SUMMARY

Requires each professional licensing board to study criminal background criteria and character standards for licensure, certification or other authorization to provide occupational or professional service regulated by board. Requires reports to interim committee of Legislative Assembly related to workforce.


A BILL FOR AN ACT

Relating to criminal background criteria used by professional licensing boards.

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

SECTION 1. (1) As used in this section:

(a) “Occupational or professional service” means a service:

(A) That an individual must possess a license, certificate or other form of authorization to provide under the laws of this state; and

(B) Over which a professional licensing board has regulatory oversight.

(b) “Professional licensing board” means a state agency or board that licenses, certifies or otherwise authorizes individuals to provide an occupational or professional service.

(2) Each professional licensing board in this state shall study the criminal background criteria and character standards the board uses in approving applicants for licensure, certification or other authorization and identify methods to reduce barriers to licensure, certification or other authorization to provide the occupational or professional
service regulated by the board for applicants who may not qualify for licensure, certification or other authorization because of their criminal background or character. Each professional licensing board shall submit a report in the manner provided by ORS 192.245 to an interim committee of the Legislative Assembly related to the workforce not later than December 31, 2020.

SECTION 2. Section 1 of this 2019 Act is repealed on January 2, 2021.
SUMMARY

Directs Public Defense Services Commission to distribute moneys to Metropolitan Public Defender Services for establishment and administration of pilot program according to specifications, collection of certain program data and submission of data to commission. Directs commission to review data and to report on results of pilot program to interim committees of Legislative Assembly related to judiciary on or before September 15, 2021.

Appropriates moneys from General Fund to Public Defense Services Commission for pilot program.

1 A BILL FOR AN ACT
2 Relating to civil legal services for persons charged with crimes.
3 Be It Enacted by the People of the State of Oregon:
4
5 SECTION 1. (1) The Public Defense Services Commission shall dis-
6 tribute the moneys described in section 2 of this 2019 Act to Metro-
7 politan Public Defender Services for the following purposes:
8 (a) Establishing and administering a two-year pilot program in
9 Multnomah County and in one rural county with the purpose of pro-
10 viding civil legal services to persons charged with criminal offenses.
11 The provision of civil legal services must include but is not limited to
12 assistance with issues related to housing, family law, public benefits,
13 financial obligations, consumer debt and expungement.
14 (b) Collecting data, and submitting the data to the Public Defense
15 Services Commission, concerning the number of participants in the
16 pilot program who, as a result of participation:
17 (A) Experienced increased financial stability.
18 (B) Experienced increased housing stability.

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.
(C) Were able to obtain public benefits.
(D) Were able to resolve debt.
(E) Were able to expunge or set aside records of arrest, citation or conviction.
(F) Engaged in planning for family security.
(G) Experienced increased stability or exhibited better behavior while incarcerated, in comparison to similarly situated inmates who did not participate in the pilot program.

(2) Upon receipt of the data concerning the pilot program described in subsection (1) of this section, the Public Defense Services Commission shall review the data, prepare a report and submit the report to the interim committees of the Legislative Assembly related to the judiciary in the manner provided under ORS 192.245 on or before September 15, 2021.

SECTION 2. In addition to and not in lieu of any other appropriation, there is appropriated to the Public Defense Services Commission, for the biennium beginning July 1, 2019, out of the General Fund, the amount of $____ to be expended for the purposes described in section 1 of this 2019 Act.
SUMMARY

Modifies procedure for expunction of juvenile records. Directs juvenile court to automatically initiate expunction proceeding upon dismissal of juvenile case. Directs juvenile court to automatically order expunction of juvenile adjudication records if no fewer than two years have elapsed since termination, person has not been subject to subsequent delinquency adjudication or criminal conviction and no proceedings are pending against person. Exempts certain offenses from automatic mandatory expunction.

Directs juvenile court to initiate discretionary expunction proceedings for cases not eligible for automatic mandatory expunction if no fewer than two years have elapsed since most recent termination, person has not been subject to subsequent delinquency adjudication or criminal conviction and no proceedings are pending against person. Exempts certain offenses from automatic discretionary expunction.

Permits persons to apply for expunction of juvenile records related to acts that would have constituted Class A felony if committed by adult if no fewer than five years have elapsed since most recent termination, person has not been subject to subsequent delinquency adjudication or criminal conviction and no proceedings are pending against person.

Requires notice of discretionary expunction proceeding to be sent to person whose records are subject of proceeding and district attorney. Directs district attorney to provide notice to victim. Permits district attorney to object to expunction application. Requires court to hold expunction hearing on any objections.

Directs State Court Administrator to study and make recommendations on updating provisions of state law relating to records of juvenile adjudications to align Oregon law with American Bar Association’s model Act governing confidentiality of juvenile delinquency records.

A BILL FOR AN ACT

Relating to juvenile records; creating new provisions; and amending ORS 419A.250, 419A.260, 419A.262, 419A.265, 419C.370, 659A.030 and 670.290.

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.
Be It Enacted by the People of the State of Oregon:

EXPUNCTION OF JUVENILE RECORDS

SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made a part of ORS 419A.260 to 419A.262.

SECTION 2. Expunction venue. An expunction proceeding under ORS 419A.260 to 419A.262 shall be commenced in the county where the subject person resided at the time of the most recent termination.

SECTION 3. Mandatory expunction. (1)(a)(A) For cases in which a petition was filed in juvenile court but the case was dismissed prior to adjudication, the court shall initiate expunction as provided in paragraph (b) of this subsection immediately following dismissal of the case.

(B) For cases resolved informally by the juvenile department, the juvenile department shall move the court for expunction immediately following termination of the case.

(C) For cases of law enforcement or public agency investigations that never resulted in referral to the juvenile department or charges, the holder of the records shall move the court for expunction immediately following termination of the case.

(b) Upon its own motion or upon application of the juvenile department or other holder of records under paragraph (a) of this subsection, the juvenile court shall immediately order expunction if the court finds that there was no adjudication of delinquency, including in:

(A) Dismissed cases, if the time for the state to appeal the dismissal has lapsed;

(B) Diverted cases, if the person has successfully completed diversion;

(C) Cases in which the charges were not substantiated; or
(D) Cases in which the law enforcement agency did not refer the subject to court.

(2)(a) Except as provided in paragraph (b) of this subsection, in cases in which there was an adjudication of delinquency, the juvenile court shall, on its own motion, automatically order expunction if:

(A) At least two years have elapsed since the date of the person’s most recent termination;

(B) Since the date of the most recent termination, the person has not been subject to a subsequent delinquency adjudication or criminal conviction; and

(C) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are pending against the person.

(b) The following offenses are not eligible for automatic mandatory expunction under this subsection:

(A) Any cases under ORS 419C.005 in which a juvenile court found a person to be within the jurisdiction of the court based upon the person’s commission of an act that if done by an adult would constitute one of the following offenses:

(i) Aggravated murder under ORS 163.095;

(ii) Murder under ORS 163.115;

(iii) Attempt, solicitation or conspiracy to commit murder or aggravated murder;

(iv) Manslaughter in the first degree under ORS 163.118;

(v) Manslaughter in the second degree under ORS 163.125;

(vi) Criminally negligent homicide under ORS 163.145;

(vii) Assault in the first degree under ORS 163.185;

(viii) Criminal mistreatment in the first degree under ORS 163.205;

(ix) Kidnapping in the first degree under ORS 163.235;

(x) Rape in the third degree under ORS 163.355;

(xi) Rape in the second degree under ORS 163.365;

(xii) Rape in the first degree under ORS 163.375;
(xiii) Sodomy in the third degree under ORS 163.385;
(xiv) Sodomy in the second degree under ORS 163.395;
(xv) Sodomy in the first degree under ORS 163.405;
(xvi) Unlawful sexual penetration in the second degree under ORS 163.408;
(xvii) Unlawful sexual penetration in the first degree under ORS 163.411;
(xviii) Sexual abuse in the third degree under ORS 163.415;
(xix) Sexual abuse in the second degree under ORS 163.425;
(xx) Sexual abuse in the first degree under ORS 163.427;
(xxi) Promoting prostitution under ORS 167.012;
(xxii) Compelling prostitution under ORS 167.017;
(xxiii) Aggravated driving while suspended or revoked under ORS 163.196;
(xxiv) Aggravated vehicular homicide under ORS 163.149; or
(xxv) An attempt to commit a crime listed in this subparagraph other than manslaughter in the second degree and criminally negligent homicide; or
(B) Any offense for which the person is currently required to register as a sex offender.

