

# Chapter 181A

2017 EDITION

## State Police; Crime Reporting and Records; Public Safety Standards and Training; Private Security Services

### STATE POLICE

- 181A.010 Definitions for ORS 181A.010 to 181A.350
- 181A.015 Department of State Police established
- 181A.020 State Police Account; subaccount; uses; authority to accept property
- 181A.025 Petty cash account
- 181A.030 Superintendent of State Police; appointment; confirmation; removal
- 181A.035 Appointment of Deputy Superintendent of State Police
- 181A.040 Powers and duties of deputy superintendent
- 181A.045 Oath of superintendent and deputy superintendent
- 181A.050 Oregon State Police
- 181A.055 Qualifications for appointment and reappointment of state police; special officers; neighboring states
- 181A.060 Appointment of employees of department as special state police officers
- 181A.065 Oath of members of state police
- 181A.070 Salaries of state police
- 181A.075 Instruction; rules and regulations for discipline and control
- 181A.080 Powers and duties of department and its members
- 181A.085 Targeted enforcement program; rules
- 181A.090 Duty to enforce laws and regulations of agencies
- 181A.095 Headquarters and patrol stations; real property agreements
- 181A.100 Organization of work of department
- 181A.105 Distribution of police throughout state
- 181A.110 Standard uniform for state police; service without wearing uniform; wearing uniforms by other persons prohibited
- 181A.115 Supplies and equipment of state police
- 181A.120 Commanding assistance of citizens
- 181A.125 Interference with personal and property rights of others
- 181A.130 Records and reports of activities and time spent in performance of duties
- 181A.135 National Crime Prevention and Privacy Compact; rules
- 181A.140 Department responsible for criminal identification information
- 181A.145 Criminal investigations division
- 181A.150 Forensic laboratories
- 181A.155 Authority over blood and buccal samples and analyses; rules; disclosure; inspection by subject person; destruction of sample
- 181A.165 Crimes for which criminal offender information is required
- 181A.170 Electronic fingerprint capture technology required; exceptions; Oregon Department of Administrative Services to develop contract for electronic fingerprint capture services; rules
- 181A.175 Transmittal of disposition report
- 181A.180 Copy of certain disposition reports to Teacher Standards and Practices Commission and Department of Education
- 181A.185 Report of release or escape from state institution of certain inmates
- 181A.190 Criminal records check; qualified entities; Department of Human Services to make fitness determination; rules; fees
- 181A.195 Criminal records check; authorized agencies; retention of fingerprint cards by FBI and Department of State Police; rules
- 181A.200 Authority of Department of Human Services, Oregon Health Authority and Employment Department to require fingerprints; qualified entities; rules
- 181A.205 Voluntary fingerprint retention program; notice to individuals subject to criminal records checks; ending participation; exemption from public disclosure; rules; fees
- 181A.210 Criminal identification information to be furnished to Native American tribe
- 181A.215 Oregon Department of Administrative Services to adopt rules relating to certain aspects of criminal records checks; immunity from civil liability
- 181A.220 Confidentiality of some records
- 181A.225 Reporting of crime statistics
- 181A.230 Establishment of procedures for access to criminal record information; rules
- 181A.235 Fee waiver
- 181A.240 Procedure when information requested by designated agency; exception for investigation of child abuse or neglect
- 181A.245 Procedure when information requested by other than criminal justice agency
- 181A.250 Specific information not to be collected or maintained
- 181A.255 Report of suspected criminal homicide; form and time of report; compilation; comparison
- 181A.160 Fingerprints, identifying data, disposition report required upon arrest

### CRIME REPORTING

### CRIMINAL JUSTICE INFORMATION STANDARDS

- 181A.265 Criminal Justice Information Standards program; duties
- 181A.270 Duties of state criminal justice agencies
- 181A.275 Criminal Justice Information Standards Advisory Board; members; expenses
- 181A.280 Law Enforcement Data System established; duties; rules

## EXECUTIVE BRANCH; ORGANIZATION

- 181A.285 Medical health database
- 181A.290 Certain information required from agencies; rules
- MISSING PERSONS PROCEDURES**
- 181A.300 Establishment and maintenance of missing persons clearinghouse
- 181A.305 Duties of administrator of clearinghouse
- 181A.310 When notification of missing children clearinghouse required
- 181A.315 Amber Plan; rules
- 181A.320 Written policies relating to missing vulnerable adults required
- SEXUAL ASSAULT FORENSIC EVIDENCE KITS**
- 181A.322 Short title
- 181A.323 Definitions for ORS 181A.323 to 181A.326
- 181A.324 Sexual assault forensic evidence kit testing; reports; rules
- 181A.325 Policies and procedures regarding collection, submission for testing, retention and destruction of kits
- 181A.326 Notification to law enforcement agency when kit collected
- Note Task Force on the Testing of Sexual Assault Forensic Evidence Kits--2016 c.89 §§7,8
- MISCELLANEOUS**
- 181A.330 State Police Tobacco Law Enforcement Fund
- 181A.335 Department to administer program to enforce laws discouraging use of tobacco products by persons under legal minimum purchase age; rules
- 181A.340 Commissioning of humane special agents; rules
- 181A.345 Humane special agents to enforce animal welfare laws under direction of law enforcement agency; notice required of allegation of abuse of commission
- 181A.350 Eligibility of towing business to be placed on department list; rules
- PUBLIC SAFETY STANDARDS AND TRAINING**
- 181A.355 Definitions for ORS 181A.355 to 181A.670
- 181A.360 Board on Public Safety Standards and Training; term limit; confirmation
- 181A.365 Organization of board; meetings; policy of state
- 181A.370 Executive committee
- 181A.375 Policy committees; rules
- 181A.380 Leave to perform duties of board or policy committee
- 181A.385 Appointment of director of department
- 181A.390 Training academy; title to real property
- 181A.395 Certain officers required to be at least 21 years of age
- 181A.400 Authority of Department of Public Safety Standards and Training to require fingerprints
- 181A.405 Legislative intent and findings
- 181A.410 Minimum standards and training for certification; duties in improving public safety units; grants; fees; rules
- 181A.420 Minimum standards and training requirements inapplicable to certain persons; certification based on experience, education or training
- 181A.425 Department not required to provide training for certification of reserve officers
- 181A.430 Effect of minimum requirements under authority other than ORS 181A.410
- 181A.440 Training in vehicle pursuit and mental illness recognition
- 181A.450 Child abuse and domestic violence training; report
- 181A.460 Training in missing persons cases
- 181A.470 Training relating to Vienna Convention and crimes motivated by prejudice or that constitute abuse
- 181A.480 Training in human trafficking
- 181A.490 Certification of police officers and certified reserve officers
- 181A.500 Lapse of certification; reapplication for certification; rules; fees
- 181A.510 Certification for certain purposes of individuals employed by tribal government to perform duties of public safety officer
- 181A.520 Certification of corrections officers (Temporary provisions relating to training of corrections officers are compiled as notes following ORS 181A.520)
- 181A.530 Certification of parole and probation officers
- 181A.540 Certification of judicial marshals
- 181A.550 Certification of regulatory specialists
- 181A.560 Certification of telecommunicators and emergency medical dispatchers
- 181A.570 Certification of full-time department employees
- 181A.580 Certification of certain Law Enforcement Data System employees
- 181A.590 Certification of instructors; accreditation of training programs
- 181A.600 Limitation on accreditation of training programs
- 181A.610 Reimbursement for training to local law enforcement units; rules
- 181A.620 Reimbursement of qualifying expenses
- 181A.630 Procedure for denial, suspension or revocation of application or certification
- 181A.640 Grounds for denial, suspension or revocation of application or certification of person or accreditation of program; rules
- 181A.650 Judicial review of department's final order; reapplication for certification; rules
- 181A.655 Civil penalties relating to certification; rules
- 181A.660 Oregon Center for Policing Excellence; purpose; rules
- 181A.665 Police Standards and Training Account
- 181A.670 Disclosure of information about public safety officer; order to compel compliance
- 181A.675 Police Memorial Trust Fund; rules
- TRIBAL POLICE OFFICERS**
- 181A.680 Definitions for ORS 181A.680 to 181A.692
- 181A.685 Eligibility to act as authorized tribal police officer

