July 1, 2015. See section 58, chapter 644, Oregon Laws 2011, as amended by section 77, chapter 644, Oregon Laws 2011. The text that is operative on and after July 1, 2015, is set forth for the user's convenience.

**181.796.** (1) As used in this section, "expenses" does not include personnel costs.

(2) To the extent that funds are appropriated to it for such purposes, the Department of Justice shall make grants to law enforcement agencies to reimburse the law enforcement agencies for expenses incurred in implementing and revising the plans required by ORS 181.783. A grant under this section may not exceed 75 percent of the expenses incurred by the law enforcement agency.

(3) The department may not make a grant under this section to a law enforcement agency unless the law enforcement agency is subject to a plan that has been approved by the Attorney General under ORS 181.783 (10).

(4) The department shall adopt rules necessary for the administration of this section.

**181.798 Expenditure limitation on grant moneys.** A law enforcement agency, as defined in ORS 181.781, may not use moneys it receives under ORS 181.796 to supplant moneys from another source that the law enforcement agency has been previously authorized to expend. [2007 c.842 §12]

**181.799 Expenses; rules.** (1) A law enforcement agency that participates in the development of the plan required by ORS 181.783 (4) shall keep track of the expenses it incurs by reason of its participation. For purposes of this subsection and subsection (2) of this section, "expenses" includes, but is not limited to, personnel costs.

(2) The Department of Justice shall award a law enforcement agency one credit for each dollar of expenses incurred before July 1, 2008, by reason of the law enforcement agency's participation in the development of the plan required by ORS 181.783 (4).

(3) Notwithstanding ORS 181.796 (2), when a law enforcement agency applies for a grant under ORS 181.796, the department, to the extent that funds are appropriated to the department for the purpose, shall make a grant that exceeds 75 percent of the expenses incurred by the law enforcement agency if the law enforcement agency has unused credits awarded under subsection (2)

of this section. When the department makes a grant that exceeds 75 percent of the expenses incurred by a law enforcement agency, the department shall deduct the amount of the grant that exceeds 75 percent from the credits awarded the law enforcement agency under subsection (2) of this section.

(4) The department may adopt rules necessary for the administration of this section. [2007 c.842 §11]

### SEX OFFENDERS (Classification)

**181.800 Risk assessment tool.** The Department of Corrections shall adopt by rule a sex offender risk assessment tool for use in classifying sex offenders based on the statistical likelihood that an individual sex offender will commit another sex crime. Application of the risk assessment tool to a sex offender must result in placing the sex offender in one of the following levels:

(1) A level one sex offender who presents the lowest risk of reoffending and requires a limited range of notification.

(2) A level two sex offender who presents a moderate risk of reoffending and requires a moderate range of notification.

(3) A level three sex offender who presents the highest risk of reoffending and requires the widest range of notification. [2013 c.708 §1]

**181.801 When risk assessments performed.** (1) When a person convicted of a crime described in ORS 163.355 to 163.427 is sentenced to a term of imprisonment in a Department of Corrections institution for that crime, the department shall conduct a risk assessment of the person utilizing the risk assessment tool described in ORS 181.800 before the person is released from custody.

(2) When a person convicted of a sex crime is sentenced to a term of incarceration in a jail, or is discharged, released or placed on probation by the court, the supervisory authority as defined in ORS 144.087 shall conduct a risk assessment of the person utilizing the risk assessment tool described in ORS 181.800 no later than 60 days after the person is released from jail or discharged, released or placed on probation by the court.

(3)(a) When a person is found guilty except for insanity of a sex crime, the State Board of Parole and Post-Prison Supervision shall conduct a risk assessment of the person utilizing the risk assessment tool described in ORS 181.800 within 60 days after the person is:

(A) Placed on conditional release by the Psychiatric Security Review Board or the Oregon Health Authority;

(B) Discharged from the jurisdiction of the Psychiatric Security Review Board or the Oregon Health Authority;

(C) Placed on conditional release by the court pursuant to ORS 161.327; or

(D) Discharged by the court pursuant to ORS 161.329.

(b) The Psychiatric Security Review Board or the Oregon Health Authority shall notify the State Board of Parole and Post-Prison Supervision when the Psychiatric Security Review Board or the authority conditionally releases or discharges a person described in paragraph (a) of this subsection.

(c) The court shall notify the State Board of Parole and Post-Prison Supervision when the court conditionally releases or discharges a person described in paragraph (a) of this subsection.

(4) Within 60 days after the event triggering the obligation to make an initial report, the State Board of Parole and Post-Prison Supervision shall conduct a risk assessment of a person utilizing the risk assessment tool described in ORS 181.800 if the person:

(a) Has been convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state; or

(b) Has been convicted of a sex crime and was sentenced to a term of imprisonment in a Department of Corrections institution for that sex crime, but was not subjected to a risk assessment utilizing the risk assessment tool described in ORS 181.800 before release under subsection (1) of this section.

(5) When the Department of Corrections, the State Board of Parole and Post-Prison Supervision or a supervisory authority conducts a risk assessment under this section, the agency shall notify the Department of State Police of the results of the risk assessment. Upon receipt, the Department of State Police shall enter the results of the risk assessment into the Law Enforcement Data System. [2013 c.708 §2]

### 181.802 Applicability of ORS 181.801.

(1) ORS 181.801 applies to persons for whom the event triggering the obligation to make an initial report under ORS 181.806 (3)(a)(A), 181.807 (4)(a)(A) or 181.808 (1)(a)(A), (2)(a)(A)

or (3)(a)(A) occurs on or after January 1, 2014.

(2) As used in this section and ORS 181.801, “event triggering the obligation to make an initial report” means:

(a) If the initial report is described in ORS 181.806 (3)(a)(A):

(A) Discharge, parole or release on any form of supervised or conditional release from a jail, prison or other correctional facility in this state;

(B) Parole to this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state; or

(C) Discharge by the court under ORS 161.329.

(b) If the initial report is described in ORS 181.807 (4)(a)(A), discharge, release or placement on probation:

(A) By the court; or

(B) To or in this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state.

(c) If the initial report is described ORS 181.808 (1)(a)(A), moving into this state.

(d) If the initial report is described in ORS 181.808 (2)(a)(A), the first day of school attendance or the 14th day of employment in this state.

(e) If the initial report is described in ORS 181.808 (3)(a)(A):

(A) Discharge, release on parole or release on any form of supervised or conditional release, from a jail, prison or other correctional facility or detention facility; or

(B) Discharge, release or placement on probation, by another United States court. [2013 c.708 §3]

**Note:** Section 7, chapter 708, Oregon Laws 2013, provides:

**Sec. 7. Current registrants.** (1) As used in this section:

(a) “Event triggering the obligation to make an initial report” has the meaning given that term in section 3 of this 2013 Act [181.802].

(b) “Existing registrant” means a person for whom the event triggering the obligation to make an initial report under ORS 181.595 (3)(a)(A), 181.596 (4)(a)(A) or 181.597 (1)(a)(A), (2)(a)(A) or (3)(a)(A) [renumbered 181.806 (3)(a)(A), 181.807 (4)(a)(A) or 181.808 (1)(a)(A), (2)(a)(A) or (3)(a)(A)] occurs before January 1, 2014.

(2)(a) No later than December 1, 2016, the State Board of Parole and Post-Prison Supervision shall classify existing registrants in one of the levels described in section 1 of this 2013 Act [181.800]. No later than February 1, 2017, the Department of State Police shall enter the results of the classifications described in this section into the Law Enforcement Data System.

(b) The board shall classify an existing registrant as a level three sex offender under section 1 (3) of this 2013 Act [181.800 (3)], if:

(A) The person was previously designated a predatory sex offender and the designation was made after the person was afforded notice and an opportunity to be heard as to all factual questions at a meaningful time and in a meaningful manner; or

(B) The person is a sexually violent dangerous offender under ORS 137.765.