SECTION 4. Discretionary expunction. (1)(a) In cases in which there was an adjudication of delinquency, but that are not eligible for automatic mandatory expunction under section 3 of this 2019 Act, the juvenile court shall, on its own motion, initiate an expunction proceeding as described in this section and may order expunction if, after a hearing when the matter is contested:

(A) At least two years have elapsed since the date of the person’s most recent termination;

(B) Since the date of the most recent termination, the person has not been subject to a subsequent delinquency adjudication or criminal conviction; and
(C) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are pending against the person.

(b) A person is not eligible for automatic discretionary expunction under this subsection if:

(A) The adjudication of the offense in the records to be expunged currently requires the person to register as a sex offender; or

(B) If the offense in the records to be expunged resulted from acts that would have constituted a Class A felony if committed by an adult.

(2) Persons who were adjudicated delinquent for acts that would have constituted a Class A felony if committed by an adult may move the juvenile court for expunction if:

(a) At least five years have elapsed since the date of the person’s most recent termination;

(b) Since the date of the most recent termination, the person has not been subject to a subsequent delinquency adjudication or criminal conviction; and

(c) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are pending against the person.

(3)(a) When an expunction proceeding is commenced upon the juvenile court’s own motion under subsection (1) of this section, the motion shall set forth the names and addresses of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that a reasonable search of juvenile court files indicates have expungible records and those provided by the subject person.

(b) When an expunction proceeding is commenced under subsection (2) of this section by application of the person whose records are to be expunged, the person shall set forth as part of the application the names of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that the person has reason to believe possess an expungible record of the person. The juvenile department shall provide the names and addresses of the juvenile courts,
juvenile departments, institutions and law enforcement and other agencies that a reasonable search of juvenile department files indicates have expungible records.

(4)(a) Notice and a copy of an application for expunction under subsection (1) or (2) of this section shall be given to:

(A) The district attorney of the county in which the expunction proceeding is commenced and the district attorney of each county in which the record sought to be expunged is kept; and

(B) The person who is the subject of the record.

(b) A district attorney who receives notice under this subsection shall notify the victim of the acts that resulted in the disposition that is the subject of the application for expunction and shall mail a copy of the application for expunction to the victim’s last known address.

(5)(a) Within 30 days of receiving the notice of an application for expunction under subsection (4) of this section, a district attorney shall give written notice of any objection and the grounds therefor to the person whose records are to be expunged and to the juvenile court.

(b) If no objection is filed, the court may decide the issue of expunction either without a hearing or after full hearing under subsection (8) of this section.

(6) When an expunction is pending under subsection (1) or (2) of this section, the court may proceed with or without a hearing, except that:

(a) The court may not enter an expunction judgment without a hearing if a timely objection to expunction has been filed under subsection (5) of this section; and

(b) The court may not deny an expunction without a hearing if the proceeding is based on an application of the subject person.

(7)(a) Notice of a hearing on a pending expunction shall be served on the subject person and any district attorney filing a timely objection under subsection (5) of this section.
(b) When a district attorney receives notice of a hearing for
expunction of a record concerning a youth or youth offender proceeding under ORS chapter 419C, if the victim of the acts that resulted in
the disposition that is the subject of the application for expunction requests, the district attorney shall mail notice of the hearing to the
victim’s last-known address.

(8) At a hearing on a pending expunction, the court shall take into
coloration the following circumstances when determining whether
to allow expunction:

(a) The best interest of the person;
(b) The age of the person during the person’s contact with the ju-
venile court or law enforcement agency;
(c) The nature of the offense;
(d) The disposition of the case;
(e) The manner in which the person participated in any court-
ordered rehabilitative programming or supervised services;
(f) Whether the person has any subsequent criminal involvement;

and

(g) The adverse consequences the person will suffer as a result of
retention of the person’s record.

(9) The court shall conduct a hearing under subsection (8) of this
section in accord with the provisions of ORS 419B.195, 419B.198,
419B.201, 419B.205, 419B.208, 419B.310, 419B.812 to 419B.839 and 419B.908.
Rules of evidence shall be as in a hearing to establish juvenile court
jurisdiction and as defined in ORS 419B.310 (3) and 419C.400 (2). The
burden of proof shall be with the party contesting expunction.

(10) At the conclusion of a hearing on a pending expunction, the
court shall issue judgment granting or denying expunction.

SECTION 5. ORS 419A.262 is amended to read:

419A.262. [(1) An expunction proceeding shall be commenced in the county
where the subject person resided at the time of the most recent termination.]
(2) Upon application of either a person who is the subject of a record or a juvenile department, or upon its own motion, the juvenile court shall order expunction if, after a hearing when the matter is contested, it finds that:

(a) At least five years have elapsed since the date of the person’s most recent termination;

(b) Since the date of the most recent termination, the person has not been convicted of a felony or a Class A misdemeanor;

(c) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are pending against the person;

(d) The person is not within the jurisdiction of any juvenile court on the basis of a petition alleging an act or behavior as defined in ORS 419B.100 (1)(a) to (c) and (f) or 419C.005; and

(e) The juvenile department is not aware of any pending investigation of the conduct of the person by any law enforcement agency.

(3)(a) Notwithstanding subsection (2) of this section, upon application of a person who is the subject of a record kept by a juvenile court or juvenile department, upon application of the juvenile department, or upon its own motion, the juvenile court, after a hearing when the matter is contested under subsection (13) of this section, shall order expunction if it finds that:

(A) The application requests expunction of only that part of the person’s record that involves a charge, allegation or adjudication based on conduct that if done by an adult would constitute the crime of prostitution under ORS 167.007; and

(B) The person was under 18 years of age at the time of the conduct.

(b) Except as provided in subsections (13) and (14) of this section, there is no waiting period required before the juvenile court orders expunction under this subsection.

(4) In the case of an application by the juvenile department or of the court acting upon its own motion, expunction shall not be ordered if actual notice of expunction has not been given to the person in accordance with subsection (12) of this section unless the person has reached 21 years of age.
When a person who is the subject of a record kept by a juvenile court or juvenile department reaches 18 years of age, the juvenile court, after a hearing when the matter is contested, shall order expunction if:

(a) The person never has been found to be within the jurisdiction of the court; or

(b) The conditions of subsection (2) or (3) of this section have been met.

Expunction shall not be ordered under this section if actual notice of expunction has not been given to the person in accordance with subsection (12) of this section unless the person has reached 21 years of age.

Subsections (5) and (6) of this section apply only to cases resulting in termination after September 13, 1975.