## STATE POLICE; CRIME REPORTING; TRAINING

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- 181A.690 Legislative purpose; requirements for citation issued outside tribal jurisdiction; tribal government insurance; tribal police officer not officer, employee or agent of state; tribal government not seizing agency; rules
- 181A.692 Application for nontribal police officers to exercise tribal police powers on tribal lands; citation for tribal offense; liability for torts; report
- OREGON COMMUNITY CRIME  
PREVENTION INFORMATION CENTER**
- 181A.720 Definitions for ORS 181A.725 to 181A.735
- 181A.725 Oregon Community Crime Prevention Information Center; duties
- 181A.730 Coordinator; appointment; duties
- 181A.735 Advisory committee; meetings; expenses
- PLAN ADDRESSING USE OF  
DEADLY PHYSICAL FORCE**
- 181A.775 Definitions for ORS 181A.775 to 181A.805
- 181A.780 Planning authority; development and approval of plan; compliance; notice upon challenge to plan
- 181A.785 Components of plan
- 181A.790 Policy relating to use of deadly physical force; collection of information; rules
- 181A.795 Admissibility of conclusions and recommendations
- 181A.800 Compliance
- 181A.805 Grants; rules
- 181A.810 Expenditure limitation on grant moneys
- 181A.815 Expenses; rules
- PUBLIC SAFETY PERSONNEL  
GENERALLY**
- 181A.820 Enforcement of federal immigration laws
- 181A.825 Disclosure of information about certain employees of law enforcement agencies
- 181A.830 Disclosure of information about certain public safety employees
- 181A.835 Peer support counseling sessions; confidentiality; admissibility as evidence
- PRIVATE SECURITY SERVICE  
PROVIDERS**
- 181A.840 Definitions for ORS 181A.360, 181A.840 to 181A.891, 181A.895 and 181A.995
- 181A.845 Applicability of ORS 181A.840 to 181A.891
- 181A.850 Prohibited acts; temporary assignment of person not certified allowed
- 181A.855 Qualifications for private security professional; rules
- 181A.860 Application procedure
- 181A.865 Qualifications for executive manager or supervisory manager
- 181A.870 Board on Public Safety Standards and Training to establish standards; department to establish procedures and fees; report; rules
- 181A.875 Licenses and certificates; issuance; duration; denial or revocation
- 181A.880 Hearing if license or certificate denied, suspended or revoked
- 181A.885 Effect of being charged with crime
- 181A.890 Disposition of funds received by department
- 181A.891 Persons providing private security services on September 9, 1995
- 181A.893 Entities employing private security providers; rules
- 181A.895 State preemption of local laws relating to private security providers
- PENALTIES**
- 181A.990 Penalties
- 181A.995 Penalties relating to regulation of private security services; criminal and civil

**EXECUTIVE BRANCH; ORGANIZATION**

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**STATE POLICE**

**181A.010 Definitions for ORS 181A.010 to 181A.350.** As used in ORS 181A.010 to 181A.350, 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 enforcement division of the Oregon Liquor Control Commission in performing duties related to investigating and enforcing the criminal laws of this state that the commission is charged to enforce;
  - (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 181A.015.
- (4) “Deputy superintendent” means the Deputy Superintendent of State Police appointed under ORS 181A.035.
- (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 352.121 or 353.125 and state police;

(b) Other police officers of this state or another state, including humane special agents as defined in ORS 181A.345;

(c) A tribal government as defined in ORS 181A.680 that employs authorized tribal police officers as defined in ORS 181A.680; and

(d) Law enforcement agencies of the federal government.

(8) “State police” means the sworn members of the state police force appointed under ORS 181A.050.

(9) “Superintendent” means the Superintendent of State Police appointed under ORS 181A.030. [Formerly 181.010]

**181A.015 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 181A.050 and nonsworn professional personnel necessary to carry out the department’s public safety functions. [Formerly 181.020]

**181A.020 State Police Account; subaccount; uses; authority to accept property.**

(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 to the department for the payment of expenses of the department.

(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 continuously appropriated to the Department of State Police to carry out the provisions of ORS chapter 463.

(3) The Department of State Police may accept and distribute gifts, grants, donations and funds from any source, including services and property, to carry out the duties of the department. [Formerly 181.175]

**181A.025 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. [Formerly 181.180]

**181A.030 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. [Formerly 181.200]

**181A.035 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. [Formerly 181.220]

**181A.040 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. [Formerly 181.240]

**181A.045 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 181A.065. [Formerly 181.210]

**181A.050 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. [Formerly 181.250]

**181A.055 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 or a nonimmigrant legally admitted to the United States under a Compact of Free Association.

(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 that is consistent with rules adopted by the Department of State Police and the psychological testing and mental examinations 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 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 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. [Formerly 181.260; 2017 c.53 §1]

**181A.060 Appointment of employees of department as special state police officers.** (1) Notwithstanding ORS 181A.055, 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' transport functions and duties. To be eligible for appointment under this subsection, an employee must be currently certified as a corrections officer under ORS 181A.355 to 181A.670. 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. [Formerly 181.263; 2017 c.188 §1]

**Note:** 181A.060 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.065 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. [Formerly 181.390]

**181A.070 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. [Formerly 181.271]

**181A.075 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. [Formerly 181.280]

**181A.080 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 medical-legal death investigator.

(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. [Formerly 181.030; 2017 c.151 §23]

**181A.085 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. [Formerly 181.045]

**Note:** 181A.085 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.090 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. [Formerly 181.050]

**181A.095 Headquarters and patrol stations; real property agreements.** (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.

(3) The Department of State Police may enter into such lease agreements and take title to such real property as the superintendent considers necessary for the performance of the duties of the department and the Oregon State Police. [Formerly 181.090]

**181A.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. [Formerly 181.100]

**181A.105 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. [Formerly 181.110]

**181A.110 Standard uniform for state police; service without wearing uniform; wearing uniforms by other persons prohibited.** (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 subsection and subsection (1) of this section.

(3) 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.

(4)(a) 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 subsections (1) and (2) of this section.

(b) As used in this subsection, "person" includes agents, officers and officials elected or appointed by any municipality or county. [Subsections (1) and (2) formerly 181.120; subsection (3) formerly 181.130; subsection (4) formerly 181.140]

**181A.115 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 and 166.435 do not apply to transfers of firearms pursuant to this section. [Formerly 181.150]

**181A.120 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 181A.010 to 181A.350. [Formerly 181.190]

**181A.125 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. [Formerly 181.400]

**181A.130 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. [Formerly 181.410]

**181A.135 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. [Formerly 181.036]

**Note:** 181A.135 was enacted into law by the Legislative Assembly but was not added to or made a part

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

**181A.140 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 181A.230 and 181A.245; and

(4) Undertake other projects as necessary or appropriate to the speedy collection and dissemination of information relating to crimes and criminals. [Formerly 181.066]

**181A.145 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. [Formerly 181.070]

**181A.150 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. [Formerly 181.080]

**181A.155 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 181A.010, a district attorney or the Criminal Justice Division of the Department of Justice for the purpose of establishing the identity of a person in the course of a criminal investigation or proceeding;

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

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

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

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

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

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

(b) Upon receipt of a written request for destruction pursuant to this section and a certified copy of the court order reversing the conviction, judgment or order, the department shall destroy any sample received from the person, any physical evidence obtained from that sample and any criminal identification records pertaining to the person, unless the department determines that the person has otherwise become obligated to submit a blood or buccal sample as a result of a separate conviction, juvenile adju-

dication 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. [Formerly 181.085]

**Note:** 181A.155 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## CRIME REPORTING

**181A.160 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 181A.165, 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 181A.175.

(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 identifi-

cation 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 181A.165. [Formerly 181.511]

**181A.165 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. [Formerly 181.515]

**181A.170 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 181A.190, 181A.195 or 267.237 or for any other purpose authorized by law.

(b)(A) The Oregon Department of Administrative Services shall adopt rules to implement this section.

(B) In adopting rules under this paragraph, the Oregon Department of Administrative Services may adopt exemptions from the requirement described in paragraph (a) of this subsection.

(2)(a) This section applies to the Department of State Police only with respect to the administration of criminal records checks under ORS 181A.190, 181A.195 and 267.237.

(b) This section does not apply to a criminal justice agency, as defined in ORS 181A.010, that is authorized by federal law to receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

(c) This section does not apply to the Department of Public Safety Standards and Training.

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

(a) Directly provide electronic fingerprint capture services;

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

(c) Provide electronic fingerprint capture services in any other manner allowed by the Oregon Department of Administrative Services by rule or order.

(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 181A.190, qualified entities as defined in ORS 181A.200, 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. [Formerly 181.516; 2017 c.228 §7]

**Note:** 181A.170 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.175 Transmittal of disposition report.** When a court receives a disposition report from a law enforcement agency pursuant to ORS 181A.160, 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. [Formerly 181.521]

**181A.180 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. [Formerly 181.525]

**181A.185 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 imme-

diately 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. [Formerly 181.530]

**181A.190 Criminal records check; qualified entities; Department of Human Services to make fitness determination; 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; and

(b) 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 submit the criminal offender information to the Department of Human Services. The Department of Human Services shall, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, make a fitness determination. After making a fitness determination under this subsection, the Department of Human Services shall inform the qualified entity of the results of the fitness determination.

(b) In making the fitness determination, the Department of Human Services shall consider:

(A) The nature of the crime;

(B) The facts that support the conviction or pending indictment or indicate the making of a 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 or employment; and

(D) Intervening circumstances relevant to the responsibilities and circumstances of the position or employment, such as:

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

(ii) The age of the person at the time of the crime;

(iii) The likelihood of a repetition of offenses; and

(iv) The subsequent commission of another relevant crime and the recommendation of an employer.