(3) As soon as practicable following the classification of an existing registrant under this section, the board shall notify the person of the classification by certified mail.

(4) If, for any reason, the board does not classify an existing registrant under subsection (2) of this section, the person is, by operation of law, classified as a level three sex offender under section 1 (3) of this 2013 Act on January 1, 2017.

(5)(a) An existing registrant who seeks review of a classification made under this section may petition the board for review. The petition may be filed no later than:

(A) Sixty days after the board provides the notice described in subsection (3) of this section; or

(B) Sixty days after the person receives actual notice of the classification, if the person is classified under subsection (4) of this section.

(b) Upon receipt of a petition described in this subsection, the board shall afford the person an opportunity to be heard as to all factual questions related to the classification.

(c) After providing the person with notice and an opportunity to be heard in accordance with this subsection, the board shall classify the person in accordance with the classifications described in section 1 of this 2013 Act, based on all of the information available to the board.

(6) The board shall adopt rules to carry out the provisions of this section.

(7) An existing registrant may not petition for reclassification or relief from the obligation to report as a sex offender as provided in section 5 of this 2013 Act [181.821] until either all existing registrants have been classified in one of the levels described in section 1 of this 2013 Act or December 1, 2016, whichever occurs first. [2013 c.708 §7]

**181.803 When certain classification required; persons ineligible for relief from reporting obligation.** Notwithstanding any other provision of law:

(1) A person required to report as a sex offender under ORS 181.806, 181.807 or 181.808 is classified as a level three sex offender under ORS 181.800 (3) unless:

(a) Following a risk assessment conducted under ORS 181.801, the person is classified as a level two sex offender under ORS 181.800 (2) or as a level one sex offender under ORS 181.800 (1); or

(b) After filing a petition under ORS 181.821 (2), the person is reclassified as a level two sex offender under ORS 181.800 (2) by the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board.

(2) A person who is a sexually violent dangerous offender under ORS 137.765:

(a) Must be classified as a level three sex offender under ORS 181.800 (3); and

(b) Is not eligible for relief from the obligation to report as a sex offender or reclassification as a level two sex offender under ORS 181.800 (2), pursuant to a petition filed under ORS 181.821.

(3) A person who has been convicted or found guilty except for insanity of one of the following offenses is not eligible for relief from the obligation to report as a sex offender pursuant to a petition filed under ORS 181.821 (1):

(a) Rape in the first degree;

(b) Sodomy in the first degree;

(c) Unlawful sexual penetration in the first degree;

(d) Kidnapping in the first degree as described in ORS 163.235 (1)(e) or when the victim is under 18 years of age; or

(e) Burglary in the first degree when committed with the intent to commit any of the offenses listed in ORS 181.805 (5)(a) to (t). [2013 c.708 §4]

**Note:** Section 35, chapter 708, Oregon Laws 2013, provides:

**Sec. 35.** (1) Sections 4 to 6 of this 2013 Act [181.803, 181.821 and 181.835] apply to persons for whom the event triggering the obligation to make an initial report, as defined in section 3 of this 2013 Act [181.802], occurs on or after January 1, 2014.

(2) Notwithstanding section 7 or 38 of this 2013 Act or any other provision of law, notification to the public for persons for whom the event triggering the obligation to make an initial report, as defined in section 3 of this 2013 Act, occurs before January 1, 2014, shall continue to be governed by the law in effect on December 31, 2013. [2013 c.708 §35]

**Note:** The amendments to section 35, chapter 708, Oregon Laws 2013, by section 36, chapter 708, Oregon Laws 2013, become operative January 1, 2017. See section 37, chapter 708, Oregon Laws 2013. The text that is operative on and after January 1, 2017, is set forth for the user's convenience.

**Sec. 35.** Sections 4 to 6 of this 2013 Act [181.803, 181.821 and 181.835] apply to persons for whom the event triggering the obligation to make an initial report, as defined in section 3 of this 2013 Act [181.802], occurs before, on or after January 1, 2014.

### (Registration)

**181.805 Definitions for ORS 181.800 to 181.845.** As used in ORS 181.800 to 181.845:

(1) "Another United States court" means a federal court, a military court, the tribal court of a federally recognized Indian tribe or a court of:

(a) A state other than Oregon;

(b) The District of Columbia;

(c) The Commonwealth of Puerto Rico;

(d) Guam;

(e) American Samoa;

(f) The Commonwealth of the Northern Mariana Islands; or

(g) The United States Virgin Islands.

(2) "Attends" means is enrolled on a full-time or part-time basis.

(3)(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 or a secure intensive community inpatient facility 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 or responsible except for insanity under ORS 419C.411.

(4) "Institution of higher education" means a public or private educational institution that provides a program of post-secondary education.

(5) "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;

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

(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) Online sexual corruption of a child in any degree if the offender reasonably be-

lieved the child to be more than five years younger than the offender;

(r) Luring a minor, if:

(A) The offender reasonably believed the child to be more than five years younger than the offender or under 16 years of age; and

(B) The court designates in the judgment that the offense is a sex crime;

(s) Sexual assault of an animal;

(t) Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection;

(u) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);

(v) Purchasing sex with a minor if the court designates the offense as a sex crime pursuant to ORS 163.413 (3)(d), or the offense is the defendant's second or subsequent conviction under ORS 163.413 (3)(b)(B);

(w) Any attempt to commit any of the crimes listed in paragraphs (a) to (s), (u) or (v) of this subsection;

(x) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to (v) of this subsection; or

(y) Criminal conspiracy if the offender agrees with one or more persons to engage in or cause the performance of an offense listed in paragraphs (a) to (t) of this subsection.

(6) "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 convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state; or

(d) Is described in ORS 181.809 (1).

(7) "Works" or "carries on a vocation" means full-time or part-time employment for more than 14 days within one calendar year whether financially compensated, volunteered or for the purpose of governmental or educational benefit. [Formerly 181.594]

**181.806 Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction.** (1) The agency to which 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.

(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 or a crime for which the person would have to register as a sex offender under federal law; or

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

(b) Is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state; or

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

(3)(a) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county to which the person was discharged, paroled or released or in which the person was otherwise placed:

(A) Within 10 days following discharge, release on parole, post-prison supervision or other supervised or conditional release;

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

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

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence.

(c) The obligation to report under this subsection 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 and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department or the county sheriff's office:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police. [Formerly 181.595]

**181.807 Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction.** (1) The agency to which 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.

(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 a federal court after being convicted of a crime for which the person would have to register as a sex offender under federal law, regardless of whether the crime would constitute a sex crime in this state; or

(c) To or in this state under ORS 144.610 after being convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court's jurisdiction, regardless of whether the crime would constitute a sex crime in this state.

(3) The court shall ensure that the person completes a form that documents the person's obligation to report under ORS 181.806 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) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county to which the person was discharged or released or in which the person was placed on probation:

(A) Within 10 days following discharge, release or placement on probation;

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

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

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence.

(c) The obligation to report under this subsection 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 and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department or the county sheriff's office:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and



(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police. [Formerly 181.596]

**181.808 Reporting by certain persons upon moving into state; reporting by certain nonresidents and certain residents.** (1)(a) When a person described in subsection (6) of this section moves into this state and is not otherwise required by ORS 181.806, 181.807 or 181.809 to report, the person shall report, in person, to the Department of State Police in Marion County, Oregon:

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

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

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

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence.

(2)(a) When a person described in ORS 181.806 (2) or 181.807 (2) or subsection (6) of this section attends school or works in this state, resides in another state and is not otherwise required by ORS 181.806, 181.807 or 181.809 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county in which the school or place of work is located, 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.

(b) As used in this subsection, "attends school" means enrollment in any type of school on a full-time or part-time basis.