Notwithstanding subsections (2), (3) and (5) to (7) of this section, upon application of a person who is the subject of a record kept by a juvenile court or juvenile department, upon application of the juvenile department, or upon its own motion, the juvenile court, after a hearing when the matter is contested, may order expunction of all or any part of the person’s record if it finds that to do so would be in the best interests of the person and the public. In the case of an application by the juvenile department or of the court acting upon its own motion, expunction shall not be ordered if actual notice of expunction has not been given to the person in accordance with subsection (12) of this section unless the person has reached 21 years of age.

Notwithstanding ORS 419A.260 (1)(d)(J)(x), (xiii), (xix) or (xviii), a person who has been found to be within the jurisdiction of the juvenile court based on an act that if committed by an adult would constitute:

(a) Rape in the third degree under ORS 163.355, sodomy in the third degree under ORS 163.385 or sexual abuse in the third degree under ORS 163.415, or an attempt to commit those crimes, may apply for an order of expunction under this section. The court shall order expunction of the records in the case if, after a hearing when the matter is contested, the court finds that the person:

(A) Meets the requirements of subsection (2) of this section;
[(B) Has been relieved of the obligation to report as a sex offender pursuant to a court order entered under ORS 163A.145 or 163A.150; and]

[(C) Has not been convicted of, found guilty except for insanity of or found to be within the jurisdiction of the juvenile court based on a crime listed in ORS 419A.260 (1)(d)(J), other than the adjudication that is the subject of the motion.]

[(b) A sex crime that is a Class C felony may apply for an order of expunction under this section. The court shall order expunction of the records in the case if, after a hearing when the matter is contested, the court finds that:]

[(A) The person meets the requirements of subsection (2) of this section;]

[(B) The person was under 16 years of age at the time of the offense;]

[(C) The person is:]

[(i) Less than two years and 180 days older than the victim; or]

[(ii) At least two years and 180 days older, but less than three years and 180 days older, than the victim and the expunction is in the interests of justice and of benefit to the person and the community;]

[(D) The victim’s lack of consent was due solely to incapacity to consent by reason of being less than a specified age;]

[(E) The victim was at least 12 years of age at the time of the offense;]

[(F) Each finding described in this paragraph involved the same victim; and]

[(G) The person has not been convicted of, found guilty except for insanity of or found to be within the jurisdiction of the juvenile court based on a crime listed in ORS 419A.260 (1)(d)(J) or an offense the court is prohibited from setting aside under ORS 137.225, other than the adjudication that is the subject of the motion.]

[(10) When an expunction proceeding is commenced by application of the person whose records are to be expunged, the person shall set forth as part of the application the names of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that the person has reason to
believe possess an expungible record of the person. The juvenile department shall provide the names and addresses of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that a reasonable search of department files indicates have expungible records.

[(11) When an expunction proceeding is commenced by application of the juvenile department or upon the court's own motion, the application or motion shall set forth the names and addresses of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that a reasonable search of department files indicates have expungible records and those provided by the subject person.]

[(12)(a) Notice and a copy of an application for expunction under subsections (2) to (8) of this section shall be given to:]

[(A) The district attorney of the county in which the expunction proceeding is commenced and the district attorney of each county in which the record sought to be expunged is kept; and]

[(B) The person who is the subject of the record if the person has not initiated the expunction proceeding.]

[(b) A district attorney who receives notice under this subsection shall notify the victim of the acts that resulted in the disposition that is the subject of the application for expunction and shall mail a copy of the application for expunction to the victim's last known address.]

[(13)(a) Within 30 days of receiving the notice of application for expunction under subsection (12) of this section, a district attorney shall give written notice of any objection and the grounds therefor to the person whose records are to be expunged and to the juvenile court.]

[(b) Except as provided in subsection (14)(c) of this section, if no objection is filed the court may decide the issue of expunction either without a hearing or after full hearing under subsections (14) to (17) of this section.]

[(14) When an expunction is pending under subsections (2) to (8) of this section, the court may proceed with or without a hearing, except that:]

[(a) The court may not enter an expunction judgment without a hearing if]
a timely objection to expunction has been filed under subsection (13) of this section;

[(b) The court may not deny an expunction without a hearing if the proceeding is based on an application of the subject; and]

[(c) The court shall proceed without a hearing if:]

[(A) No objection is filed under subsection (13) of this section;]

[(B) The application requests expunction of only that part of the person’s record that involves a charge, allegation or adjudication based on conduct that if done by an adult would constitute the crime of prostitution under ORS 167.007; and]

[(C) The person was under 18 years of age at the time of the conduct.]

[(15)(a) Notice of a hearing on a pending expunction shall be served on the subject and any district attorney filing a timely objection under subsection (13) of this section.]

[(b) When a district attorney receives notice of a hearing for expunction of a record concerning a youth or youth offender proceeding under ORS chapter 419C, if the victim of the acts that resulted in the disposition that is the subject of the application for expunction requests, the district attorney shall mail notice of the hearing to the victim’s last-known address.]

[(16) The court shall conduct a hearing on a pending expunction in accord with the provisions of ORS 419B.195, 419B.198, 419B.201, 419B.205, 419B.208, 419B.310, 419B.812 to 419B.839 and 419B.908. Rules of evidence shall be as in a hearing to establish juvenile court jurisdiction and as defined in ORS 419B.310 (3) and 419C.400 (2). The burden of proof shall be with the party contesting expunction.]

[(17) At the conclusion of a hearing on a pending expunction, the court shall issue judgment granting or denying expunction.]

[(18) (1) The juvenile court or juvenile department shall send a copy of an expunction judgment issued under ORS 419A.260 to 419A.262 to each agency subject to the judgment. Upon receipt of a copy of the judgment, the agency shall comply and, within 21 days of the date of receipt, return the
copy to the juvenile court or juvenile department with an indorsement indicating compliance.

[(19)] (2) When all agencies subject to an expunction judgment have indicated their compliance or in any event no later than six weeks following the date the judgment was delivered as required by subsection [(18)] (1) of this section, the juvenile court shall provide the person who is the subject of the record with a copy of the expunction judgment, a list of complying and noncomplying agencies, and a written notice of rights and effects of expunction. The juvenile court and juvenile department then shall expunge forthwith all records which they possess and which are subject to the judgment, except the original expunction judgment and the list of complying and noncomplying agencies which must be preserved under seal.

[(20)] (3) In addition to those agencies identified in ORS 419A.260 (1)(d), the juvenile, circuit, municipal and justice courts, and the district and city attorneys of this state, are bound by an expunction judgment of any juvenile court of appropriate jurisdiction in this state issuing an expunction judgment.

[(21)] (4) Upon entry of an expunction judgment, the contact that is the subject of the expunged record shall not be disclosed by any agency. An agency that is subject to an expunction judgment shall respond to any inquiry about the contact by indicating that no record or reference concerning the contact exists.

[(22)] (5) A person who is the subject of a record that has been expunged under this section may assert that the record never existed and that the contact, which was the subject of the record, never occurred without incurring a penalty for perjury or false swearing under the laws of this state.

[(23)] (6) Juvenile courts, by court rule or by order related to a particular matter, may direct that records concerning a subject person be destroyed. No records shall be destroyed until at least three years have elapsed after the date of the subject’s most recent termination. In the event the record has been expunged, the expunction judgment and list of complying and noncom-
plying agencies may not be destroyed, but shall be preserved under seal. The
destruction of records under this subsection does not constitute expunction.

[(24)] (7) An expunction judgment and list of complying and noncomplying
agencies shall be released from confidentiality only on order of the court
originating the expunction judgment, based on a finding that review of a
particular case furthers compliance with the expunction provisions of this
chapter.