(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) Except as provided in ORS 181A.205, if the public agency or person returns a fingerprint card to the authorized agency, the authorized agency:

(a) Shall destroy the fingerprint card; and

(b) May not keep a record of the fingerprints.

(7) The authorized agency or the Department of Human Services 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 Federal Bureau of Investigation and agencies reporting information to the federal bureau must be made through 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. [Formerly 181.533]

**Note:** 181A.190 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.195 Criminal records check; authorized agencies; retention of fingerprint cards by FBI and Department of State Police; 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 181A.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, except that the Federal Bureau of Investigation may retain the fingerprint cards and records of the fingerprints for purposes described in ORS 181A.205. 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 of State Police shall destroy the fingerprint cards and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police may retain the fingerprint cards or create facsimiles for the purpose of providing information under ORS 181A.205.

(6) If only a state criminal records check is conducted, after the criminal records check is completed, the Department of State Police shall destroy the fingerprint cards and the results of the criminal records check provided to the authorized agency and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police may retain the fingerprint cards and results or create facsimiles for the purpose of providing information under ORS 181A.205.

(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, may adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules may 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 181A.215 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 181A.215.

(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)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143, 342.223, 443.735, 475B.785 to 475B.949 and 703.090 and paragraph (d) of this subsection, an authorized agency, using the rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, 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. 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)(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 by rule under ORS 181A.215; and

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

(c) Except as otherwise provided in ORS 181A.400, in making the fitness determination under this subsection, 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 a 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, such as:

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

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

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

(iv) The subsequent commission of another relevant crime;

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

(vi) The recommendation of an employer.

(d) 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 this subsection.

(11) 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.

(12) 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.

(13) 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. [Formerly 181.534; 2017 c.228 §8]

**Note:** 181A.195 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.200 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 181A.210 (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 181A.195, 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 Department of State Police may not be disseminated to qualified entities.

(5)(a) Except as otherwise provided in ORS 443.735 and 475B.785 to 475B.949, a qualified entity, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, 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. 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 this subsection.

(c) In making the fitness determination under this subsection, 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 a 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, such as:

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

(ii) The age of the person at the time of the crime;

(iii) The likelihood of a repetition of offenses;

(iv) The subsequent commission of another relevant crime; and

(v) The recommendation of an employer.

(6) The Department of Human Services and the Oregon Health Authority, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, shall develop systems that maintain information regarding criminal records checks in order to minimize the administrative burden imposed by this section and ORS 181A.195. 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 Au-

thority 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.

(7) In addition to the rules required by ORS 181A.195, 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 181A.215, 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 (6) of this section.

(8) 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.

(9) 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. [Formerly 181.537]

**181A.205 Voluntary fingerprint retention program; notice to individuals subject to criminal records checks; ending participation; exemption from public disclosure; rules; fees.** (1)(a) The Department of State Police shall establish a voluntary fingerprint retention program through which the department:

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

(B) Provides facsimiles of fingerprints created during a state criminal records check under ORS 181A.190, 181A.195, 181A.200 or

267.237 to the Federal Bureau of Investigation.

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

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

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

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

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

(C) That choosing to participate in the program will allow the department to provide information as described in subsection (4) of this section;

(D) The potential consequences of information being provided as described in subsection (4) of this section; and

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

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

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

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

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

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

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

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

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

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

(8) The Department of State Police:

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

(b) May adopt a fee that an authorized agency, agency or district must pay to subscribe to the program. [2015 c.705 §1]

**Note:** 181A.205 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.210 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 181A.230, 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 181A.010 to 181A.350.

(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 enforcement, 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. [Formerly 181.538]

**Note:** 181A.210 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.215 Oregon Department of Administrative Services to adopt rules relating to certain aspects of criminal records checks; immunity from civil liability.** (1) As used in this section:

(a) "Authorized agency" means an authorized agency as defined in ORS 181A.190 or 181A.195.

(b) "Direct access" means access to an individual or the personal information of an individual.

(c) "District" has the meaning given that term in ORS 267.237.

(d) "Qualified entity" has the meaning given that term in ORS 181A.200.

(2) Subject to ORS 8.100, the Oregon Department of Administrative Services, in consultation with the Department of State Police, shall adopt rules:

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

(A) An authorized agency may use to make fitness determinations under ORS 181A.190 and 181A.195;

(B) A qualified entity may use to make fitness determinations under ORS 181A.200; or

(C) A district may use to make fitness determinations under ORS 267.237.

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

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

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

(e) Establishing the process for appealing a fitness determination, except as otherwise provided by law.

(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.

(5) An authorized agency, qualified entity or district, or an employee of an authorized agency, qualified entity or district who is acting within the course and scope of the employee's employment, is immune from any civil liability that might otherwise be incurred or imposed for making a fitness determination in accordance with this section and ORS 181A.190, 181A.195, 181A.200 and 267.237. [Formerly 181.547]

**Note:** 181A.215 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.220 Confidentiality of some records.** (1) Notwithstanding the provisions of ORS 192.311 to 192.478 relating to public records the fingerprints, photographs, records and reports compiled under ORS 137.225, 181A.010, 181A.160, 181A.175, 181A.230, 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 181A.230 and 181A.245;

(d) As provided in ORS 181A.180; 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 192.345 (3). [Formerly 181.548]

**181A.225 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. [Formerly 181.550]

**181A.230 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. [Formerly 181.555]

**181A.235 Fee waiver.** (1) When the Department of State Police is asked to provide criminal offender information under ORS 181A.190 or 181A.230 (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 181A.190.

(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. [Formerly 181.556]

**Note:** 181A.235 was added to and made a part of 181A.010 to 181A.350 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**181A.240 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 181A.230 (1) for agency employment, licensing or other permissible purposes, the agency shall provide documentation that the individual:

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

(2) Has received written notice from the agency that a criminal offender record check

may be made through the department. Notice shall be provided prior to the time the request is made and shall include:

(A) 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 181A.230 (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 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 181A.230 (3) for challenging inaccurate criminal offender information. [Formerly 181.557]

**181A.245 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 181A.230 (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 181A.230 (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 181A.230 (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 192.311 to 192.478.

(4) Nothing in ORS 181A.140, 181A.220 or 181A.230 or this section is intended to prevent the department from charging a reasonable fee, pursuant to ORS 192.324, for responding to a criminal offender information inquiry or for making information available under ORS 181A.230 or this section. [Formerly 181.560]

**181A.250 Specific information not to be collected or maintained.** No law enforcement agency, as defined in ORS 181A.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. [Formerly 181.575]

**Note:** 181A.250 was made a part of 181A.160 to 181A.250 by legislative action but was not added to 181A.010 to 181A.350. See Preface to Oregon Revised Statutes for further explanation.

**181A.255 Report of suspected criminal homicide; form and time of report; compilation; comparison.** (1) As used in this

section, "criminal homicide" has the meaning provided in ORS 163.005.

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

(3) When an investigating criminal justice agency terminates active investigation of a suspected criminal homicide due to an arrest having been made in the case, death of the primary suspect, or whatever other reason, the investigating agency shall so notify the Department of State Police within 30 days following such termination. Notification shall include the reason for terminating active investigation. [Formerly 181.580]

**Note:** 181A.255 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## CRIMINAL JUSTICE INFORMATION STANDARDS

**181A.265 Criminal Justice Information Standards program; duties.** (1) The Department of State Police or another criminal justice agency that the State Chief Information Officer designates shall operate a Criminal Justice Information Standards program that coordinates information among state criminal justice agencies. The program must:

(a) Ensure that in developing new information systems, data can be retrieved to support evaluating criminal justice planning and programs, including, but not limited to, evaluating 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 information technology rules, policies and standards that the State Chief Information Officer adopts;

(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 must include, but is not limited to including, priorities, timelines, development costs, resources needed, the projected ongoing cost of support, critical success factors and any known barriers to accomplishing the plan. The plan must align with and support the Enterprise Information Resources Management Strategy described in ORS 276A.203. 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 State Chief Information Officer no later than May 30 of each even-numbered year for development of the Governor's budget. 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 181A.010, as used in this section and ORS 181A.270, "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 352.121 or 353.125. [Formerly 181.715; 2016 c.117 §40]

**181A.270 Duties of state criminal justice agencies.** (1) State criminal justice agencies, as part of their agency request budget 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 181A.265.

(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. [Formerly 181.720; 2016 c.117 §41]

**181A.275 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 that the State Chief Information Officer designates under ORS 181A.265 (1) about the department's or the agency's duties under ORS 181A.265. 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 State Chief Information Officer or the State Chief Information Officer'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. [Formerly 181.725]

**181A.280 Law Enforcement Data System established; duties; rules.** (1) There is established in the Department of State Police a Law Enforcement Data System.

(2) The Law Enforcement Data System shall:

(a) Install and maintain a criminal justice telecommunication and information system for storage and retrieval of criminal justice information submitted by criminal justice agencies for the State of Oregon;

(b) Function as the control point for access to similar programs operated by other states and the federal government;

(c) Undertake other projects as are necessary or appropriate for the speedy collection and dissemination of information relating to crime and criminals; and

(d) Provide service as available to all qualified criminal justice agencies and designated agencies.