(3)(a) When a person described in subsection (6) of this section resides in this state at the time of the conviction or adjudication giving rise to the obligation to report, con-

tinues to reside in this state following the conviction or adjudication and is not otherwise required by ORS 181.806, 181.807 or 181.809 to report, the person shall report, in person, to the Department of State Police in Marion County, Oregon:

(A) Within 10 days following:

(i) Discharge, release on parole or release on any form of supervised or conditional release, from a jail, prison or other correctional facility or detention facility; or

(ii) Discharge, release or placement on probation, by another United States court;

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

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

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If a person required to report under this subsection has complied with the applicable initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence.

(4) When a person reports under this section, the agency to which the person reports shall complete a sex offender registration form concerning the person.

(5) 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.

(6) Subsections (1) to (5) of this section apply to a person convicted in another United States court of a crime:

(a) That would constitute a sex crime if committed in this state; or

(b) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state.

(7) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department or the sheriff's office:

(A) Shall photograph the person when the person initially reports under this section, each time the person reports annually under subsection (1)(a)(C) or (3)(a)(C) of this section and each time the person reports under subsection (2)(a)(B) of this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police. [Formerly 181.597]

**181.809 Reporting by sex offenders adjudicated in juvenile court.** (1) Unless the juvenile court enters an order under ORS 181.823 or 181.826 relieving a person of the obligation to report as a sex offender, subsections (2) to (4) of this section apply to a person:

(a) Who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005, or found by the juvenile court to be responsible except for insanity under ORS 419C.411, for having committed an act that if committed by an adult would constitute a felony sex crime; or

(b) Who has been found in a juvenile adjudication in another United States court to have committed an act while the person was under 18 years of age that would constitute a felony sex crime if committed in this state by an adult.

(2) A person described in subsection (1) of this section who resides in this state shall make an initial report, in person, to the Department of State Police, a city police department or a county sheriff's office as follows:

(a) If, as a result of the juvenile adjudication for a felony sex crime, the person is discharged, released or placed on probation or any other form of supervised or conditional release by the juvenile court, the person shall make the initial report in the county in which the person is discharged, released or placed on probation or other form of supervised or conditional release, no later than 10 days after the date the person is discharged, released or placed on probation or other form of supervised or conditional release;

(b) If, as a result of the juvenile adjudication for a felony sex crime, the person is confined in a correctional facility by the juvenile court, the person shall make the initial report in the county in which the person is discharged or otherwise released from the facility, no later than 10 days after the date the person is discharged or otherwise released from the facility; or

(c) If the person is adjudicated for the act giving rise to the obligation to report in another United States court and the person is found to have committed an act that if committed by an adult in this state would constitute:

(A) A Class A or Class B felony sex crime:

(i) If the person is not a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police in Marion County, Oregon, no later than 10 days after the date the person moves into this state; or

(ii) If the person is a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police in Marion County, Oregon, no later than 10 days after the date the person is discharged, released or placed on probation or any other form of supervised or conditional release by the other United States court or, if the person is confined in a correctional facility by the other United States court, no later than 10 days after the date the person is discharged or otherwise released from the facility.

(B) A Class C felony sex crime:

(i) If the person is not a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police in Marion County, Oregon, no later than six months after the date the person moves into this state; or

(ii) If the person is a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police in Marion County, Oregon, no later than 10 days after the date the person is discharged, released or placed on probation or any other form of supervised or conditional release by the other United States court or, if the person is confined in a correctional facility by the other United States court, no later than 10 days after the date the person is discharged or otherwise released from the facility.

(3) After making the initial report described in subsection (2) of this section, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the

county of the person's last reported residence:

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

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

(c) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(d) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(4) When a person described in subsection (1) of this section attends school or works in this state, resides in another state and is not otherwise required to report as a sex offender under this section or ORS 181.806, 181.807 or 181.808, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county in which the person attends school or works, 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.

(5) The agency to which a person reports under this section shall complete a sex offender registration form concerning the person when the person reports under this section.

(6) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department or the county sheriff's office:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police.

(7) The obligation to report under this section is terminated if the adjudication that

gave rise to the obligation is reversed or vacated.

(8) The court shall ensure that a person described in subsection (1)(a) of this section completes a form that documents the person's obligation to report under 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. [Formerly 181.609]

**181.810 Registration forms; Department of State Police to provide; distribution of information; fee.** (1) Agencies

required to register offenders under ORS 181.806, 181.807, 181.808 and 181.809 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) The department shall enter into the Law Enforcement Data System the sex offender information obtained from the sex offender registration forms. If a conviction or adjudication that gave rise to the registration obligation is reversed or vacated or if the registrant is pardoned, the department shall remove from the Law Enforcement Data System the sex offender information obtained from the form.

(3) 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.

(4) 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.

(5) The department shall assess a person who is required to report under ORS 181.806, 181.807, 181.808 or 181.809 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 181.800 to 181.845. [Formerly 181.598]

**181.812 Failure to report as sex offender; defense.** (1) A person who is required to report as a sex offender in accordance with the applicable provisions of ORS 181.806, 181.807, 181.808 or 181.809 and who has knowledge of the reporting requirement commits the crime of failure to report as a sex offender if the person:

(a) Fails to make the initial report to an agency;

(b) Fails to report when the person works at, carries on a vocation at or attends an institution of higher education;

(c) Fails to report following a change of school enrollment or employment status, including enrollment, employment or vocation status at an institution of higher education;

(d) Moves to a new residence and fails to report the move and the person's new address;

(e) Fails to make an annual report;

(f) Fails to provide complete and accurate information;

(g) Fails to sign the sex offender registration form as required; or

(h) Fails to submit to fingerprinting or to having a photograph taken of the person's face, identifying scars, marks or tattoos.

(2)(a) It is an affirmative defense to a charge of failure to report under subsection (1)(d) of this section by a person required to report under ORS 181.806 (3)(a)(B), 181.807 (4)(a)(B) or 181.809 (3)(a) that the person reported, in person, within 10 days of a change of residence to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's new residence, if the person otherwise complied with all reporting requirements.

(b) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 181.808 (1)(a) or 181.809 (2)(c)(A)(i) that the person reported, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's new residence, within 10 days of moving into this state.

(c) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 181.809 (2)(c)(B)(i) that the person reported, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's new residence, within six months of moving into this state.

(d) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 181.808 (3) or 181.809 (2)(c)(A)(ii) or (B)(ii) or (3) that the person reported, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence, if the person otherwise complied with all reporting requirements.

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

(b) 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), (c), (d) or (g) 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 181.810 (4) commits a violation. [Formerly 181.599]

**181.814 Purpose of sex offender reporting obligation; rules.** (1) The purpose of ORS 181.800 to 181.845 is to assist law enforcement agencies in preventing future sex offenses.

(2) The Department of State Police may adopt rules to carry out the responsibilities of the department under ORS 181.800 to 181.845. [Formerly 181.602]

**181.815 Notice of reporting obligation 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 obligation to report as a sex offender under ORS 181.806 and 181.807.

(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 181.806 or 181.807 and the effect described in ORS 181.803 of failing to submit to a sex offender risk assessment. 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. [Formerly 181.603]

**181.816 Notice required when offender moves to another state.** When the Department of State Police learns that a person required to report under ORS 181.806, 181.807, 181.808 or 181.809 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. [Formerly 181.604]

**181.817 Offender profiling.** (1) For those sex offenders classified as a level three sex offender under ORS 181.800 (3) or designated as a predatory sex offender under ORS 181.838, the agency making the classification or designation 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. [Formerly 181.605]

**181.818 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 181.800 to 181.845. [Formerly 181.606]

#### **(Reclassification and Relief From Reporting Obligation)**

**181.820 Relief from reporting requirement.** (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 181.806, 181.807 or 181.808 may file a petition in circuit court for an order relieving the person of the duty to report. The person must pay the filing fee established under ORS 21.135. A petition may be filed under this section only if:

(A) The person has only one conviction for 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 181.838.