[(25)] (8) A subject has a right of action against any person who inten-
tonally violates the confidentiality provisions of this section. In the pro-
ceeding, punitive damages up to an amount of $1,000 may be sought in
addition to any actual damages. The prevailing party shall be entitled to
costs and reasonable attorney fees.

[(26)] (9) Intentional violation of the confidentiality provisions of this
section by a public employee is cause for dismissal.

[(27)] (10) A person who intentionally releases all or part of an expunged
record commits a Class C misdemeanor.

SECTION 6. ORS 419A.260 is amended to read:

419A.260. (1) As used in [this section and ORS 419A.262]
ORS 419A.260
to 419A.262:
(a) “Contact” means any instance in which a person’s act or behavior, or
alleged act or behavior, which could result in a juvenile court’s assumption
of jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or 419C.005 comes to
the attention of an agency specified in paragraph (d) of this subsection.
(b) “Expunction” means:
(A) The removal and destruction or sealing of a judgment or order related
to a contact and all records and references; and
(B) Where a record is kept by the Department of Human Services or the
Oregon Youth Authority, either the sealing of such record by the department
or the Oregon Youth Authority or, in a multiperson file, the affixing to the
front of the file, by the department or the youth authority, a stamp or
statement identifying the name of the individual, the date of expunction and
instruction that no further reference shall be made to the material that is
subject to the expunction order except upon an order of a court of competent
jurisdiction.

(c) “Person” includes a person under 18 years of age.

(d) “Record” includes a fingerprint or photograph file, report, exhibit or
other material which contains information relating to a person’s contact
with any law enforcement agency, juvenile court or juvenile department, the
Psychiatric Security Review Board, the Department of Human Services or
the Oregon Health Authority and is kept manually, through the use of elec-
tronic data processing equipment, or by any other means by a law enforce-
ment or public investigative agency, a juvenile court or juvenile department
or an agency of the State of Oregon. “Record” does not include:

(A) A transcript of a student’s Youth Corrections Education Program
academic record;

(B) Material on file with a public agency which is necessary for obtaining
federal financial participation regarding financial assistance or services on
behalf of a person who has had a contact;

(C) Records kept or disseminated by the Department of Transportation,
State Marine Board and State Fish and Wildlife Commission pursuant to
juvenile or adult order or recommendation;

(D) Police and court records related to an order of waiver where the
matter is still pending in the adult court or on appeal therefrom, or to any
disposition as an adult pursuant to such order;

(E) Records related to a support obligation;

(F) Medical records other than those related to a finding of responsible
except for insanity under ORS 419C.411;

(G) Records of a proposed or adjudicated termination of parental rights
and adoptions;

(H) Any law enforcement record of a person who currently does not
qualify for expunction or of current investigations or cases waived to the
adult court;

[15]
(I) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals;

(J) Any records in cases under ORS 419C.005 in which a juvenile court found a person to be within the jurisdiction of the court based upon the person’s commission of an act which if done by an adult would constitute one of the following offenses:

[(i) Aggravated murder under ORS 163.095;]

[(ii) Murder under ORS 163.115;]

[(iii) Attempt, solicitation or conspiracy to commit murder or aggravated murder;]

[(iv) Manslaughter in the first degree under ORS 163.118;]

[(v) Manslaughter in the second degree under ORS 163.125;]

[(vi) Criminally negligent homicide under ORS 163.145;]

[(vii) Assault in the first degree under ORS 163.185;]

[(viii) Criminal mistreatment in the first degree under ORS 163.205;]

[(ix) Kidnapping in the first degree under ORS 163.235;]

[(x) Rape in the third degree under ORS 163.355;]

[(xi) Rape in the second degree under ORS 163.365;]

[(xii) Rape in the first degree under ORS 163.375;]

[(xiii) Sodomy in the third degree under ORS 163.385;]

[(xiv) Sodomy in the second degree under ORS 163.395;]

[(xv) Sodomy in the first degree under ORS 163.405;]

[(xvi) Unlawful sexual penetration in the second degree under ORS 163.408;]

[(xvii) Unlawful sexual penetration in the first degree under ORS 163.411;]

[(xviii) Sexual abuse in the third degree under ORS 163.415;]

[(xix) Sexual abuse in the second degree under ORS 163.425;]

[(xx) Sexual abuse in the first degree under ORS 163.427;]

[(xxi) Promoting prostitution under ORS 167.012;]

[(xxii) Compelling prostitution under ORS 167.017;]
[(xxiii) Aggravated driving while suspended or revoked under ORS 163.196;]

[(xxiv) Aggravated vehicular homicide under ORS 163.149; or]

[(xxv) An attempt to commit a crime listed in this subparagraph other than manslaughter in the second degree and criminally negligent homicide;]

[(K) (J) Blood samples, buccal samples and other physical evidence and identification information obtained, stored or maintained by the Department of State Police under authority of ORS 137.076, 181A.155 or 419C.473; or

[(L) (K) Records maintained in the Law Enforcement Data System under ORS 163A.035.

(e) “Termination” means:

(A) For a person who is the subject of a record kept by a juvenile court or juvenile department, the final disposition of a case by informal means, by a decision not to place the person on probation or make the person a ward of the court after the person has been found to be within the court’s jurisdiction or by a discontinuance of probation, of the court’s wardship or of the jurisdiction of the Psychiatric Security Review Board, the Oregon Health Authority or the Department of Human Services.

(B) For a person who is the subject of a record kept by a law enforcement or public investigative agency, a juvenile court or juvenile department or an agency of the State of Oregon, the final disposition of the person’s most recent contact with a law enforcement agency.

(2) The juvenile court or juvenile department shall make reasonable effort to provide written notice to a child who is within the court’s jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or to a youth who is within the court’s jurisdiction under ORS 419C.005, and to the child’s or youth’s parent, of the procedures for expunction of a record, the right to counsel under this chapter, the legal effect of an expunction order and the procedures for seeking relief from the duty to report as a sex offender provided under ORS 163A.130, at the following times:

(a) At any dispositional hearing or at the time of entering into a formal
accountability agreement;

(b) At the time of termination;

c) Upon notice to the subject of an expunction pending pursuant to applic-
ension of a juvenile department or motion on a juvenile court; and

d) At the time of notice of execution of an expunction order.

CONFIDENTIALITY OF JUVENILE RECORDS

SECTION 7. (1) The State Court Administrator shall study and
make recommendations on updating provisions of state law relating
to records of juvenile adjudications to align Oregon law with the
principles of the American Bar Association’s model Act governing the
confidentiality of juvenile delinquency records.

(2) The administrator shall submit a report on its findings to an
appropriate interim committee of the Legislative Assembly no later
than January 1, 2021.

CONFORMING AMENDMENTS

SECTION 8. ORS 419A.250 is amended to read:

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

(a) Pursuant to a search warrant;

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

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

(d) Upon request or consent of the child’s parent alone if the child is less
than 10 years of age, and if the law enforcement agency delivers the original
photographs or fingerprints to the parent and does not make or retain any
copies thereof; or
(e) By order of the juvenile court.

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

(3) Fingerprint and photograph files or records of children, wards, youths and youth offenders must be kept separate from those of adults, and fingerprints and photographs known to be those of a child may be maintained on a local basis only and may not be sent to a central state or federal repository.

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

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

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

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

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

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

(5)(a) Fingerprint and photograph files or records of youths and youth
offenders must be sent to a central state depository in the same manner as
fingerprint and photograph files or records of adults. The fingerprint and
photograph files or records of a youth or youth offender sent to a central
depository under this subsection are open to inspection in the same manner
and under the same circumstances as fingerprint and photograph files or re-
cords of adults.