(3) The department may adopt rules establishing procedures for the submission, access and dissemination of information by the Law Enforcement Data System. [Formerly 181.730]

**181A.285 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 181A.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 database 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. [Formerly 181.735]

**Note:** 181A.285 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.290 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 or 426.133 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 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 identifies 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. [Formerly 181.740; 2017 c.442 §22]

**Note:** The amendments to 181A.290 by section 22, chapter 442, Oregon Laws 2017, become operative July 1, 2018. See section 36, chapter 442, Oregon Laws 2017. The text that is operative until July 1, 2018, is set forth for the user's convenience.

**181A.290** (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 or 426.133 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 identifies 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 psy-

chological information, case histories or files of a person described in this section or any record or file of an originating agency or court.

**Note:** 181A.290 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### MISSING PERSONS PROCEDURES

#### **181A.300 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. [Formerly 181.505]

**181A.305 Duties of administrator of clearinghouse.** The administrator of the missing children and adults clearinghouse established pursuant to ORS 181A.300 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. [Formerly 181.506]

**181A.310 When notification of missing children clearinghouse required.** A member of a law enforcement agency who has probable cause to believe that custodial interference in the first or second degree, or kidnapping in the first or second degree, with respect to a child has occurred shall notify the Oregon State Police missing children clearinghouse within 24 hours. [2015 c.134 §1]

**181A.315 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. [Formerly 181.035]

**Note:** 181A.315 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

#### **181A.320 Written policies relating to missing vulnerable adults required.**

(1) For purposes of this section, a missing vulnerable adult includes, but is not limited to, a missing adult who has:

(a) An impaired mental condition, such as dementia;

(b) An intellectual or developmental disability; or

(c) A brain injury.

(2) The Department of State Police and each sheriff's office and municipal police department shall adopt written policies relating to missing vulnerable adults that conform to the requirements of this section.

(3)(a) Written policies adopted pursuant to this section shall specify the procedures for investigating reports of missing vulnerable adults in order to ensure that such cases are investigated as soon as possible, utilizing all available resources.

(b) In adopting written policies under this section, Oregon law enforcement agencies may consider standards set by the Oregon Accreditation Alliance and adopt policies consistent with Oregon Accreditation Alliance standards.

(4) Policies adopted under this section may include the following:

(a) Requirements for accepting reports of missing vulnerable adults;

(b) Procedures for alerting local media and using other information outlets to dis-

seminate information when a vulnerable adult is reported missing;

(c) Procedures for coordinating with other agencies and organizations in order to locate a missing vulnerable adult quickly; and

(d) Standards and minimum requirements for training law enforcement personnel to interact appropriately and effectively with individuals with cognitive impairment, including, but not limited to, dementia, intellectual and developmental disabilities and brain injuries. [2014 c.24 §2]

**Note:** 181A.320 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**Note:** Sections 1 and 4, chapter 24, Oregon Laws 2014, provide:

**Sec. 1.** The Legislative Assembly finds that:

(1) The number of people in Oregon with Alzheimer's disease and related dementia is growing. Alzheimer's is a devastating disease that slowly destroys memory and thinking skills and, eventually, even the ability to carry out the simplest tasks of daily living.

(2) Sixty percent of people with Alzheimer's will wander from their homes. Sixty percent of people with Alzheimer's who wander, if not found within 24 hours, die as a consequence of wandering. Eighty percent die if not found within 72 hours.

(3) Other adults in Oregon, including those with intellectual or developmental disabilities or other conditions, are vulnerable if they go missing as well.

(4) Many police departments and sheriff's offices are well trained to respond to reports of missing vulnerable adults. This legislation provides for all law enforcement in Oregon to be fully prepared to assist in protecting the safety of some of our most vulnerable citizens, while providing each police department or sheriff's office with the flexibility to determine what works best in the local jurisdiction. [2014 c.24 §1]

**Sec. 4.** Section 1 of this 2014 Act is repealed on January 2, 2019. [2014 c.24 §4]

### SEXUAL ASSAULT FORENSIC EVIDENCE KITS

**181A.322 Short title.** ORS 181A.323 to 181A.326 shall be known and may be cited as "Melissa's Law." [2016 c.89 §1]

**Note:** 181A.322 to 181A.326 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.323 Definitions for ORS 181A.323 to 181A.326.** As used in ORS 181A.323 to 181A.326:

(1) "Anonymous kit" means a sexual assault forensic evidence kit collected from a victim who has not participated with a law enforcement agency in the creation of a report of the sexual assault.

(2) "Law enforcement agency" has the meaning given that term in ORS 133.741.

(3) "Medical facility" means a hospital, clinic, urgent care center or any other facility that is authorized to provide sexual assault medical assessments as described in ORS 147.395.

(4) "Sexual assault" means the commission of or the attempted commission of an offense described in ORS 163.355 to 163.427.

(5) "Sexual assault forensic evidence kit" means forensic evidence collected using an evidence collection kit during a sexual assault medical assessment as described in ORS 147.395.

(6) "Victim" means a person from whom a sexual assault forensic evidence kit has been collected. [2016 c.89 §2; 2017 c.361 §1]

**Note:** See note under 181A.322.

**181A.324 Sexual assault forensic evidence kit testing; reports; rules.** (1) The Department of State Police shall adopt rules concerning the prioritization of testing untested sexual assault forensic evidence kits in the department's possession. The rules must contain a requirement to test all non-anonymous kits and a prohibition on the testing of anonymous kits.

(2) The department shall test any untested sexual assault forensic evidence kits, other than anonymous kits, in the department's possession in accordance with the rules adopted pursuant to subsection (1) of this section.

(3)(a) The department shall designate an entity, position or class of positions to receive inquiries from law enforcement agencies and victims seeking information concerning the testing of sexual assault forensic evidence kits.

(b) The department shall prohibit victims from directly contacting a forensic laboratory performing testing of sexual assault forensic evidence kits and may not publicize a means for victims to contact the laboratory.

(4)(a) As soon as practicable, the department shall ensure that the results from testing sexual assault forensic evidence kits that are eligible to be entered into the Combined DNA Index System are entered into the system after the testing results are obtained.

(b) No later than July 1, 2019, the department shall provide a written report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, describing the department's progress in entering results from testing sexual assault forensic evidence kits into the Combined DNA Index System.

(5) No later than January 15 of each calendar year, the department shall provide a written report to the interim committees of

the Legislative Assembly related to the judiciary in the manner provided in ORS 192.245. The report must detail the progress made on the backlog of untested sexual assault forensic evidence kits and include the number of new kits that have been received during the previous calendar year, the number of kits that have been tested during the previous calendar year, and the number of remaining untested kits in the possession of the department. [2016 c.89 §3]

**Note:** See note under 181A.322.

**181A.325 Policies and procedures regarding collection, submission for testing, retention and destruction of kits.** (1) Each law enforcement agency within this state shall have policies and procedures concerning the collection, submission for testing, retention and destruction of sexual assault forensic evidence kits. The policies and procedures must be in writing, must be made available to the public as soon as possible upon request and must include:

(a) Procedures for investigating reports of sexual assault.

(b) A time limit by which the law enforcement agency must obtain a sexual assault forensic evidence kit from a medical facility that is within seven days after the medical facility notifies the agency that the kit has been collected.

(c) A time limit by which a sexual assault forensic evidence kit must be submitted to the Department of State Police for testing that is within 14 days after taking possession of the kit from a medical facility.

(d) A requirement that the law enforcement agency submit to the department information sufficient to allow the department to prioritize the testing of a sexual assault forensic evidence kit according to the rules of the department.

(e) A prohibition on the submission of an anonymous kit to the department for testing.

(f) A requirement that all sexual assault forensic evidence kits, including anonymous kits, be retained for no less than 60 years after the collection of the evidence.

(g) A requirement that when a victim who did not previously participate with a law enforcement agency in the creation of a report of a sexual assault participates in the creation of a report of the sexual assault at a later time, the sexual assault forensic evidence kit associated with the report must be reclassified as a nonanonymous kit.

(h) A requirement that when a sexual assault forensic evidence kit is reclassified as a nonanonymous kit as described in paragraph (g) of this subsection, the law enforcement agency in possession of the kit shall

submit the kit to the department for testing within 14 days of the reclassification.

(2) Each law enforcement agency within this state shall have policies and procedures concerning contact with the victims and the provision of information to victims concerning sexual assault forensic evidence kits. The policies and procedures must include:

(a) A requirement that the agency designate at least one person within the agency to receive all telephone inquiries concerning sexual assault forensic evidence kits and to serve as a liaison between the agency and the Department of State Police.

(b) A requirement that, at the time that a sexual assault forensic evidence kit is collected, a victim be provided with the contact information of a person described in paragraph (a) of this subsection.

(c) Provisions allowing sexual assault victims to request and receive information concerning sexual assault forensic evidence kits, including but not limited to the location, testing date and testing results of a kit, whether a DNA sample was obtained from the kit, whether or not there are matches to DNA profiles in state or federal databases and the estimated destruction date for the kit.