(b)(A) Except as otherwise provided in this paragraph, the petition must be filed in the circuit court of the county in which the person was convicted of the sex crime.

(B) If the person was convicted of the sex crime in another state, the petition must be filed in the circuit court of the county in which the person resides.

(c) The district attorney of the county in which the petition is filed 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. When the court enters an order under this subsection, the petitioner shall send a certified copy of the court order to the Department of State Police. [Formerly 181.600; 2009 c.8 §1; 2011 c.271 §19; 2012 c.48 §9]

**Note:** 181.820 is repealed January 1, 2017. See section 34, chapter 708, Oregon Laws 2013.

**181.821 Relief from reporting obligation for sex offenders classified under ORS 181.800; reclassification; procedure.**

(1)(a) A person who is required to report as a sex offender under ORS 181.806, 181.807 or 181.808 due to a conviction for a sex crime and is classified as a level one sex offender under ORS 181.800 (1) may petition the State Board of Parole and Post-Prison Supervision to relieve the person from the obligation to

report as a sex offender under ORS 181.806, 181.807 or 181.808.

(b) A person who is required to report as a sex offender under ORS 181.806, 181.807 or 181.808 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is classified as a level one sex offender under ORS 181.800 (1), may petition the Psychiatric Security Review Board to relieve the person from the obligation to report as a sex offender under ORS 181.806, 181.807 or 181.808.

(c)(A) Except as otherwise provided in subparagraph (B) of this paragraph, a person described in paragraph (a) or (b) of this subsection may file the petition no sooner than five years after the date supervision for the sex crime is terminated or, if the person was not subject to supervision for the sex crime, five years after the date the person was discharged from the jurisdiction of the court, Psychiatric Security Review Board or Oregon Health Authority.

(B) A person who was reclassified under subsection (2) of this section from a level two sex offender under ORS 181.800 (2) to a level one sex offender under ORS 181.800 (1) may file the petition no sooner than five years after the date of reclassification.

(d) Notwithstanding paragraph (c) of this subsection, if a person is required to report because of a conviction or finding of guilty except for insanity from another United States court as that term is defined in ORS 181.805, the person may not petition for relief from reporting as a sex offender in Oregon unless the laws of the jurisdiction where the person was convicted or found guilty except for insanity would permit a petition for relief from reporting as a sex offender.

(2)(a) A person who is required to report as a sex offender under ORS 181.806, 181.807 or 181.808 due to a conviction for a sex crime and is classified as a level three sex offender under ORS 181.800 (3) may petition the State Board of Parole and Post-Prison Supervision to reclassify the person as a level two sex offender under ORS 181.800 (2).

(b) A person who is required to report as a sex offender under ORS 181.806, 181.807 or 181.808 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is classified as a level three sex offender under ORS 181.800 (3), may petition the Psychiatric Security Review Board to reclassify the person as a level two sex offender under ORS 181.800 (2).

(c) A person who is required to report as a sex offender under ORS 181.806, 181.807 or 181.808 due to a conviction for a sex crime and is classified as a level two sex offender under ORS 181.800 (2) may petition the State

Board of Parole and Post-Prison Supervision to reclassify the person as a level one sex offender under ORS 181.800 (1).

(d) A person who is required to report as a sex offender under ORS 181.806, 181.807 or 181.808 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is classified as a level two sex offender under ORS 181.800 (2), may petition the Psychiatric Security Review Board to reclassify the person as a level one sex offender under ORS 181.800 (1).

(e) The petition described in this subsection may be filed no sooner than 10 years after the date supervision for the sex crime is terminated or, if the person was not subject to supervision for the sex crime, 10 years after the date the person was discharged from the jurisdiction of the court, Psychiatric Security Review Board or Oregon Health Authority.

(3)(a) The State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall deny a petition filed under this section if, at any time after the person is convicted or found guilty except for insanity of a sex crime, the person is convicted of or found guilty except for insanity of a person felony or a person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission.

(b) The appropriate board shall deny a petition filed under subsection (2)(c) or (d) of this section if the board has previously reclassified the person as a level two sex offender under ORS 181.800 (2) as the result of a petition filed under subsection (2)(a) or (b) of this section.

(4)(a) Except as otherwise provided in subsection (3) of this section, if a person files a petition under subsection (1) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an order relieving the person of the obligation to report as a sex offender under ORS 181.806, 181.807 or 181.808 if the board determines, by clear and convincing evidence, that the person:

(A) Is statistically unlikely to reoffend; and

(B) Does not pose a threat to the safety of the public.

(b)(A) Except as otherwise provided in subsection (3) of this section, if a person files a petition under subsection (2)(a) or (b) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an or-

der reclassifying the person as a level two sex offender under ORS 181.800 (2) if, after completion of a new risk assessment utilizing the risk assessment tool described in ORS 181.800, the person is classified as presenting a low or moderate risk of reoffending and the board determines that a lower level of notification is sufficient to protect public safety.

(B) Except as otherwise provided in subsection (3) of this section, if a person files a petition under subsection (2)(c) or (d) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an order reclassifying the person as a level one sex offender under ORS 181.800 (1) if, after completion of a new risk assessment utilizing the risk assessment tool described in ORS 181.800, the person is classified as presenting a low risk of reoffending and the board determines that a lower level of notification is sufficient to protect public safety.

(5) In making the determinations described in subsection (4) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall consider:

(a) The nature of and degree of violence involved in the offense that requires reporting;

(b) The age and number of victims of the offense that requires reporting;

(c) The age of the person at the time of the offense that requires reporting;

(d) The length of time since the offense that requires reporting and the time period during which the person has not reoffended;

(e) The person's performance on supervision for the offense that requires reporting;

(f) Whether the person has participated in or successfully completed a court-approved sex offender treatment program or any other rehabilitative programs;

(g) The person's stability in employment and housing;

(h) The person's community and personal support system;

(i) Other criminal and relevant noncriminal behavior of the person both before and after the offense that requires reporting; and

(j) Any other relevant factors.

(6)(a) The Attorney General may represent the state at a hearing conducted under this section unless the district attorney of the county in which the person was convicted or, if the conviction for which the person is required to report as a sex offender was entered in another United States court,

the district attorney of the county in which the person resides, elects to represent the state.

(b) If a district attorney elects to represent the state, the district attorney shall give timely written notice of the election to the Attorney General, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board and the person who is the subject of the hearing.

(c) If the district attorney declines to represent the state, the district attorney shall cooperate with the Attorney General in securing the material necessary to represent the state.

(7)(a) When the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board enters an order under this section relieving a person of the obligation to report as a sex offender under ORS 181.806, 181.807 or 181.808 or enters an order reclassifying a person as a level two sex offender under ORS 181.800 (2) or as a level one sex offender under ORS 181.800 (1), the board shall forward a copy of the order to the Department of State Police.

(b) Upon receipt of an order relieving a person of the obligation to report, the department shall remove from the Law Enforcement Data System the sex offender information obtained from the sex offender registration form submitted under ORS 181.806, 181.807 or 181.808.

(c) Upon receipt of an order reclassifying a person as a level two sex offender under ORS 181.800 (2) or as a level one sex offender under ORS 181.800 (1), the department shall update the Law Enforcement Data System to reflect the reclassification.

(8) The State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review Board shall adopt rules to carry out the provisions of this section. The rules may include a filing fee in an amount determined by the appropriate board. All fees paid under this subsection shall be deposited into the General Fund and credited to the account of the appropriate board.

(9) As used in this section, "supervision" means probation, parole, post-prison supervision or any other form of supervised or conditional release. [2013 c.708 §5]

**Note:** See notes under 181.803.

**181.823 Relief from reporting requirement for juvenile offenders adjudicated in Oregon.** (1) A person required to report as a sex offender under ORS 181.809 (1)(a) may file a petition for an order relieving the person of the duty to report. The person must pay the filing fee established under ORS 21.135. If the person resides:

(a) In this state and is required to report under ORS 181.809 (2) or (3), the petition must be filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

(b) In another state and is required to report under ORS 181.809 (4), the petition must be filed in the juvenile court in the county in which the person attends school or works.