(b) A party filing a petition alleging that a youth is within the jurisdic-
tion of the court under ORS 419C.005 shall notify the central state depository
of the following:

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

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

(c) The juvenile court shall notify the central state depository of the
disposition of a case in which jurisdiction is based on ORS 419C.005.

(d) The Department of State Police shall delete the fingerprint and pho-
tograph files or records of a youth or youth offender from the depository and
destroy the files or records relating to the conduct that caused the files or
records to be sent to the depository:

(A) One year after receiving the files, if the central state depository has
not received notice under paragraph (b) of this subsection;

(B) No later than one year following receipt of a notice of dismissal of
a petition under paragraph (b)(B) of this subsection; or

(C) In all other circumstances, no later than five years and 30 days after
fingerprint and photograph files or records are sent to the central state de-
pository.

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

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

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

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

SECTION 9. ORS 419A.265 is amended to read:

419A.265. Notwithstanding [ORS 419A.262 (2)(a)] section 3 (2)(a)(A) of this 2019 Act, a person is eligible for an order of expunction under [ORS 419A.262] section 3 (2)(a) of this 2019 Act if the person was adjudicated for committing an act that, if committed by an adult, would constitute a criminal offense in which possession, delivery or manufacture of marijuana or a marijuana item as defined in ORS 475B.015 is an element and:

(1) The court finds that at least one year has elapsed since the date of the person’s most recent termination;

(2) The applicant has not been adjudicated or convicted for any other act or offense, excluding motor vehicle violations; and

(3) The applicant has complied with and performed all conditions of the adjudication.

SECTION 10. ORS 419C.370 is amended to read:

419C.370. (1) The juvenile court may enter an order directing that all
cases involving:

(a) Violation of a law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws be waived to criminal or municipal court;

(b) An offense classified as a violation under the laws of this state or a political subdivision of this state be waived to municipal court if the municipal court has agreed to accept jurisdiction; and

(c) A misdemeanor that entails theft, destruction, tampering with or vandalism of property be waived to municipal court if the municipal court has agreed to accept jurisdiction.

(2) Cases waived under subsection (1) of this section are subject to the following:

(a) That the criminal or municipal court prior to hearing a case, other than a case involving a parking violation, in which the defendant is or appears to be under 18 years of age notify the juvenile court of that fact; and

(b) That the juvenile court may direct that any such case be waived to the juvenile court for further proceedings.

(3)(a) When a person who has been waived under subsection (1)(c) of this section is convicted of a property offense, the municipal court may impose any sanction authorized for the offense except for incarceration. The municipal court shall notify the juvenile court of the disposition of the case.

(b) When a person has been waived under subsection (1) of this section and fails to appear as summoned or is placed on probation and is alleged to have violated a condition of the probation, the juvenile court may recall the case to the juvenile court for further proceedings. When a person has been returned to juvenile court under this paragraph, the juvenile court may proceed as though the person had failed to appear as summoned to the juvenile court or had violated a juvenile court probation order under ORS 419C.446.

(4) Records of cases waived under subsection (1)(c) of this section are juvenile records for purposes of expunction under ORS 419A.260 to 419A.262.
SECTION 11. ORS 659A.030 is amended to read:

659A.030. (1) It is an unlawful employment practice:

(a) For an employer, because of an individual’s race, color, religion, sex, sexual orientation, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, national origin, marital status or age of any other person with whom the individual associates, or because of an individual’s juvenile record that has been expunged pursuant to ORS 419A.260 [and] to 419A.262, to refuse to hire or employ the individual or to bar or discharge the individual from employment. However, discrimination is not an unlawful employment practice if the discrimination results from a bona fide occupational qualification reasonably necessary to the normal operation of the employer’s business.

(b) For an employer, because of an individual’s race, color, religion, sex, sexual orientation, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, national origin, marital status or age of any other person with whom the individual associates, or because of an individual’s juvenile record that has been expunged pursuant to ORS 419A.260 [and] to 419A.262, to discriminate against the individual in compensation or in terms, conditions or privileges of employment.

(c) For a labor organization, because of an individual’s race, color, religion, sex, sexual orientation, national origin, marital status or age if the individual is 18 years of age or older, or because of an individual’s juvenile record that has been expunged pursuant to ORS 419A.260 [and] to 419A.262, to exclude or to expel from its membership the individual or to discriminate in any way against the individual or any other person.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment that expresses directly or indirectly
any limitation, specification or discrimination as to an individual’s race, color, religion, sex, sexual orientation, national origin, marital status or age if the individual is 18 years of age or older, or on the basis of an expunged juvenile record, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification. Identification of prospective employees according to race, color, religion, sex, sexual orientation, national origin, marital status or age does not violate this section unless the Commissioner of the Bureau of Labor and Industries, after a hearing conducted pursuant to ORS 659A.805, determines that the designation expresses an intent to limit, specify or discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, marital status or age.

(e) For an employment agency, because of an individual’s race, color, religion, sex, sexual orientation, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, national origin, marital status or age of any other person with whom the individual associates, or because of an individual’s juvenile record that has been expunged pursuant to ORS 419A.260 [and] to 419A.262, to classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to discriminate against the individual. However, it is not an unlawful employment practice for an employment agency to classify or refer for employment an individual when the classification or referral results from a bona fide occupational qualification reasonably necessary to the normal operation of the employer’s business.

(f) For any person to discharge, expel or otherwise discriminate against any other person because that other person has opposed any unlawful practice, or because that other person has filed a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so.

(g) For any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter or to attempt to do so.
(2) The provisions of this section apply to an apprentice under ORS 660.002 to 660.210, but the selection of an apprentice on the basis of the ability to complete the required apprenticeship training before attaining the age of 70 years is not an unlawful employment practice. The commissioner shall administer this section with respect to apprentices under ORS 660.002 to 660.210 equally with regard to all employees and labor organizations.

(3) The compulsory retirement of employees required by law at any age is not an unlawful employment practice if lawful under federal law.

(4)(a) It is not an unlawful employment practice for an employer or labor organization to provide or make financial provision for child care services of a custodial or other nature to its employees or members who are responsible for a minor child.

(b) As used in this subsection, “responsible for a minor child” means having custody or legal guardianship of a minor child or acting in loco parentis to the child.

(5) This section does not prohibit an employer from enforcing an otherwise valid dress code or policy, as long as the employer provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual.

SECTION 12. ORS 670.290 is amended to read:

670.290. It shall be unlawful for any state agency or licensing board, including the Oregon State Bar, to:

(1) Require that an applicant for employment, licensing or admission answer any questions regarding the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 [and] to 419A.262;

(2) Bar or discharge from employment or refuse to hire or employ such individual because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 [and] to 419A.262; or

(3) Deny, revoke or suspend a license because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 [and] to 419A.262.
MISCELLANEOUS

SECTION 13. (1) Sections 1 to 4 of this 2019 Act and the amendments to ORS 419A.250, 419A.260, 419A.262, 419A.265, 419C.370, 659A.030 and 670.290 by sections 5, 6 and 8 to 12 of this 2019 Act apply to expunction of juvenile records related to juvenile cases terminated on or after the effective date of this 2019 Act.

(2) Expunction of records related to juvenile cases terminated before the effective date of this 2019 Act shall continue to be governed by the law in effect prior to the effective date of this 2019 Act.

SECTION 14. The unit and section captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.
SUMMARY

Requires public bodies to use Department of State Police for purposes of requesting criminal records checks relating to employment by public body.

In claim for negligence based on defendant’s failure to conduct adequate criminal records check, establishes rebuttable presumption that defendant was not negligent if defendant requested and received criminal records check from Department of State Police.

A BILL FOR AN ACT

Relating to criminal records checks.