(d) A requirement that a person described in paragraph (a) of this subsection provide, in response to a victim inquiry concerning a sexual assault forensic evidence kit, any information the victim requests in a manner of communication designated by the victim, as soon as possible and within 30 days of the inquiry, unless the agency declines to provide the information pursuant to paragraph (e) of this subsection.

(e) Provisions allowing the agency to decline to provide information that interferes with the investigation or prosecution of a case.

(f) A procedure that allows a sexual assault victim to provide the agency with written authorization for a designee to access information on the victim's behalf.

(g) Provisions allowing a victim to contact a person described in paragraph (a) of this subsection in order to participate with the law enforcement agency in the creation of a report of the sexual assault associated with the sexual assault forensic evidence kit. [2016 c.89 §4; 2016 c.89 §6; 2017 c.361 §2]

**Note:** See note under 181A.322.

**181A.326 Notification to law enforcement agency when kit collected.** A medical facility collecting sexual assault forensic evidence kits shall, within seven days after the collection of a kit, notify the law enforcement agency with jurisdiction over a

possible sexual assault criminal investigation that the kit has been collected. [2016 c.89 §5]

**Note:** See note under 181A.322.

**Note:** Sections 7 and 8, chapter 89, Oregon Laws 2016, provide:

**Sec. 7. Task Force on the Testing of Sexual Assault Forensic Evidence Kits.** (1) The Task Force on the Testing of Sexual Assault Forensic Evidence Kits is established.

(2) The task force consists of 16 members appointed as follows:

(a) The President of the Senate, in consultation with the Senate Minority Leader, shall appoint two nonvoting members from among members of the Senate. The two members appointed under this paragraph may not be from the same political party.

(b) The Speaker of the House of Representatives, in consultation with the House Minority Leader, shall appoint two nonvoting members from among members of the House of Representatives. The two members appointed under this paragraph may not be from the same political party.

(c) The Governor shall appoint 12 members as follows:

(A) The coordinator of the Attorney General's Sexual Assault Task Force.

(B) Two survivors of sexual assault with experience with the sexual assault forensic evidence kit collection.

(C) A sexual assault nurse examiner.

(D) A person designated by the Superintendent of State Police who has expertise in the analysis of sexual assault forensic evidence kits.

(E) A person with experience seeking and applying for grants and other private funding.

(F) A person representing law enforcement agencies located in rural jurisdictions.

(G) A person representing law enforcement agencies located in urban jurisdictions.

(H) A person representing the Oregon Association Chiefs of Police.

(I) An attorney with experience prosecuting crimes.

(J) An attorney with experience in criminal defense.

(K) A sexual assault victims' advocate from a community-based organization.

(3) The task force shall:

(a) Examine the process for gathering and analyzing sexual assault forensic evidence kits in this state;

(b) Examine and identify improvements for law enforcement training on responding to and investigating sexual assaults;

(c) Examine and identify improvements for victim access to evidence other than sexual assault forensic evidence kits, including but not limited to police reports and other physical evidence;

(d) Examine and identify possible procedures for the testing of anonymous kits;

(e) Examine and identify additional rights of victims concerning the sexual assault forensic evidence kit testing process; and

(f) Identify and pursue grants and other funding sources in order to eliminate the backlog of untested sexual assault forensic evidence kits, reduce testing wait times, provide victim notification and improve efficiencies in the kit testing process.

(4) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the voting members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10)(a) The task force shall complete the duties described in subsection (3) of this section no later than July 31, 2018.

(b) The task force shall submit, in the manner provided by ORS 192.245, a report that includes recommendations for legislation to an interim committee of the Legislative Assembly related to the judiciary no later than December 1, 2018.

(11) The Committee Services office of the Legislative Assembly shall provide staff support to the task force.

(12) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to the Committee Services office of the Legislative Assembly for purposes of the task force.

(13) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the task force's duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties. [2016 c.89 §7]

**Sec. 8.** Section 7 of this 2016 Act is repealed on June 30, 2019. [2016 c.89 §8]

## MISCELLANEOUS

**181A.330 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 181A.335. [Formerly 181.428]

**Note:** 181A.330 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.335 Department to administer program to enforce laws discouraging use of tobacco products by persons under legal minimum purchase age; rules.** (1) As used in this section, "tobacco products" has

the meaning given that term in ORS 431A.175.

(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 who are under the legal minimum purchase 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 who are under the legal minimum purchase 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. [Formerly 181.430; 2017 c.701 §20]

**Note:** 181A.335 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.340 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 181A.355 to 181A.670;

(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 offi-

cers, 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 181A.630, 181A.640 and 181A.650 (1), and has not been reissued under ORS 181A.650 (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 167.390 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. [Formerly 181.433]

**Note:** 181A.340 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.345 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 181A.340 (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 181A.340.

(b) “Humane special agent” means a person who is commissioned under ORS 181A.340 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. [Formerly 181.435]

**Note:** 181A.345 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.350 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. [Formerly 181.440]

## PUBLIC SAFETY STANDARDS AND TRAINING

**181A.355 Definitions for ORS 181A.355 to 181A.670.** As used in ORS 181A.355 to 181A.670, 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 181A.360.

(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 181A.410.

(4) “Commissioned” means being authorized to perform various acts or duties of a police officer, certified reserve officer or 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 352.121 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 ORS 181A.680 that employs authorized tribal police officers as defined in ORS 181A.680, 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 regulatory specialists; or

(e) A humane investigation agency as defined in ORS 181A.340.

(13) "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.

(14) "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 ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.121 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 181A.340;

(d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181A.540; or

(e) An authorized tribal police officer as defined in ORS 181A.680.

(15) "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.

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

(17) "Regulatory specialist" has the meaning given that term in ORS 471.001.

(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 ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.121 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 communications 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 the emergency communications 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. [Formerly 181.610]

**181A.360 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 Gov-

ernor 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 expi-

ration 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. [Formerly 181.620]

**181A.365 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 organiza-

tions, 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. [Formerly 181.630]

**181A.370 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 181A.375.

(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, budgets, grants and other matters that arise between regular board meetings.

(3) Except as otherwise provided in this subsection, only those members of the executive committee who are chairpersons of 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. [Formerly 181.638]

**181A.375 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 employed by the Department of Corrections at a women's correctional facility and who is a member of a bargaining unit;

(F) Two nonmanagement corrections officers; and

(G) One person representing the public who:

(i) Has never been employed or utilized as a corrections officer or as a parole and probation officer; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a corrections officer or parole and probation officer.

(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;

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

(F) One person representing the public who:

(i) Has never been employed or utilized as a fire service professional; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a fire service professional.

(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;

(D) Three nonmanagement law enforcement officers; and

(E) One person representing the public who:

(i) Has never been employed or utilized as a police officer, certified reserve officer, reserve officer or regulatory specialist; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a police officer, certified reserve officer, reserve officer or regulatory specialist.

(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 telecommunicators;

(E) One person recommended by and representing the Oregon State Sheriffs' Association;

(F) One person recommended by and representing the Oregon Fire Chiefs Association;

(G) One person recommended by and representing the Emergency Medical Services and Trauma Systems Program of the Oregon Health Authority;

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

(I) One person representing the public who:

(i) Has never been employed or utilized as a telecommunicator or an emergency medical dispatcher; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a telecommunicator or an emergency medical dispatcher.

(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 representing the public who:

(i) Has never been employed or utilized as a private security provider, as defined in ORS 181A.840, or an investigator, as defined in ORS 703.401; and

(ii) Is not related within the second degree by affinity or consanguinity to a person who is employed or utilized as a private security provider, as defined in ORS 181A.840, or 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. [Formerly 181.637; 2017 c.47 §1]

**181A.380 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. [Formerly 181.632]

**181A.385 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 di-

rector 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. [Formerly 181.635]

**181A.390 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. [Formerly 181.636]

**181A.395 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 regulatory specialist, or utilize as a certified reserve officer or reserve officer, any person who has not yet attained the age of 21 years. [Formerly 181.645]

**181A.400 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 181A.195, 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 to be certified as a public safety officer, is applying to be reissued certification as a public safety officer or is an applicant or public safety officer who is under investigation by the department.

(2) Notwithstanding ORS 181A.195 (5) and (6), the Department of State Police shall maintain in the department's files the fingerprint cards used to conduct a criminal records check on persons described in subsection (1)(c) of this section.

(3) ORS 181A.195 (10) does not apply to the Department of Public Safety Standards and Training when the department makes denial or revocation decisions regarding persons described in subsection (1)(c) of this section.

(4) 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. 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 181A.640, 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 181A.640. 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 181A.195. [Formerly 181.612; 2017 c.228 §3]

**Note:** 181A.405 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.405 Legislative intent and findings.** (1) 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.

(2) 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.

(3) The Department of Public Safety Standards and Training may continue to accrue advanced, leadership and continuing training courses and programs consistent with ORS 181A.590. [Subsection (1) formerly 181.700; subsections (2) and (3) formerly 181.639]

**181A.410 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 181A.630, 181A.640 and 181A.650 (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.

