

Senate Bill 132

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Oregon Youth Authority to photograph and fingerprint youth offender if photograph and fingerprint records and files are not provided to youth authority. Modifies fingerprint and photograph records and files retention requirements.

A BILL FOR AN ACT

1
2 Relating to juvenile records; amending ORS 419A.250.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 419A.250 is amended to read:

5 419A.250. (1) A child, ward, youth or youth offender may be photographed or fingerprinted by
6 a law enforcement agency:

7 (a) Pursuant to a search warrant;

8 (b) According to laws concerning adults if the youth has been transferred to criminal court for
9 prosecution;

10 (c) Upon consent of both the child or youth and the child or youth's parent after advice that
11 they are not required to give such consent;

12 (d) Upon request or consent of the child's parent alone if the child is less than 10 years of age,
13 and if the law enforcement agency delivers the original photographs or fingerprints to the parent
14 and does not make or retain any copies thereof; or

15 (e) By order of the juvenile court.

16 (2)(a) When a youth is taken into custody under ORS 419C.080, the law enforcement agency
17 taking the youth into custody shall photograph and fingerprint the youth. When a youth is found
18 within the jurisdiction of the juvenile court for the commission of an act that would constitute a
19 crime if committed by an adult, the court shall ensure that the youth offender's fingerprints have
20 been taken. The law enforcement agency attending upon the court is the agency responsible for
21 obtaining the fingerprints. The law enforcement agency attending upon the court may, by agreement,
22 arrange for another law enforcement agency to obtain the fingerprints on the attending agency's
23 behalf.

24 **(b) When a youth offender is committed to a youth correction facility and the juvenile**
25 **department, court or law enforcement agency has not provided the youth offender's finger-**
26 **print and photograph files or records to the Oregon Youth Authority, the youth authority**
27 **shall photograph and fingerprint the youth offender.**

28 (3) Fingerprint and photograph files or records of [*children, wards, youths and youth offenders*]
29 **a child, ward, youth or youth offender** must be kept separate from those of adults[, *and*]. Fin-
30 gerprints and photographs known to be those of a child may be maintained on a local basis only and

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 may not be sent to [*a central state*] **the Department of State Police** or a federal depository.

2 (4) Fingerprint and photograph files or records of a child, ward, youth or youth offender are
3 open to inspection only by, or the contents disclosed only to, the following:

4 (a) Public agencies for use in investigation or prosecution of crimes and of conduct by a child,
5 ward, youth or youth offender that if committed by an adult would be an offense, provided that a
6 law enforcement agency may provide information to another agency only when the information is
7 pertinent to a specific investigation by that agency;

8 (b) The juvenile department and the juvenile court having the child, ward, youth or youth
9 offender before it in any proceeding;

10 (c) Caseworkers and counselors taking action or otherwise responsible for planning and care of
11 the child, ward, youth or youth offender;

12 (d) The parties to the proceeding and their counsel; and

13 (e) The victim or a witness of an act or behavior described under ORS 419C.005 (1) or the
14 victim's parent, guardian, personal representative or subrogee, when necessary to identify the youth
15 or youth offender committing the act or behavior and identifying the apparent extent of the youth
16 or youth offender's involvement in the act or behavior.

17 (5)(a) Fingerprint and photograph files or records of youths and youth offenders must be sent to
18 [*a central state depository*] **the Department of State Police** in the same manner as fingerprint and
19 photograph files or records of adults. The fingerprint and photograph files or records of a youth or
20 youth offender sent to [*a central depository*] **the department** under this subsection are open to in-
21 spection in the same manner and under the same circumstances as fingerprint and photograph files
22 or records of adults.

23 (b) A party filing a petition alleging that a youth is within the jurisdiction of the court under
24 ORS 419C.005 shall notify the [*central state depository*] **Department of State Police** of the following:

25 (A) The filing of a petition alleging that a youth committed an act that if committed by an adult
26 would constitute a crime; or

27 (B) The dismissal of a petition alleging that a youth committed an act that if committed by an
28 adult would constitute a crime.

29 (c) The juvenile court shall notify the [*central state depository*] **Department of State Police** of
30 the disposition of a case in which jurisdiction is based on ORS 419C.005.

31 **(d) The Oregon Youth Authority shall notify the Department of State Police of a youth**
32 **offender's commitment to the youth authority for placement in a youth correction facility.**

33 **(e) The Oregon Youth Authority shall notify the Department of State Police of the ter-**
34 **mination of a youth offender's commitment for placement in a youth correction facility and**
35 **to the legal custody of the youth authority.**

36 [(d)] (f) The Department of State Police shall delete the fingerprint and photograph files or re-
37 cords of a youth or youth offender [*from the depository*] and destroy the files or records relating to
38 the conduct that caused the files or records to be sent to the [*depository*] **department**:

39 (A) [*One year*] **Two years** after receiving the files, if the [*central state depository*] **Department**
40 **of State Police** has not received notice under paragraph (b) of this subsection;

41 (B) No later than one year following receipt of a notice of dismissal of a petition under para-
42 graph (b)(B) of this subsection; [*or*]

43 **(C) No later than one year after the Department of State Police receives notice under**
44 **paragraph (e) of this subsection; or**

45 [(C)] **(D) In all other circumstances, no later than the earlier of the date the Department of**

1 **State Police receives the notice of termination of the case or** five years and 30 days after [*fin-*
2 *gerprint and photograph files or records are sent to the central state depository*] **the department re-**
3 **ceives notice of the disposition of the case.**

4 (6) Fingerprint and photograph files and records of a child, ward, youth or youth offender must
5 be expunged when the juvenile court orders expunction of a child, ward, youth or youth offender's
6 record pursuant to ORS 419A.260 and 419A.262.

7 (7) The parent or guardian of a missing child may submit a fingerprint card and photograph of
8 the child to a law enforcement agency at the time a missing person report is made. The law
9 enforcement agency may submit the fingerprint file to the Department of State Police. The infor-
10 mation must be entered into the Law Enforcement Data System and the Western Identification
11 Network Automated Fingerprint Identification System.

12 (8) When fingerprint files or records are submitted under subsection (7) of this section, the De-
13 partment of State Police shall enter in a special index in the computerized criminal history files the
14 name of the child and the name of the county or agency that submitted the fingerprint file or record.

15 (9) Fingerprints and other information entered in any data system pursuant to subsection (7) of
16 this section must be deleted when the child is located.

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