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

SECTION 1. If a public body conducts a criminal records check of a person for the purposes of employment by the public body, the public body shall request the criminal records check from the Department of State Police.

SECTION 2. In a claim for negligence based on the defendant’s failure to conduct an adequate criminal records check of a person, there is a rebuttable presumption that the defendant was not negligent if the defendant requested and received the criminal records check from the Department of State Police.

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.
Directs Oregon State Bar to study methods for providing legal representation for indigent persons in civil matters and report to appropriate committee or interim committee of Legislative Assembly no later than September 15, 2020.

A BILL FOR AN ACT

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

SECTION 1. The Oregon State Bar shall study methods for providing legal representation for indigent persons in civil matters and report to an appropriate committee or interim committee of the Legislative Assembly no later than September 15, 2020.

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.
SUMMARY

Eliminates driving suspension for failure to appear on citation for traffic offense.
Repeals driving privilege suspension for failure to pay traffic fines and eliminates imposition of driving privilege restrictions for failure to pay fine.

A BILL FOR AN ACT


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

SECTION 1. ORS 809.220 is amended to read:
809.220. This section establishes procedures that are applicable if a person [fails to appear on a citation for a traffic offense or] fails to appear on a citation for a violation of ORS 471.430 or 475B.316. All of the following apply to this section:
(1) If a defendant fails to make any appearance required by the court or by law in a proceeding charging the defendant with [a traffic offense or] with a violation of ORS 471.430 or 475B.316, the court: [a] shall issue notice to the Department of Transportation to suspend for failure to appear if the defendant is charged with [a traffic crime or with] a violation of ORS 471.430 or 475B.316. If a court issues notice under this [paragraph] subsection, the department shall suspend the driving privileges of the person as provided under ORS 809.280.
[(b) Shall issue notice to the department to implement procedures under ORS 809.416 if the defendant is charged with a traffic violation. If a court]
issues notice under this paragraph, the department shall implement procedures under ORS 809.416.]

(2) In any notice to the department under this section, a court shall certify that the defendant failed to appear in the proceedings in the manner required by the court or by law.

(3) At any time within 10 years from the date the [traffic offense or] violation of ORS 471.430 or 475B.316 occurred, a court shall give a second notice to the department to reinstate the person’s suspended driving privileges resulting from the original notice if any of the following occur:

(a) The fine for the offense is paid or the defendant has begun making payments.

(b) The court finds the defendant not guilty or orders a dismissal of the case.

(c) The court determines that the person’s suspended driving privileges should be reinstated for good cause.

(4) The court may reissue a notice of suspension if the person ceases making payments before the fine is paid in full. The reissuance does not extend the original period of suspension.

(5) Notifications by a court to the department under this section shall be in a form prescribed by the department.

([6] A court may not notify the department under this section for failure to appear on any parking, pedestrian or bicyclist offense.]

SECTION 2. ORS 153.061 is amended to read:

153.061. (1) Except as provided in subsection (2) of this section, a defendant who has been issued a violation citation must either:

(a) Make a first appearance by personally appearing in court at the time indicated in the summons; or

(b) Make a first appearance in the manner provided in subsection (3) of this section before the time indicated in the summons.

(2) If a defendant is issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that the offense contributed to
an accident and that the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way, the officer may not enter the amount of the presumptive fine on the summons and the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

(3) Except as provided in this section, a defendant who has been issued a violation citation may make a first appearance in the matter before the time indicated in the summons by one of the following means:

(a) The defendant may submit to the court a written or oral request for a trial.

(b) The defendant may enter a plea of no contest by delivering to the court the summons and a check or money order in the amount of the presumptive fine set forth in the summons. The entry of a plea under the provisions of this paragraph constitutes a waiver of trial and consent to the entry of a judgment forfeiting the presumptive fine. A no contest plea under this section is not subject to the requirements of ORS chapter 135 relating to the entry of pleas and, upon receipt of the plea, the court may enter judgment against the defendant without taking further evidence.

(4) The court may require that a defendant requesting a trial under subsection (3) of this section deposit an amount equal to the presumptive fine established under ORS 153.019 and 153.020 or such other amount as the court determines appropriate if the defendant has failed to appear in any court on one or more other charges in the past. If the defendant does not deposit the amount specified by the court, the defendant must personally appear in court at the time indicated in the summons. The amount deposited by the defendant may be applied against any fine imposed by the court, and any amount not so applied shall be refunded to the defendant at the conclusion of the proceedings.

(5) The court may require a defendant to appear personally in any case, or may require that all defendants appear in specified categories of cases.

(6) If a defendant has entered a no contest plea in the manner provided
in subsection (3) of this section, and the court determines that the
presumptive fine is not adequate by reason of previous convictions of the
defendant, the nature of the offense charged or other circumstances, the
court may require that a trial be held unless an additional fine amount is
paid by the defendant before a specified date. Notice of an additional fine
amount under this subsection may be given to the defendant by mail. In no
event may the court require a total fine amount in excess of the maximum
fine established for the violation by statute.

(7) If a defendant [fails to make a first appearance on a citation for a traffic
violation, as defined by ORS 801.557,] fails to make a first appearance or
fails to appear at any other subsequent time set for trial or other ap-
pearance on a citation for a violation of ORS 471.430 or 475B.316[, or fails
to appear at any other subsequent time set for trial or other appearance], the
driving privileges of the defendant are subject to suspension under ORS
809.220.

SECTION 3. ORS 153.073 is amended to read:

153.073. Unless notice is waived by the defendant, the court shall mail or
otherwise provide to the defendant notice of the date, time and place at least
five days before the date set for trial under ORS 153.070. If the citation is
for [a traffic violation, or is for] a violation of ORS 471.430 or 475B.316[, or fails
to appear at any other subsequent time set for trial or other appearance], the
notice must contain a warning to the defendant that if the defendant fails
to appear at the trial or other appearance, the driving privileges of the
defendant are subject to suspension under ORS 809.220.

SECTION 4. ORS 153.772 is amended to read:

153.772. When the court issues a notice under ORS 809.220 to suspend the
driving privileges of a person for failure to appear on a citation for a vio-
lation of ORS 471.430 or 475B.316, the district attorney may not file an
accusatory instrument charging the person with violating ORS 153.992.

SECTION 5. ORS 419C.306 is amended to read:

419C.306. (1) The summons shall require the person or persons who have
physical custody of the youth to appear and bring the youth before the court
at the time and place stated in the summons. The time for the hearing on
the petition shall be fixed at a reasonable time, not less than 24 hours, after
the issuance of the summons. If it appears to the court that the welfare of
the youth or of the public requires that the youth immediately be taken into
custody, the court may indorse an order on the summons as provided in ORS
419C.080 (2) directing the officer serving it to take the youth into custody.

(2)(a) Summons shall be issued to the legal parents of the youth, without
regard to who has legal or physical custody of the youth, and to the legal
guardians, if any, of the youth.

(b) Parents or guardians summoned pursuant to paragraph (a) of this
subsection shall appear personally pursuant to the summons. Following the
initial appearance, parents or guardians shall appear as directed by the

(c) An employer may not discharge, threaten to discharge, intimidate or
coerce any employee by reason of the employee’s attendance at a juvenile
court hearing as required under paragraph (a) of this subsection.

(d) This subsection may not be construed to alter or affect an employer’s
policies or agreements with employees concerning employees’ wages during
times when an employee attends a juvenile court hearing under paragraph
(a) of this subsection.