(h) The department shall recommend, and the board shall establish by rule, an educational program that the board determines will be most effective in reducing profiling, as defined in ORS 131.915, by police officers and reserve officers. The program must be required at all levels of training, including basic training and advanced, leadership and continuing training.

(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 enforce-

ment 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 181A.500, 181A.520 and 181A.530 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 agency request budget 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 181A.790. [Formerly 181.640; 2016 c.117 §42; 2017 c.706 §8]

**181A.420 Minimum standards and training requirements inapplicable to certain persons; certification based on experience, education or training.** (1) The minimum standards and minimum training requirements established pursuant to ORS 181A.410 (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.

(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 181A.410 (1)(d) upon a finding that the public safety officer's professional experience, education or training meets the standards required for certification.

(3) The minimum standards and training requirements established pursuant to ORS 181A.410 (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. [Subsections (1) and (2) formerly 181.660; subsection (3) formerly 181.705]

**181A.425 Department not required to provide training for certification of reserve officers.** Nothing in ORS 181A.355, 181A.395, 181A.405 (1), 181A.410, 181A.420 (1) and (2), 181A.425, 181A.430, 181A.470, 181A.490, 181A.500, 181A.570, 181A.580, 181A.590, 181A.630, 181A.640 and 181A.650 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. [Formerly 181.711]

**181A.430 Effect of minimum requirements under authority other than ORS 181A.410.** Compliance with minimum standards or minimum training recommended pursuant to ORS 181A.410 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 181A.055 or under any civil service law, charter or ordinance for a county or city. [Formerly 181.670]

**181A.440 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 181A.490:

(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 181A.285. [Formerly 181.641]

**Note:** 181A.440 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.450 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. [Formerly 181.712]

**181A.460 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. [Formerly 181.643]

**181A.470 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 organiza-

tion 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. [Formerly 181.642]

**181A.480 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. [Formerly 181.649]

**181A.490 Certification of police officers and certified reserve officers.** (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 a law enforcement unit for more than 18 months unless the person:

(a)(A) Is a citizen of the United States; or

(B) Is a nonimmigrant legally admitted to the United States under a Compact of Free Association; and

(b) Has been certified as being qualified as a police officer or certified reserve officer under the provisions of ORS 181A.355 to 181A.670 and the certification has not lapsed or been revoked pursuant to ORS 181A.630, 181A.640 and 181A.650 (1) and not been reissued under ORS 181A.650 (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 failure to timely obtain certification, 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 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 a law enforcement unit shall commence the training necessary for certification under ORS 181A.355 to 181A.670 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, the law enforcement unit shall file a written statement of the law enforcement unit's reasons with the department.

(5) When a delay in the commencement of training necessary for certification under ORS 181A.355 to 181A.670 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 the delay may 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 181A.355 to 181A.670 at a site approved by the department.

(7) Notwithstanding any other provision of law, the law enforcement unit described in ORS 181A.355 (12)(e) shall bear the expense of training necessary for certification under ORS 181A.355 to 181A.670. [Formerly 181.665; 2017 c.53 §2]

**181A.500 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 181A.355 to 181A.670.

(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 181A.355 to 181A.670. [Formerly 181.667]

**181A.510 Certification for certain purposes of individuals 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 181A.355 to 181A.670.

(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 181A.630, 181A.640 and 181A.650;

(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. [Formerly 181.648]

**181A.520 Certification of corrections officers.** (1) Except for a person who has requested and obtained an extension pursuant to subsection (2) of this section, a person may not be employed as a corrections officer by a law enforcement unit for more than one year unless the person is a citizen of the United States or a nonimmigrant legally admitted to the United States under a Compact of Free Association, and:

(a) The person has been certified as being qualified as a corrections officer under the provisions of ORS 181A.355 to 181A.670 and the certification has not lapsed or been revoked pursuant to ORS 181A.630, 181A.640 and 181A.650 (1) and not been reissued under ORS 181A.650 (2); or

(b) The person is exempted from the certification requirement under ORS 181A.420 (1) and (2).

(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 failure to timely obtain certification, 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 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 181A.355 to 181A.670.

(4) Except as provided in subsection (5) of this section, a person employed as a corrections officer by a law enforcement unit shall commence the training necessary for certification under ORS 181A.355 to 181A.670 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 the law enforcement unit considers the delay necessary. When a law enforcement unit delays commencement of a corrections officer's training

under this subsection, the law enforcement unit 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 181A.355 to 181A.670 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 the delay may 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. [Formerly 181.652; 2017 c.53 §3]

**(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 [renumbered 181A.355 to 181A.670]. [2009 c.885 §43]

**Sec. 44.** Notwithstanding any contrary provision of ORS 181.610 to 181.712 [renumbered 181A.355 to 181A.670]:

(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]

**181A.530 Certification of parole and probation officers.** (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 parole and probation officer for more than 18 months unless the person is a citizen of the United States or a nonimmigrant legally admitted to the United States under a Compact of Free Association, and:

(a) The person has been certified as being qualified as a parole and probation officer under provisions of ORS 181A.355 to 181A.670 and the certification has not lapsed or been revoked pursuant to ORS 181A.630, 181A.640 and 181A.650 (1) and not reissued under ORS 181A.650 (2); or

(b) The person is exempted from the certification requirement under ORS 181A.420 (1) and (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 failure to timely obtain certification, 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 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 181A.355 to 181A.670.

(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. [Formerly 181.653; 2017 c.53 §4]

**181A.540 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 181A.410.

(2) The provisions of ORS 181A.355 to 181A.670 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. [Formerly 181.647]

**181A.550 Certification of regulatory specialists.** (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 regulatory specialist for more than 18 months unless the person is a citizen of the United States who has been certified under ORS 181A.410 as being qualified as a regulatory specialist and the certification has not:

(a) Lapsed; or

(b) Been revoked under ORS 181A.630, 181A.640 and 181A.650 (1) and not reissued under ORS 181A.630 (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 regulatory specialist 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 regulatory specialist on March 16, 2012, who continues to serve as a regulatory specialist without a lapse under subsection (4) of this section.

(4) The certification of a regulatory specialist shall lapse after three or more con-

secutive months of not being employed as a regulatory specialist unless the regulatory specialist is on leave from the commission. Upon reemployment as a regulatory specialist, the person whose certification has lapsed may apply to be certified under ORS 181A.355 to 181A.670.

(5) The commission shall pay the costs of training required for a regulatory specialist to be certified by the department. [Formerly 181.646]

**181A.560 Certification of telecommunicators and emergency medical dispatchers.** (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 181A.355 to 181A.670 and the certification has neither lapsed nor been revoked pursuant to ORS 181A.630, 181A.640 and 181A.650 (1) and not been reissued under ORS 181A.650.

(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. [Formerly 181.644]

**181A.570 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 181A.630, 181A.640 and 181A.650;

(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. [Formerly 181.651]

**181A.580 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 181A.280 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 181A.420 (2). [Formerly 181.654]

**181A.590 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 181A.410 (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 181A.410 (1)(a) and (b) or any accreditation standard established pursuant to ORS 181A.410 (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 181A.410 (1)(b) when the individual receives training that is accredited under ORS 181A.410 (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. [Formerly 181.650]

**181A.600 Limitation on accreditation of training programs.** (1) Notwithstanding ORS 181A.410 (1)(g) and 181A.590 (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 181A.490.

(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. [Formerly 181.657]

**181A.610 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. [Formerly 181.655]

**181A.620 Reimbursement of qualifying expenses.** (1) As used in this section:

(a) "Basic training" means the training course and field training approved by the Board on Public Safety Standards and Training and required by the Department of Public Safety Standards and Training for certification as a corrections officer or police officer.

(b) "Corrections officer" has the meaning given that term in ORS 181A.355.

(c) "Law enforcement unit" has the meaning given that term in ORS 181A.355.

(d) "Police officer" has the meaning given that term in ORS 181A.355.

(e) "Qualifying expenses" means the actual amount of salary and benefits paid by a law enforcement unit to a corrections officer or police officer while that corrections officer or police officer was:

(A) Engaged in basic training;

(B) Completing up to six weeks of corrections officer field training; or

(C) Completing up to 16 weeks of police officer field training.

(2) Subject to an employment agreement between an original employing law enforcement unit and a corrections officer or police officer or to an applicable collective bargaining agreement, when a corrections officer or police officer employed by a law enforcement unit who has completed any portion of basic training voluntarily leaves employment with that original employing law enforcement unit and is subsequently employed by a different law enforcement unit in a position that requires the same training as required for the position with the original employing law enforcement unit, the subsequent employing law enforcement unit shall, upon a request made pursuant to subsection (4) of this section, reimburse the original employing law enforcement unit for qualifying expenses incurred by the original employing law enforcement unit in accordance with the reimbursement schedule adopted under subsection (3) of this section.

(3) The required reimbursement rate shall be:

(a) 100 percent of qualifying expenses if the corrections officer or police officer is employed by the subsequent employing law enforcement unit within 12 months from the date the corrections officer or police officer

began employment with the original employing law enforcement unit.