(2) If the act giving rise to the obligation to report would constitute:

(a) A Class A or Class B felony sex crime if committed by an adult, the petition may be filed no sooner than two years after the termination of juvenile court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than two years after the person is discharged from the jurisdiction of the board.

(b) A Class C felony sex crime if committed by an adult, the petition may be filed no sooner than 30 days before the termination of juvenile court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than 30 days before the person is discharged from the jurisdiction of the board.

(3)(a) 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.

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

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

(4) The person filing the petition has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public. In determining whether the person has met the 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, board 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.

(5) In a hearing under this section, the juvenile court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this section. As used in this subsection, "relevant evidence"



has the meaning given that term in ORS 40.150.

(6) 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.

(7) As soon as practicable after a petition has been filed under this section, the district attorney or juvenile department shall make a reasonable effort to notify the victim of the crime that the person has filed a petition seeking relief under this section and, if the victim has requested, to inform the victim of the date, time and place of a hearing on the petition in advance of the hearing.

(8)(a) When a petition filed under this section is filed:

(A) While the person is under the jurisdiction of the juvenile court or the Psychiatric Security Review Board or less than three years after the date the jurisdiction is terminated, the court shall hold a hearing no sooner than 60 days and no later than 120 days after the date of filing.

(B) Three years or more after the date the juvenile court or board jurisdiction is terminated, the court shall hold a hearing no sooner than 90 days and no later than 150 days after the date of filing.

(b) Notwithstanding paragraph (a) of this subsection, upon a showing of good cause, the court may extend the period of time in which a hearing on the petition must be held.

(9)(a) When the person proves by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public, the court shall grant the petition.

(b) Notwithstanding paragraph (a) of this subsection, the court may not grant a petition filed under this section before the date the juvenile court or board jurisdiction over the person is terminated.

(10) When a juvenile court enters an order relieving a person of the requirement to report under ORS 181.809, the person shall send a certified copy of the juvenile court order to the Department of State Police.

(11) If a person commits an act that could be charged as a sex crime listed in ORS 137.707 and the person is 15, 16 or 17 years of age at the time the act is committed, the state and the person may stipulate that the person may not petition for relief under this section as part of an agreement that the

person be subject to the jurisdiction of the juvenile court rather than being prosecuted as an adult under ORS 137.707.

(12) When a petition is filed under subsection (2)(b) of this section before the termination of juvenile court or board jurisdiction, if the person, or the parent or guardian of the person if the person is less than 18 years of age, requests counsel and is without sufficient financial means to employ suitable counsel to represent the person, for purposes of the petition described in this section, the court shall 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. [Formerly 181.607; 2011 c.595 §§94,177]

**181.826 Relief from reporting requirement for juvenile offenders adjudicated in another United States jurisdiction.** (1)

Except as provided in subsection (7) of this section, a person required to report under ORS 181.809 (1)(b) may file a petition in the juvenile court for an order relieving the person of the duty to report. The person must pay the filing fee established under ORS 21.135. If the person resides:

(a) In this state and is required to report under ORS 181.809 (2) or (3), the petition must be filed in the juvenile court of the county in which the person resides.

(b) In another state and is required to report under ORS 181.809 (4), the petition must be filed in the juvenile court of the county in which the person attends school or works.

(2) If the act giving rise to the obligation to report would constitute:

(a) A Class A or Class B felony sex crime if committed in this state by an adult, the petition may be filed no sooner than two years after the termination of the other United States court's jurisdiction over the person.

(b) A Class C felony sex crime if committed in this state by an adult, the petition may be filed no sooner than 30 days before the termination of the other United States court's jurisdiction over the person.

(3) The person filing the petition must submit with the petition all releases and waivers necessary to allow the district attorney for the county in which the petition is filed to obtain the following documents from the jurisdiction in which the person was adjudicated for the act for which reporting is required:

- (a) The juvenile court petition;
- (b) The dispositional report to the court;
- (c) The order of adjudication or jurisdiction;

- (d) Any other relevant court documents;
- (e) The police report relating to the act for which reporting is required;
- (f) The order terminating jurisdiction for the act for which reporting is required; and
- (g) The evaluation and treatment records or reports of the person that are related to the act for which reporting is required.

(4) A person filing a petition under this section has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public.

(5) Unless the court finds good cause for a continuance, the court shall hold a hearing on the petition no sooner than 90 days and no later than 150 days after the date the petition is filed.

(6) If a person who files a petition under this section is required to report as a sex offender for having committed an act that if committed in this state could have subjected the person to prosecution as an adult under ORS 137.707, the court may not grant the petition notwithstanding the fact that the person has met the burden of proof established in subsection (4) of this section unless the court determines that to do so is in the interest of public safety.

(7) This section does not apply to a person who is required to register as a sex offender for life in the jurisdiction in which the offense occurred.

(8) In a hearing under this section, the court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

(9) If the court is satisfied by clear and convincing evidence that the person is rehabilitated and that the person does not pose a threat to the safety of the public, the court shall enter an order relieving the person of the duty to report. When the court enters an order under this subsection, the person shall send a certified copy of the court order to the Department of State Police. [Formerly 181.608; 2009 c.713 §6; 2011 c.595 §§95,178]

**181.830 Relief from reporting requirement; circumstances; order.** A person otherwise required to report under ORS 181.806, 181.807, 181.808 or 181.809 is not required to report, and if currently reporting is no longer required to report, if:

(1)(a) The person has been convicted of:

(A) Rape in the third degree as defined in ORS 163.355;

(B) Sodomy in the third degree as defined in ORS 163.385;

(C) Sexual abuse in the third degree as defined in ORS 163.415;

(D) Contributing to the sexual delinquency of a minor as defined in ORS 163.435;

(E) Sexual misconduct as defined in ORS 163.445; or

(F) An attempt to commit an offense listed in subparagraphs (A) to (E) of this paragraph;

(b) The person has been found guilty except for insanity of an offense listed in paragraph (a) of this subsection;

(c) The person 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 an offense listed in paragraph (a)(A) or (B) of this subsection; or

(d) The person is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute an offense listed in paragraph (a) of this subsection;

(2)(a) The person is less than five years older than the victim;

(b) The victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age;

(c) The victim was at least 14 years of age at the time of the offense or act;

(d) Except for the convictions or findings described in subsection (1) of this section, the person has not been convicted of, found guilty except for insanity of, or found to be within the jurisdiction of the juvenile court based on, a sex crime or an offense, in another United States court, for conduct that if committed in this state would constitute a sex crime; and

(e) Each conviction or finding described in subsection (1) of this section involved the same victim; and

(3) The court enters an order relieving the person of the requirement to report under ORS 181.832 or 181.833. [2007 c.627 §1; 2009 c.205 §1; 2009 c.713 §23; 2011 c.271 §20]

**181.832 Procedure for relief under ORS 181.830; upon conviction or adjudication.**

(1) When a person is convicted of an offense or adjudicated for an act described in ORS 181.830 (1), the court shall determine whether the person is required to report under ORS 181.806 or 181.807.

(2) The court shall enter an order relieving the person of the requirement to report, unless:

(a) The court finds by a preponderance of the evidence that the person does not meet the eligibility requirements described in ORS 181.830; or

(b) The district attorney and the person stipulate that the person is required to report.

(3) The state has the burden of proving that the person does not meet the eligibility requirements described in ORS 181.830.