(3) If the youth is 12 years of age or older, a certified copy of the sum-
mons shall be served upon the youth. If the petition alleges that the youth
is within the jurisdiction of the court for having violated ORS 471.430 or
475B.316, the summons must contain a statement that, if the youth fails to
appear as required in the summons, the driving privileges of the youth are
subject to suspension under ORS 419C.472.

(4) Summons may be issued requiring the appearance of any person whose
presence the court deems necessary. When a summons is issued to a youth
pursuant to a petition alleging jurisdiction under ORS 419C.005, a copy of
the summons shall be mailed to all victims whose names appear on the pe-
tition pursuant to ORS 419C.255 (2). The copy of the summons shall be ac-
compounded by a notice that the victim may be present for the youth’s appearance before the court and is entitled to request and receive notification of future hearings before the court in regard to the particular case. The copy of the summons shall also be accompanied by a notice informing the victim of the provisions of ORS 30.765.

SECTION 6. ORS 807.010 is amended to read:

807.010. (1) A person commits the offense of operating a vehicle without driving privileges if the person operates a motor vehicle upon a highway or premises open to the public in this state and the person does not have an appropriate grant of driving privileges from this state in the form of a license, driver permit, endorsement or statutory grant of driving privileges allowing the person to engage in the particular type of operation.

(2) A person to whom a license or driver permit is issued commits the offense of violating license restrictions if the person operates a motor vehicle in any manner that violates restrictions that are placed upon the person’s driving privileges by the Department of Transportation under ORS 807.120 or 807.122, by a court under ORS 809.210 or 809.270, or by the vehicle code.

(3) Nothing in this section is applicable to a person who is driving while suspended or revoked in violation of ORS 811.175 or 811.182. Persons who violate ORS 811.175 or 811.182 are subject to the provisions and penalties provided therein and are not subject to the penalties and provisions of this section.

(4) Except as provided in subsection (5) of this section, the offense described in subsection (1) of this section, operating a vehicle without driving privileges, is a Class B traffic violation.

(5) The offense described in subsection (1) of this section, operating a vehicle without driving privileges, that results from a person operating a motorcycle without a motorcycle endorsement, is a Class A traffic violation.

(6)(a) The court shall suspend a fine imposed under subsection (5) of this section on the condition that the person, within 120 days of the date of sentencing:
(A) Complete a motorcycle education course established by the department under ORS 802.320; and
(B) Obtain a motorcycle endorsement issued under ORS 807.170.
(b) The court shall set a hearing date for 120 days from the date of sentencing. At the hearing the court shall:
(A) If the person has successfully completed the requirements described in paragraph (a)(A) and (B) of this subsection, [dismiss the fine imposed under subsection (5) of this section] enter a sentence of discharge; or
(B) If the person has not successfully completed the requirements described in paragraph (a)(A) and (B) of this subsection:
(i) Grant the person an extension based on good cause shown; or
(ii) Impose the fine under subsection (5) of this section.
(7) The offense described in subsection (2) of this section, operating in violation of license restrictions, is a Class B traffic violation.

SECTION 7. ORS 807.120 is amended to read:
807.120. (1) The Department of Transportation may place restrictions on any driving privileges granted a person if the department determines that there is good cause to restrict the driving privileges of the person in order to ensure the safe operation of a motor vehicle by the person.
(2) Restrictions placed on a driver license or driver permit by the department under this section shall be suitable to the driving ability of the person whose driving privileges are restricted. The restrictions may include:
(a) Restrictions on the type of motor vehicle the person may operate;
(b) Requirements for special mechanical control devices on motor vehicles operated by the person; or
(c) Any other restrictions the department determines appropriate to ensure the safe operation of a motor vehicle by the person.
(3) The department shall place a restriction on the commercial driver license of a person who performs the skill demonstration required under ORS 807.070 for issuance of a commercial driver license in a vehicle that:
(a) Is not equipped with air brakes. A restriction imposed under this
paragraph prohibits the person from operating commercial motor vehicles equipped with service brakes that operate fully or partially by air pressure.

(b) Is equipped with air over hydraulic brakes. Air over hydraulic brakes includes any braking system operating partially by air pressure and partially by hydraulic pressure. A restriction imposed under this paragraph prohibits the person from operating commercial motor vehicles equipped with service brakes that operate solely by air pressure.

c) Is equipped with an automatic transmission. A restriction imposed under this paragraph prohibits the person from operating commercial motor vehicles equipped with manual transmissions.

d) Uses any connection other than a fifth wheel hitch between the power unit and a vehicle towed in combination with the power unit. A restriction under this paragraph prohibits the person from operating a commercial motor vehicle in combination with any other vehicle using a fifth wheel hitch between the power unit and first towed unit.

(4) The department shall place a restriction on the commercial driver license and the commercial learner driver permit of a person who does not pass an air brakes knowledge test administered under ORS 807.070. The restriction shall prohibit the person from operating a commercial motor vehicle with service brakes that operate fully or partially by air pressure.

(5) The department may impose restrictions under this section by setting forth the restrictions on the regular license form or by issuing a special form for licenses with restrictions.

(6) The department shall place restrictions on driving privileges under this section when ordered by a court under ORS [809.210 or] 809.270. Any restriction imposed under this subsection shall be made a part of the person’s driving record and shall remain in effect until the court notifies the department in writing that the restrictions are removed.

(7) The department may impose restrictions under this section on driving privileges that are restored after having been suspended or revoked. The restrictions imposed under this subsection may include any restrictions that
have been recommended by a convicting magistrate.

(8) The use of the term “restrictions” in this section includes any restrictions, conditions or requirements.

(9) Violation of any restrictions placed on driving privileges under this section is punishable as provided under ORS 807.010.

SECTION 8. ORS 809.280, as amended by section 28, chapter 76, Oregon Laws 2018, is amended to read:

809.280. (1) Upon receipt of a court order under ORS 809.270, the Department of Transportation shall suspend the person’s driving privileges. The suspension shall remain in effect until the department is notified by the court that the suspension is ended, except that, if the department is ordered to automatically reinstate the driving privileges upon the successful completion of a program, the department shall do so and shall notify the judge that the person has complied with the order of the judge.

(2) Upon receipt of a court order under ORS 809.120, the department shall suspend the person’s driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed 90 days.

(3) Upon receipt of a court notice under ORS 809.130 of an unsettled judgment, the department shall suspend the person’s driving privileges and, subject to any other requirements of law, reinstate the driving privileges upon appropriate notification from the court under ORS 809.130, except that the department shall only impose the suspension after the department has determined that:

(a) The judgment was rendered against the person;

(b) The judgment has remained unsettled as described in ORS 809.470 for 60 days; and

(c) The judgment continues to be unsettled as described in ORS 809.470.

(4) Upon receipt of a court notice under ORS 419C.472 or 809.220, the department shall suspend the person's driving privileges for an indefinite period. The department shall reinstate driving privileges that have been
suspended under this subsection upon notification by the court or upon the
eapse of 10 years from the date the [traffic offense or] violation of ORS
471.430 or 475B.316 occurred, whichever comes first. [The department may
not suspend any driving privileges under this subsection for a person's failure
to appear on a parking, pedestrian or bicyclist offense.]

(5) Upon receipt of a court notice under ORS 810.310, the department shall
suspend the person’s driving privileges for an indefinite period. The depart-
ment shall reinstate driving privileges that have been suspended under this
subsection upon notification by the court or upon the lapse of 10 years from
the date of suspension, whichever comes first.

(6) Upon receipt of a court order under ORS 809.260, the department shall
suspend the person’s driving privileges as follows:

(a) Upon receipt of the first order suspending driving privileges, the de-
partment shall suspend the person’s driving privileges for one year, or until
the person reaches 17 years of age, whichever is longer.