(b) 66 percent of qualifying expenses if the corrections officer or police officer is employed by the subsequent employing law enforcement unit more than 12 months but less than 24 months from the date the corrections officer or police officer began employment with the original employing law enforcement unit.

(c) 33 percent of qualifying expenses if the corrections officer or police officer is employed by the subsequent employing law enforcement unit more than 24 months but less than 36 months from the date the corrections officer or police officer began employment with the original employing law enforcement unit.

(d) Waived if the corrections officer or police officer is employed by the subsequent employing law enforcement unit more than 36 months from the date the corrections officer or police officer began employment with the original employing law enforcement unit.

(4) A request for reimbursement must be:

(a) In writing; and

(b) Made by the original employing law enforcement unit to the subsequent employing law enforcement unit within six months of the date on which the corrections officer or police officer was hired by the subsequent employing law enforcement unit.

(5) When making employment decisions, a law enforcement unit may not take into consideration the possibility that the reimbursement of qualifying expenses specified in subsection (2) of this section will be required if a particular applicant is employed. [Formerly 181.695; 2017 c.29 §1]

**Note:** 181A.620 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 181A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**181A.630 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 181A.375 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 181A.410 and 181A.640, the policy com-

mittee 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 181A.410.

(B) The department's final order may not incorporate the proposed amendment unless the policy committee approves the amendment. [Formerly 181.661]

**181A.640 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 181A.630, 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 181A.410 (1)(a) to (d).

(d) The public safety officer failed to comply with ORS 181A.790 (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 181A.630, 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 181A.630, 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 181A.630, 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 181A.410 (1)(g) or 181A.590 (3).

(8) When the department completes an investigation relating to a person's qualifications for employment, training or certifica-

tion 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. [Formerly 181.662]

**181A.650 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 181A.630 and 181A.640 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. [Formerly 181.664]

**181A.655 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 181A.490, 181A.520, 181A.530 or 181A.560.

(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 181A.490, 181A.520, 181A.530 or 181A.560 and after notice from the department that an employee has not met the certification requirements of ORS 181A.490, 181A.520, 181A.530 or 181A.560, a public safety agency terminates or reassigns the employee solely because the employee has not met the certification requirements of ORS 181A.490, 181A.520, 181A.530 or 181A.560, 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. [Formerly 181.679]

**181A.660 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 govern-

ment, 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. [Formerly 181.685]

**181A.665 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 181A.890 and 703.490 may be used only for the expenses of administration and enforcement of ORS 181A.840 to 181A.891, 181A.995, 703.401 to 703.490, 703.993 and 703.995. [Formerly 181.690]

**181A.670 Disclosure of information about public safety officer; order to compel compliance.** (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 internal use by the board or department of a photograph of a public safety officer.

(2) A public or private safety agency or other employer of a public safety officer shall provide the department with access to per-

sonnel records of an employee or former employee of the agency or employer if:

(a) The department requests access to the records;

(b) The department is conducting an investigation under ORS 181A.640 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 or private safety agency or other employer of a public safety officer 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 the disclosure's consequences. For purposes of this subsection, the presumption of good faith is rebutted upon a showing that the agency or employer disclosed the information knowing that the information was false or deliberately misleading or disclosed the information with malicious purpose.

(4) If a public or private safety agency or other employer of a public safety officer fails or refuses to comply with a request made pursuant to subsection (2) of this section, the Director of the Department of Public Safety Standards and Training may apply to a court having jurisdiction over the matter for an order to compel compliance. [Formerly 181.675; 2017 c.228 §2]

**181A.675 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. [Formerly 181.714]

**TRIBAL POLICE OFFICERS**

**181A.680 Definitions for ORS 181A.680 to 181A.692.** As used in ORS 181A.680 to 181A.692:

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

(a) In accordance with ORS 181A.680 to 181A.692; and

(b) While employed by a tribal government that is in compliance with ORS 181A.680 to 181A.692.

(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]

**181A.685 Eligibility to act as authorized tribal police officer.** 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 181A.355 to 181A.670.

(3) Is in compliance with any rules adopted by the Department of Public Safety Standards and Training under ORS 181A.680 to 181A.692; and

(4) Is employed by a tribal government that:

(a) Is in compliance with the requirements of ORS 181A.355 to 181A.670 applicable to a law enforcement unit as defined in ORS 181A.355;

(b) Is in compliance with ORS 181A.680 to 181A.692 and any rules adopted by the department under ORS 181A.680 to 181A.692;

(c) Has submitted to the department the resolution and documents described in ORS 181A.690;

(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 181A.775 to 181A.805, 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 ORS 181A.680 to 181A.692 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 ORS 181A.680 to 181A.692 in a manner substantially similar to the manner in which the provisions of ORS 192.311 to 192.478 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 ORS 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 ORS 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 ORS 133.705; 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 determining 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 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]

**181A.690 Legislative purpose; requirements for citation issued outside tribal jurisdiction; tribal government insurance; tribal police officer not officer, employee or agent of state; tribal government not seizing agency; rules.** (1) The Legislative Assembly finds and declares that the purpose of ORS 181A.680 to 181A.692 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 ORS 181A.680 to 181A.692; 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 insurance 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 192.311 to 192.478.

(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 181A.355 to 181A.670, 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 ORS 181A.680 to 181A.692:

(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 ORS 181A.680 to 181A.692 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 ORS 181A.680 to 181A.692. [2011 c.644 §3; 2011 c.644 §6]

**181A.692 Application for nontribal police officers to exercise tribal police powers on tribal lands; citation for tribal offense; liability for torts; report.** (1) Not later than 90 days after 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 ORS 181A.680 to 181A.692;

(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 ORS 181A.680 to 181A.692;

(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 ORS 181A.680 to 181A.692, 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 sus-

pected 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]

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

**181A.720 Definitions for ORS 181A.725 to 181A.735.** As used in ORS 181A.725 to 181A.735, 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 181.750]

**181A.725 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 181.755]

**181A.730 Coordinator; appointment; duties.** (1) The Oregon Community Crime Prevention Information Center is under the supervision and control of the coordinator who is responsible for the performance of the duties, functions and powers of the center.

(2) The Director of the Department of Public Safety Standards and Training shall appoint the coordinator who shall have experience and knowledge in the area of crime prevention.

(3) The coordinator shall receive a salary as provided by law or, if not so provided, as prescribed by the director.

(4) The coordinator is authorized to solicit, receive and expend grants, including matching grants, from private sources to aid in carrying out the provisions of ORS 181A.720 to 181A.735. [Formerly 181.760]

**181A.735 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 181.765]

#### **PLAN ADDRESSING USE OF DEADLY PHYSICAL FORCE**

**181A.775 Definitions for ORS 181A.775 to 181A.805.** As used in ORS 181A.775 to 181A.805:

(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 181A.355 (12)(a)(A).

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

(a) A police officer or reserve officer as defined in ORS 181A.355; 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 ORS 181A.680:

(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 ORS 181A.685 (4)(d)(A). [Formerly 181.781]

**181A.780 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) An authorized tribal police officer as defined in ORS 181A.680 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 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 181A.785. 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 181A.805.

(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 181A.790 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. [Formerly 181.783]

**181A.785 Components of plan.** In the plan required by ORS 181A.780 (4), a deadly physical force planning authority shall, at a minimum:

(1)(a) Address, under ORS 181A.780 (4)(a), the manner in which each law enforcement agency within the county will comply with ORS 181A.790 (2); and

(b) Attach a copy of each policy adopted under ORS 181A.790 (2) to the plan.

(2) Address, under ORS 181A.780 (4)(b), the manner in which each law enforcement agency within the county will comply with ORS 181A.790 (3)(a) and (4).

(3) Address, under ORS 181A.780 (4)(c), the manner in which each law enforcement agency within the county will comply with ORS 181A.790 (5)(a).

(4) Address, under ORS 181A.780 (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 181A.780 (4)(e), the manner in which each law enforcement agency within the county will comply with ORS 181A.790 (6). [Formerly 181.786]

**181A.790 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 re-

sulted 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 181A.805 (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 181A.805.

(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. [Formerly 181.789]

**181A.795 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 181A.780 (4)(e) are not admissible as evidence in any subsequent civil action or administrative proceeding. [Formerly 181.791]

**181A.800 Compliance.** Notwithstanding ORS 181A.780, 181A.785 and 181A.790 (3) and (6), if sufficient moneys are not appropriated to the Department of Justice for purposes of making grants under ORS 181A.805, a deadly physical force planning authority created by ORS 181A.780 or a law enforcement agency

is not required to comply with any requirement of ORS 181A.780, 181A.785 or 181A.790 (3) or (6) for which the law enforcement agency is entitled to reimbursement under ORS 181A.805. [Formerly 181.793]

**181A.805 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 181A.780. 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 181A.780 (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. [Formerly 181.796]

**181A.810 Expenditure limitation on grant moneys.** A law enforcement agency, as defined in ORS 181A.775, may not use moneys it receives under ORS 181A.805 to supplant moneys from another source that the law enforcement agency has been previously authorized to expend. [Formerly 181.798]

**181A.815 Expenses; rules.** (1) A law enforcement agency that participates in the development of the plan required by ORS 181A.780 (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 181A.780 (4).