(4) If the court relieves the person from the requirement to report, the person shall send a certified copy of the court order to the Department of State Police. [2007 c.627 §2; 2009 c.9 §1]

**181.833 Procedure for relief under ORS 181.830; after conviction or adjudication; testimony of victim.** (1) A person who meets the criteria described in ORS 181.830 and seeks relief from the requirement to report under ORS 181.806, 181.807 or 181.808 shall:

(a) If the person was convicted in this state of the offense or adjudicated in this state for the act giving rise to the obligation to report, file a motion for relief from the requirement to report and an affidavit of eligibility with the circuit court of the county in which the person was convicted or adjudicated and serve a copy of the motion and affidavit on the district attorney for that county.

(b) If the person was convicted in another United States court of the offense or adjudicated in another United States court for the act giving rise to the obligation to report, file a petition for relief from the requirement to report and an affidavit of eligibility with the circuit court of the county in which the person resides and serve a copy of the petition and affidavit on the district attorney for that county.

(2) A person filing a motion or petition under subsection (1) of this section must pay the filing fee established under ORS 21.135. The court shall schedule a hearing more than 90 days from the date of the filing. The court shall notify the person and the district attorney of the date of the hearing.

(3)(a) Upon receipt of the affidavit described in subsection (1) of this section, the district attorney shall determine whether the district attorney contests the request for relief.

(b) If the district attorney does not contest the request for relief, the district attorney shall submit an order to the court relieving the person of the reporting requirements described in ORS 181.806, 181.807 or 181.808. The court shall enter the order.

(c) If the district attorney contests the request for relief, the district attorney shall notify the person of that determination within 90 days after receipt of the affidavit.

(4) At the hearing, the person has the burden of proving that the person meets the eligibility requirements described in ORS 181.830.

(5)(a) At the hearing, the victim of the offense or act giving rise to the obligation to report:

(A) May testify voluntarily upon request.

(B) May be compelled by the person to testify only if the court issues an order allowing a subpoena upon the motion of the person.

(b) A copy of the motion for a subpoena under this subsection must be served on the district attorney.

(c) The court may not issue an order allowing a subpoena under this subsection unless the person can demonstrate good cause by showing that the victim's testimony is material and favorable to the person's request for relief.

(d) If the court grants an order allowing a subpoena under this subsection, the court may allow the victim to appear by telephone or other communication device approved by the court.

(6)(a) If the court finds, by a preponderance of the evidence, that the person meets the eligibility requirements described in ORS 181.830, the court shall enter an order granting the request for relief from the requirement to report.

(b) If the court does not make the finding described in paragraph (a) of this subsection, the court shall enter an order denying the request for relief.

(7)(a) If the court relieves the person from the requirement to report, the person shall send a certified copy of the court order to the Department of State Police.

(b) Upon receipt of the order, the Department of State Police shall remove from the Law Enforcement Data System the sex offender information obtained from the sex offender registration form submitted under ORS 181.806, 181.807 or 181.808.

(8) The order entered under subsection (6) of this section is not subject to appeal.

(9) The Oregon Evidence Code and the Oregon Rules of Civil Procedure do not apply to the hearing described in subsection (2) of this section. [2007 c.627 §3; 2009 c.323 §1; 2009 c.713 §7; 2012 c.48 §10]

**(Release of Information)**

**181.835 Release of sex offender information according to classification.** (1)(a) A notifying agency or a supervising agency 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.

(b) A notifying agency or a supervising agency may release sex offender information to a law enforcement agency if the notifying agency or supervising agency determines that the release of information is in the public interest.

(c) In addition to the release of information described in this subsection and ORS 137.540, 144.260 and 441.373, a notifying agency or a supervising agency may release sex offender information to the public in accordance with subsections (2) to (4) of this section.

(2) If the sex offender is classified as a level three sex offender under ORS 181.800 (3):

(a) The Department of State Police shall release sex offender information on a website maintained by the department; and

(b) The supervising agency or a notifying agency may release sex offender information to:

(A) A person that resides with the sex offender;

(B) A person with whom the sex offender has a significant relationship;

(C) Residential neighbors and churches, community parks, schools and child care centers, convenience stores, businesses and other places that children or other potential victims may frequent;

(D) A long term care facility, as defined in ORS 442.015, or a residential care facility, as defined in ORS 443.400, if the agency knows that the sex offender is seeking admission to the facility; and

(E) Local or regional media sources.

(3) If the sex offender is classified as a level two sex offender under ORS 181.800 (2), the supervising agency or a notifying agency may release sex offender information to the persons or entities described in subsection (2)(b)(A) to (D) of this section.

(4) If the sex offender is classified as a level one sex offender under ORS 181.800 (1), the supervising agency or a notifying agency may release sex offender information to a person described in subsection (2)(b)(A) of this section.

(5) As used in this section:

(a) "Notifying agency" means the Department of State Police, a city police department, a county sheriff's office or a police department established by a university under ORS 352.383.

(b) "Sex offender information" means information that the Department of State Police determines by rule is appropriate for release to the public.

(c) "Supervising agency" means a governmental entity responsible for supervising a person required to report as a sex offender under ORS 181.806 or 181.807. [2013 c.708 §6]

**Note:** See notes under 181.803.

**181.836 Internet website.** The Department of State Police shall consider:

(1) Contracting with a private vendor to build and maintain the website required by ORS 181.835 (2)(a).

(2) Adding links on the website required by ORS 181.835 (2)(a) that connect to other sex offender websites run by Oregon counties and by the federal government. [Formerly 181.593]

**181.837 Release of information concerning sex offender adjudicated in juvenile court.** (1)(a) Except as otherwise provided in ORS 181.839 or this section, when a sex offender is under the supervision of the Oregon Youth Authority or a county juvenile department for the first time as a result of committing an act that if committed by an adult would constitute a sex crime, the Department of State Police, city police department or county sheriff's office shall release, upon request, 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;

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

(D) The name of institutions of higher education that the sex offender attends or at which the sex offender works or carries on a vocation.

(b) Notwithstanding paragraph (a) of this section, the Oregon Youth Authority or a county juvenile department shall release, upon request, any information that may be necessary to protect the public concerning a sex offender under the supervision of the authority or department.

(2) Except as otherwise limited by subsection (1)(a) of this section regarding persons who are under supervision for the first time as sex offenders, the Department of State Police, a city police department or a county sheriff's office shall release, upon request, any information that may be necessary

to protect the public concerning sex offenders required to report under ORS 181.809 who reside in a specific area or concerning a specific sex offender required to report under ORS 181.809. However, the entity releasing the information may not release the identity of a victim of a sex crime.

(3)(a) The Department of State Police may make the information described in subsections (1) and (2) of this section available to the public, without the need for a request, by electronic or other means. The Department of State Police shall make information about a person who is under supervision for the first time as a result of committing an act that if committed by an adult would constitute a sex crime accessible only by the use of the sex offender's name. For all other sex offenders required to report under ORS 181.809, the Department of State Police may make the information accessible in any manner the department chooses.

(b) Notwithstanding paragraph (a) of this subsection, the Department of State Police may not use the Internet to make information available to the public except as required by paragraph (c) of this subsection.

(c) Notwithstanding subsections (1) and (2) of this section, the Department of State Police shall make the information described in paragraph (d) of this subsection available to the public on the website described in ORS 181.835 (2)(a) if the information is about a person determined to be a predatory sex offender, as provided in ORS 181.838, who has also been determined, pursuant to rules of the agency making the predatory sex offender determination, to present the highest risk of reoffending and to require the widest range of notification.

(d) The information required to be made available under paragraph (c) of this subsection is:

- (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 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;
- (H) If the person is under supervision, the name or telephone number of the person's supervising officer; and

(I) If the person is not under supervision, contact information for the Department of State Police. [Formerly 181.592]

**181.838 Juvenile "predatory sex offender" defined; determination.** (1) For purposes of ORS 181.838 to 181.840, a person is a predatory sex offender if the person:

(a) Is required to report as a sex offender under ORS 181.809 as the result of a finding that the person committed an act that if committed by an adult in this state would constitute a predatory sex offense; and

(b) Exhibits characteristics showing a tendency to victimize or injure others.