(3) Notwithstanding ORS 181A.805 (2), when a law enforcement agency applies for a grant under ORS 181A.805, 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 ex-

penses 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. [Formerly 181.799]

### **PUBLIC SAFETY PERSONNEL GENERALLY**

**181A.820 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. [Formerly 181.850]

**181A.825 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 181A.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 181A.010.

(2) Unless a law other than ORS 192.311 to 192.478 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. [Formerly 181.852]

**181A.830 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 192.311.

(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 181A.355.

(2) A public body may not disclose a photograph of a public safety employee of the public body without the written consent of the employee. This subsection does not apply to the use by the public body of a photograph of a public safety employee.

(3) A public body may not disclose information about a personnel investigation of a public safety employee of the public body if the investigation does not result in discipline of the employee.

(4) Subsection (3) of this section does not apply:

(a) When the public interest requires disclosure of the information.

(b) When the employee consents to disclosure in writing.

(c) When disclosure is necessary for an investigation by the public body, the Department of Public Safety Standards and Training or a citizen review body designated by the public body.

(d) When the public body determines that nondisclosure of the information would adversely affect the confidence of the public in the public body.

(5) If an investigation of a public safety employee of a public body results from a complaint, the public body may disclose to the complainant the disposition of the complaint and, to the extent the public body considers necessary to explain the action of the public body on the complaint, a written summary of information obtained in the investigation.

(6) A public body must notify a public safety employee of the public body if the public body receives a request for:

(a) A photograph of the employee.

(b) Information about the employee that is exempt from disclosure under ORS 192.345 or 192.355 (2) or (3).

(c) Information about the employee that is prohibited from disclosure by subsection (3) of this section. [Formerly 181.854]

**181A.835 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 352.121 or 353.125, the Oregon State Police and any state or local public body that employs or utilizes public safety personnel.

(e) “Public safety personnel” means a sheriff, deputy sheriff, municipal police officer, police officer commissioned by a university under ORS 352.121 or 353.125, state police officer, parole and probation officer, corrections employee, certified reserve officer, reserve officer, telecommunicator or emergency medical dispatcher.

(2) Any communication made by a participant or counselor in a peer support counseling session conducted by a law enforcement agency or by an emergency services provider for public safety personnel or emergency services personnel, and any oral or written information conveyed in the peer support counseling session, is confidential and may not be disclosed by any person participating in the peer support counseling session.

(3) Any communication relating to a peer support counseling session made confidential under subsection (2) of this section that is made between counselors, between counselors and the supervisors or staff of an employee assistance program, or between the supervisors or staff of an employee assistance program, is confidential and may not be disclosed.

(4) The provisions of this section apply only to peer support counseling sessions conducted by an employee or other person who:

(a) Has been designated by a law enforcement agency or emergency services provider, or by an employee assistance program, to act as a counselor; and

(b) Has received training in counseling and in providing emotional and moral support to public safety personnel or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.

(5) The provisions of this section apply to all oral communications, notes, records and reports arising out of a peer support counseling session. Any notes, records or reports arising out of a peer support counseling session are not public records for the purpose of ORS 192.311 to 192.478.

(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 obser-

vation made during the course of employment, or material or information acquired during the course of employment, that is otherwise subject to discovery or introduction in evidence.

(8) This section does not apply to:

(a) Any threat of suicide or homicide made by a participant in a peer support counseling session, or any information conveyed in a peer support counseling session relating to a threat of suicide or homicide;

(b) Any information relating to abuse of children or of the elderly, or other information that is required to be reported by law; or

(c) Any admission of criminal conduct.

(9) This section does not prohibit any communications between counselors who conduct peer support counseling sessions, or any communications between counselors and the supervisors or staff of an employee assistance program. [Formerly 181.860]

#### PRIVATE SECURITY SERVICE PROVIDERS

**181A.840 Definitions for ORS 181A.360, 181A.840 to 181A.891, 181A.895 and 181A.995.** As used in ORS 181A.360, 181A.840 to 181A.891, 181A.895 and 181A.995:

(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 181A.855.

(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 181A.840 to 181A.891.

(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. [Formerly 181.870]

**181A.845 Applicability of ORS 181A.840 to 181A.891.** (1) ORS 181A.840 to 181A.891 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 181A.840 (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 181A.840 (8)(f);

(b) If there is at least one person on-site who is certified or licensed under ORS 181A.870 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 181A.840 (8)(f), other than incidental or temporary action, is taken by or under the supervision of a person certified or licensed under ORS 181A.870; 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. [Formerly 181.871]

**181A.850 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 181A.870.

(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 181A.870.

(c) For a person to perform supervisory duties over persons performing crowd management or guest services, as described in ORS 181A.845, unless the person has ob-

tained a license or certificate under ORS 181A.870.

(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 181A.870.

(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. [Formerly 181.873]

**181A.855 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 163A.010, 163A.015, 163A.020 or 163A.025.

(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. [Formerly 181.875]

**181A.860 Application procedure.** An applicant for certification or licensure as a private security provider 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 un-

der oath to the department. [Formerly 181.876; 2017 c.228 §1]

**181A.865 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 181A.855. [Formerly 181.877]

**181A.870 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, suspending and revoking a private security provider's certificate or license; and

(b) Reviewing the private security services of executive managers in relation to the licensing and certification standards set forth in ORS 181A.840 to 181A.891.

(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, suspending 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 181A.875; 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 181A.840 to 181A.891 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 181A.840 to 181A.891 and 181A.995. For efficiency, the department and board may adopt rules jointly as a single set of combined rules. [Formerly 181.878; 2017 c.227 §1]

**181A.875 Licenses and certificates; issuance; duration; denial or revocation.** (1) A license or certificate issued by the Department of Public Safety Standards and Training under ORS 181A.870 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 or licensure under ORS 181A.860, 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 181A.195.

(4) ORS 181A.195 (10) does not apply to the Department of Public Safety Standards and Training when the department makes a denial or revocation decision as a result of information received pursuant to subsection (3) this section.

(5) 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 a denial or revocation decision regarding an applicant pursuant to subsection (3) of this section. 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 181A.855 or 181A.860, 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 181A.855 or 181A.860. 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 181A.195. [Formerly 181.880; 2017 c.228 §4]

**181A.880 Hearing if license or certificate denied, suspended or revoked.** (1) If the Board on Public Safety Standards and Training or the Department of Public Safety Standards and Training denies a license or certificate or declines to renew a license or certificate or suspends or revokes a license or certificate, opportunity for a hearing consistent with the provisions of ORS 181A.630 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. [Formerly 181.882]

**181A.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.  
[Formerly 181.885]

**181A.890 Disposition of funds received by department.** All moneys received by the Department of Public Safety Standards and Training under ORS 181A.840 to 181A.891 and 181A.995, including penalties recovered under ORS 181A.995 (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 181A.665. [Formerly 181.887]

**181A.891 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. [Formerly 181.886]

**181A.893 Entities employing private security providers; rules.** (1) It is unlawful for an entity that employs private security providers to use a name that implies that the entity is, or is affiliated with, an existing law enforcement unit or public safety agency as defined in ORS 181A.355, the organized militia as described in ORS 396.105, the Armed Forces of the United States, a federal law enforcement agency or a federal intelligence agency.

(2) The Board on Public Safety Standards and Training, in consultation with the Department of Public Safety Standards and Training, shall adopt rules related to the requirements of subsection (1) of this section. [2016 c.50 §1]

**Note:** Section 2, chapter 50, Oregon Laws 2016, provides:

**Sec. 2.** Section 1 of this 2016 Act [181A.893] does not apply to an entity that operates under a name described in section 1 of this 2016 Act on or after the operative date specified in section 3 of this 2016 Act [July

1, 2016] for as long as the entity is owned by the person that owned it on the operative date specified in section 3 of this 2016 Act. [2016 c.50 §2]

**181A.895 State preemption of local laws relating to private security providers.** The provisions of ORS 181A.360, 181A.840 to 181A.891 and 181A.995 preempt any laws of the political subdivisions of this state relating to the regulation of private security providers. [Formerly 203.090]

## PENALTIES

**181A.990 Penalties.** Violation of ORS 181A.110 (4) is a Class A misdemeanor. [Formerly 181.990]

**181A.995 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 181A.840 to 181A.891.

(b) Class A violation if the person provides private security services as a private security professional without being certified to do so under ORS 181A.870 and having in the person's possession the certificate issued under ORS 181A.870.

(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 181A.840 to 181A.891 or any rule adopted by the Board on Public Safety Standards and Training or Department of Public Safety Standards and Training pursuant to ORS 181A.840 to 181A.891.

(3) Judicial review of civil penalties imposed under subsection (2) of this section shall be as provided under ORS 183.480. [Formerly 181.991]