(2) In determining whether a person is a predatory sex offender, an agency shall use a sex offender risk assessment tool approved by the Department of Corrections or a community corrections agency.

(3) As used in this section, "predatory sex offense" means a sex crime listed in ORS 181.805 (5)(a) to (d) or an attempt to commit a sex crime listed in ORS 181.805 (5)(a) to (d), if the sex crime is classified as a felony. [Formerly 181.585]

**181.839 Notice to appropriate persons of supervised juvenile predatory sex offender; content; additional duties of supervising agency.** (1)(a) When a predatory sex offender is supervised by the Oregon Youth Authority or a county juvenile department as a result of committing an act that if committed by an adult would constitute a sex crime, the agency supervising the predatory sex offender shall make any information regarding the supervised person that the agency determines is appropriate available to any person upon request, unless the agency determines that the release of information would substantially interfere with the treatment or rehabilitation of the supervised person.

(b) Notwithstanding paragraph (a) of this subsection, the agency supervising a predatory sex offender shall make any information regarding the supervised person that the agency determines is appropriate available to any person upon request if the predatory sex offender is neglecting to take treatment or participate in rehabilitation.

(2) When a predatory sex offender is convicted of a crime and is on supervision for the crime, the agency supervising the person, regardless of the nature of the crime for which the person is being supervised:

(a) May notify anyone whom the agency determines is appropriate that the person is a predatory sex offender; and

(b) Shall notify a long term care facility, as defined in ORS 442.015, or a residential care facility, as defined in ORS 443.400, that

the person is a predatory sex offender if the agency knows that the person is seeking admission to the facility.

(3) In making a determination under subsection (2) 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 and child care centers, convenience stores, businesses and other places that children or other potential victims may frequent; and

- (d) Any prior victim of the offender.

(4) When an agency determines that notification is necessary under subsection (2) of this section, the agency may use any method of communication that the agency determines is appropriate. The notification:

(a) 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.

(b) Shall include, if the notification is required under subsection (2)(b) of this section, the information described in paragraph (a)(D), (F) and (H) of this subsection.

(5) 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 (4) of this section that is available.

(6) When the Department of State Police receives information regarding a person un-

der subsection (5) of this section, the Department of State Police, upon request, may make the information available to the public.

(7) 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.

(8) The agency supervising a person determined to be a predatory sex offender shall verify the residence address of the person every 90 days. [Formerly 181.586]

**181.840 Notice to public of unsupervised juvenile predatory sex offender; content.** (1) Notwithstanding any other provision of law, the Department of State Police, a city police department or a county sheriff's office may notify the public that a person is a predatory sex offender if:

(a) The person is required to report under ORS 181.809 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 felony sex crime;

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

(c) The Department of State Police, city police department or county sheriff's office, after consulting with the person's last primary supervising agency, determines that the person is a predatory sex offender as provided in ORS 181.838.

(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 and probation officer. [Formerly 181.589]

**181.843 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 181.810, 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 under ORS 181.800 to 181.845 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 144.750 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. [Formerly 181.601]

**181.845 Agreements to resolve concerns about community notification.**

Upon the request of the Department of State Police, a city police department, a county sheriff's office 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 181.800 to 181.845.

(2) "Supervising agency" means a governmental entity responsible for supervising

a person required to report under ORS 181.806, 181.807 or 181.809. [Formerly 181.590]

**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 present 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 Bureau of Immigration and Customs Enforcement, the United States Bureau of Citizenship and Immigration Services and the United States Bureau of Customs and Border Protection 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 records of the United States Bureau of Immigration and Customs Enforcement, the United States Bureau of Citizenship and Immigration Services or the United States Bureau of Customs and Border Protection.

(3) Notwithstanding subsection (1) of this section, a law enforcement agency may arrest any person who:

(a) Is charged by the United States with a criminal violation of federal immigration laws under Title II of the Immigration and Nationality Act or 18 U.S.C. 1015, 1422 to 1429 or 1505; and

(b) Is subject to arrest for the crime pursuant to a warrant of arrest issued by a federal magistrate.

(4) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a law enforcement agency.

(5) As used in this section, "warrant of arrest" has the meaning given that term in ORS 131.005. [1987 c.467 §1; 2003 c.571 §1]

**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 ad-

versely 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 192.501 or 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; 2005 c.397 §2; 2007 c.152 §2; 2007 c.687 §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, police department established by a university under ORS 352.383 or 353.125, 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, police officer commissioned by a university under ORS 352.383 or 353.125, state police officer, parole and 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 par-



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 con-

veyed 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; 2005 c.264 §20; 2011 c.506 §30; 2013 c.180 §34]

## REGULATION OF PRIVATE SECURITY SERVICE PROVIDERS

**181.870 Definitions for ORS 181.620, 181.870 to 181.887 and 181.991.** As used in ORS 181.620, 181.870 to 181.887, 181.991 and 203.090:

(1) "Certification" means recognition by the Department of Public Safety Standards and Training that a private security professional meets all of the qualifications listed in ORS 181.875.

(2) "Executive manager" means a person:

(a) Who is authorized to act on behalf of a company or business in matters of licensure and certification;

(b) Who is authorized to hire and terminate personnel;

(c) Whose primary responsibility is the management of certified private security professionals; and

(d) Who has final responsibility for a company's or business's compliance with ORS 181.870 to 181.887.

(3) "Instructor" means any person who has been certified by the department as meeting the requirements to provide instruction to private security providers or applicants.

(4) "License" means recognition by the department that an executive manager or supervisory manager meets the requirements adopted by the Board on Public Safety Standards and Training as necessary to provide private security services.

(5) "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.

(6) "Private security professional" means an individual who performs, as the individual's primary responsibility, private security services for consideration, regardless of whether the individual, while performing the private security services, is

armed or unarmed or wears a uniform or plain clothes, and regardless of whether the individual is employed part-time or full-time to perform private security services.

(7) "Private security provider" means any individual who performs the functions of a private security professional, executive manager, supervisory manager or instructor.

(8) "Private security services" means the performance of at least one of the following activities:

(a) Observing and reporting unlawful activity.

(b) Preventing or detecting theft or misappropriation of goods, money or other items of value.

(c) Protecting individuals or property, including but not limited to proprietary information, from harm or misappropriation.

(d) Controlling access to premises being protected or, with respect to a licensee of the Oregon Liquor Control Commission, controlling access to premises at an entry to the premises or any portion of the premises where minors are prohibited.

(e) Securely moving prisoners.

(f) Taking enforcement action by detaining persons or placing persons under arrest under ORS 133.225.

(g) Providing canine services for guarding premises or for detecting unlawful devices or substances.

(9) "Supervisory manager" means an employee of or a person supervised by an executive manager who has as a primary responsibility the supervision of certified private security professionals. [1995 c.510 §1a; 1997 c.588 §1; 1997 c.853 §23; 1999 c.198 §1; 2001 c.498 §1; 2003 c.14 §84; 2003 c.546 §3; 2005 c.447 §1; 2012 c.28 §1]

**181.871 Applicability of ORS 181.870 to 181.887.** (1) ORS 181.870 to 181.887 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 while performing duties of the office or employment.

(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 while engaged in the practice of law.

(f) An insurance adjuster licensed in this state while performing duties authorized by the license.

(g) A person who monitors alarm systems that are not designed to detect threats to public safety or personal well-being.

(h) A person while protecting the person's property.

(i) A person who repairs and installs intrusion alarms while repairing or installing 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.

(L) A person who has a valid service permit issued by the Oregon Liquor Control Commission pursuant to ORS 471.360 and who is an employee of a licensee of the commission when the person is performing age verification and controlling access to premises of the licensee, if the person is not:

(A) Armed;

(B) Permitted to initiate confrontational activities, including physical contact and the confiscation of property; or

(C) Hired with the primary responsibility of taking enforcement action as described in ORS 181.870 (8)(f).

(m) A person performing security services at a facility regulated by the United States Nuclear Regulatory Commission if the facility is operated by the person's employer.

(n) An individual while on active duty as a member of the armed services or while performing duties as a law enforcement officer.

(o) 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 under the act.

(p) A person who provides security services as a volunteer or for de minimis consideration other than money for an event operated for the benefit of a corporation that is organized not for profit pursuant to ORS chapter 65 or any predecessor of ORS chapter 65 or that is exempt from taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c) of the Internal Revenue Code.

(q) A student enrolled in a community college as defined in ORS 341.005 while engaged in nonconfrontational activities that contribute to campus safety under the direct

or indirect supervision of a law enforcement professional or private security professional certified or licensed by the Department of Public Safety Standards and Training, provided the community college has conducted a criminal background check on the student.

(2) The exemption provided by subsection (1)(k) of this section applies only:

(a) To a person who is not:

(A) Armed;

(B) Permitted to initiate confrontational activities, including physical contact and the confiscation of property; or

(C) Hired with the primary responsibility of taking enforcement action as described in ORS 181.870 (8)(f);

(b) 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;

(c) If any enforcement action, as described in ORS 181.870 (8)(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

(d) 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.

(3) The exemption provided by subsection (1)(L) of this section does not apply during an organized event that is on a scale substantially outside the ordinary course of the licensee's business. [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; 2003 c.14 §85; 2003 c.546 §5; 2005 c.447 §2; 2011 c.427 §1; 2011 c.516 §1; 2012 c.28 §2; 2013 c.480 §9]

**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 professional, 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 an executive manager 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 an executive

manager to assign a person to perform private security services unless the person is certified as a private security professional under ORS 181.878.

(2) An executive manager may temporarily assign a person who is not certified as required by this section to perform private 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 professional'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; 2003 c.546 §7; 2005 c.447 §3]

**181.875 Qualifications for private security professional; rules.** (1) An applicant for certification as a private security professional:

(a) Must be:

(A) At least 18 years of age, if an applicant for certification as an unarmed private security professional; or

(B) At least 21 years of age, if an applicant for certification as an armed private security professional;

(b) Must have satisfactorily completed training requirements approved by the Board on Public Safety Standards and Training; and

(c) Must not be required to register or be registered as a sex offender under ORS 181.806, 181.807, 181.808 or 181.809.

(2) An applicant meets the requirements of subsection (1)(b) of this section if the applicant provides the Department of Public Safety Standards and Training with documentation of military training or experience that the department determines is substantially equivalent to the training required by subsection (1)(b) of this section.

(3) The department, in consultation with the board, shall adopt rules specifying those crimes for which a conviction requires the denial or revocation of certification as a private security professional or instructor. [1995 c.510 §4; 1997 c.588 §5; 1999 c.198 §3; 2001 c.288 §1; 2001 c.654 §2a; 2005 c.447 §4; 2011 c.271 §22; 2012 c.43 §1]

**181.876 Application procedure.** An applicant for certification as a private security professional shall submit a written application to the Department of Public Safety Standards and Training. The application must be on a form approved by the department, contain all the information required by the department and be made under oath to the department. [1995 c.510 §5; 1997 c.588 §6; 1997 c.853 §25; 1999 c.198 §4; 2001 c.654 §3; 2005 c.447 §5]

**181.877 Qualifications for executive manager or supervisory manager.** An applicant for licensure as an executive manager or supervisory manager must meet the qualifications set forth in ORS 181.875. [2001 c.288 §3; 2001 c.498 §4a; 2003 c.546 §10]

**181.878 Board on Public Safety Standards and Training to establish standards; department to establish procedures and fees; report; rules.** (1) The Board on Public Safety Standards and Training shall establish standards for:

(a) Issuing, denying, renewing and revoking licenses for executive managers and supervisory managers; and

(b) Reviewing the private security services of executive managers in relation to the licensing and certification standards set forth in ORS 181.870 to 181.887.

(2) In accordance with any applicable provision of ORS chapter 183, to promote consistent standards for private security services by improving the competence of private security providers, the board, in conjunction with the Private Security Policy Committee, shall establish reasonable minimum standards of physical, emotional, intellectual and moral fitness for private security providers.

(3) The board, in consultation with the Department of Public Safety Standards and Training, may establish by rule accreditation standards for required training programs. The board, in consultation with the Private Security Policy Committee, may establish to what extent training or educational programs offered by employers may be considered equivalent to required training programs.

(4) The department 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) In collaboration with the Private Security Policy Committee, recommend for approval by the board the content of and standards for all training courses and testing required for certification as a private security professional and the standards for all instructors providing the training;

(c) Establish procedures in consultation with the board for temporary assignment of persons performing private security services for a period of no longer than 120 days while an application for certification is being processed;

(d) In collaboration with the Private Security Policy Committee, 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) Any training program required by rules of the department or board; and

(e) In collaboration with the Private Security Policy Committee, establish fees for accrediting training programs offered by employers.

(5) In establishing procedures for issuing certificates and licenses under subsection (4)(a) of this section, the department shall establish a procedure for issuing a certificate or license to a person upon submission by the person of proof of successful completion of a training program accredited by the board pursuant to subsection (3) of this section as being equivalent to the required training program offered by the department.

(6) The department shall investigate alleged violations of the provisions of ORS 181.870 to 181.887 and of any rules adopted by the department or the board. The department shall issue a report when the investigation is complete.

(7) The department and the board may adopt rules necessary to carry out their duties under ORS 181.870 to 181.887 and 181.991. 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; 2003 c.546 §12; 2005 c.447 §6; 2009 c.135 §3]

**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 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 as provided in ORS 181.534. Notwithstanding ORS 181.534 (5) and (6), the Department of State Police shall maintain in the department's files the fingerprint cards used to conduct the criminal records check. [1995 c.510 §§7,18; 1997 c.853 §27; 1999 c.198 §2; 2005 c.730 §§11,80]

**181.882 Hearing if license or certificate denied, suspended or revoked.** (1) If the Board on Public Safety Standards and Train-

ing 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 chapter 183.

(2) Judicial review of orders issued after a hearing under subsection (1) of this section shall be as provided in ORS chapter 183. [1995 c.510 §8; 1997 c.853 §28]

**181.883** [1995 c.510 §9; 1997 c.588 §3; 1997 c.853 §29a; 2001 c.288 §5; 2003 c.546 §6; repealed by 2005 c.447 §16]

**181.885 Effect of being charged with crime.** (1) If a private security provider is charged with a crime, the private security provider shall notify the private security provider's employer, or, if the private security provider 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 executive manager knows that an employee has been charged with a crime, the executive manager shall notify the department of that fact not later than 48 hours after the executive manager acquired the knowledge.

(3) The department may suspend the certificate or license of a private security provider charged with a crime pending disposition of the charge.

(4) If an applicant for certification or licensure as a private security provider is charged with a crime, the applicant shall notify the department of that fact not later than 48 hours after the charge is filed. [1995 c.510 §10; 1997 c.853 §30; 2003 c.546 §4]

**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]

**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 181.887 and 181.991, including penalties recovered under ORS 181.991 (2), 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. [1995 c.510 §12; 1997 c.853 §31; 2005 c.447 §12; 2007 c.362 §2]

**181.889** [1995 c.510 §15; 1997 c.853 §32; repealed by 2003 c.546 §14]

## 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:

(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 181.887.

(b) Class A violation if the person provides private security services as a private security professional without being certified to do so under ORS 181.878 and having in the person's possession the certificate issued under ORS 181.878.

(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 181.887 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 181.887.

(3) Judicial review of civil penalties imposed under subsection (2) of this section shall be as provided under ORS 183.480. [1995 c.510 §§13,14; 1997 c.853 §33; 2005 c.447 §8]

**EXECUTIVE BRANCH; ORGANIZATION**

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