(b) Upon receipt of a second or subsequent order suspending driving
privileges, the department shall suspend the person’s driving privileges for
one year or until the person reaches 18 years of age, whichever is longer.

(7) If the department receives notice from a court that it has withdrawn
an order issued under ORS 809.260, the department shall immediately rein-
state any driving privileges that have been suspended under subsection (6)
of this section because of the issuance of the order.

(8) Upon receipt of a court order under ORS 165.805 or 471.430, the de-
partment shall suspend the person’s driving privileges. The suspension shall
be for the period ordered by the court. The court may only order suspension
for a period not to exceed one year.

(9) Upon receipt of a court order under ORS 809.235, the department shall
permanently revoke the person’s driving privileges. The revocation shall re-
main in effect until the department is notified by a court that the person’s
driving privileges have been ordered restored.

(10) When a court orders suspension of driving privileges under ORS
811.109 (4), the department shall suspend the person’s driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed 30 days.

(11) When a court orders suspension of driving privileges under ORS 811.109 (5), the department shall suspend the person’s driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for not less than 30 days and not more than 90 days.

(12) Upon receipt of a court order under ORS 811.135, the department shall suspend the person’s driving privileges for one year.

SECTION 9. ORS 809.380, as amended by section 30, chapter 76, Oregon Laws 2018, is amended to read:

809.380. All of the following apply to a person whose driving privileges have been suspended:

(1) The period of suspension shall last as long as provided for that particular suspension by law.

(2) During the period of suspension, the person is not entitled to exercise any driving privileges in this state except as provided under this subsection. Unless otherwise specifically provided by law, a person whose driving privileges are suspended may obtain, if the person qualifies, a hardship driver permit under ORS 807.240, and exercise driving privileges under the driver permit.

(3) Upon expiration of the suspension, the Department of Transportation shall reissue, upon request of the person, the suspended driving privileges and any license or driver permit that evidences the driving privileges. The reissuance shall be without requalification by the person except that the department may require the person to furnish evidence satisfactory to the department that the person is qualified to continue to exercise driving privileges in this state before the department reissues the driving privileges.

(4) The department may not issue any driving privileges in contradiction to this section.

(5) If the person fails to surrender to the department any license or driver
permit issued as evidence of driving privileges that are suspended, the person
is subject to the penalties under ORS 809.500.

(6) No reinstatement of suspended driving privileges will be made by the
department until the fee for reinstatement of suspended driving privileges
established under ORS 807.370 is paid to or waived by the department. The
department may waive the reinstatement fee for any of the following reasons:

(a) The suspension occurred under ORS 809.419 for failure to take an ex-
amination upon request of the department under ORS 807.340.

(b) The suspension occurred under ORS 809.419 for failure to obtain re-
quired medical clearance upon request of the department under ORS 807.070
or 807.090.

(c) The suspension occurred under ORS 809.419 for incompetence to drive
a motor vehicle or having a mental or physical condition or impairment that
affects the person’s ability to safely operate a motor vehicle.

(d) The suspension occurred under ORS 809.419 upon notification by the
superintendent of a hospital under ORS 807.700 that a person should not
drive.

(e) The suspension occurred under ORS 809.419 upon notification by a
court under ORS 810.375 that a person charged with a traffic offense has
been found guilty except for insanity.

(f) The department committed an error in issuing the suspension.

(g) The suspension was the result of an error committed by an insurance
company in issuing or failing to issue a certification of insurance or in
canceling a certification of insurance filed with the department under ORS
806.270.

(h) The department issued the suspension without error because the per-
son failed to respond as required under ORS 806.160 or to furnish proof of
exemption under ORS 806.210 from the filing requirement of ORS 806.200, but
the department later determines that the person in fact was in compliance
with financial responsibility requirements as of the date of the department’s
letter of verification under ORS 806.150 or at the time of an accident de-
scribed in ORS 806.200.

(i) The department issued the suspension without error because the person was not in compliance with financial responsibility requirements as of the date of the department’s letter of verification under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department later determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date of the department’s letter of verification or at the time of the accident.

(j) The suspension was the result of an error committed by an insurance company in notifying the department regarding the correctness of a certification under ORS 806.150.

(k) The suspension occurred because the person failed to make future responsibility filings but the department later determines that the reason for the failure was that the person was a military reservist or a member of a national guard unit that was ordered to active military duty to a location outside of the United States. The effective date of the military orders must be prior to the effective date of a suspension issued by the department for failure to make a future responsibility filing.

(L) The department issued the suspension without error because the department received a notice to suspend from a court under ORS 809.210 or 809.220, but the department later determines that the person in fact was in compliance with the requirements of the court prior to the effective date of the suspension.

SECTION 10. ORS 809.415, as amended by section 33, chapter 76, Oregon Laws 2018, is amended to read:

809.415. (1)(a) The Department of Transportation shall suspend the driving privileges of a person who has a judgment of the type described under ORS 806.040 rendered against the person if the person does not settle the judgment in the manner described under ORS 809.470 within 60 days after its entry.

(b) A suspension under this subsection shall continue until the person does one of the following:
(A) Settles the judgment in the manner described in ORS 809.470.

(B) Has an insurer that has been found by the department to be obligated to pay the judgment, provided that there has been no final adjudication by a court that the insurer has no such obligation.

(C) Gives evidence to the department that a period of seven years has elapsed since the entry of the judgment.

(D) Receives from the court that rendered the judgment an order permitting the payment of the judgment in installments.

c) A person is entitled to administrative review under ORS 809.440 of a suspension under this subsection.

(2)(a) The department shall suspend the driving privileges of a person who falsely certifies the existence of a motor vehicle liability insurance policy or the existence of some other means of satisfying financial responsibility requirements or of a person who, after certifying the existence of a motor vehicle liability insurance policy or other means of satisfying the requirements, allows the policy to lapse or be canceled or otherwise fails to remain in compliance with financial responsibility requirements.

(b) Notwithstanding paragraph (a) of this subsection, the department may suspend under this subsection only if proof of compliance with financial responsibility requirements as of the date of the letter of verification from the department under ORS 806.150 is not submitted within 30 days after the date of the mailing of the department’s demand under ORS 806.160.

c) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(3)(a) The department shall suspend the driving privileges of a person who fails to comply with future responsibility filings whenever required under the vehicle code or fails to provide new proof for future responsibility filings when requested by the department.

(b) A suspension under this subsection shall continue until the person complies with future responsibility filings.

c) A person whose initial obligation to make future responsibility filings
is not based upon a conviction or other action by a court is entitled to a
hearing under ORS 809.440 prior to a suspension under this subsection. A
person whose obligation to make future responsibility filings is based upon
a conviction or other action by a court is entitled to administrative review
under ORS 809.440 of a suspension under this subsection. A person whose
suspension under this subsection is based on lapses in filing after the initial
filing has been made is entitled to administrative review under ORS 809.440.

(4)(a) The department shall suspend driving privileges when provided un-
der ORS 809.416. The suspension shall continue until the earlier of the fol-
lowing:

(A) The person establishes to the satisfaction of the department that the
person has performed all acts necessary under ORS 809.416 to make the per-
son not subject to suspension.

(B) Ten years from the date the traffic offense or violation of ORS 471.430
occurred if the suspension is imposed for a reason described in ORS 809.416
[(1) or 20 years from the date the traffic offense occurred if the suspension is
imposed for a reason described in ORS 809.416 (2)].

(b) A person is entitled to administrative review under ORS 809.440 of a
suspension under this subsection.

(5) Upon determination by the department that a person has committed
an act that constitutes an offense described in ORS 809.310, the department
may suspend any driving privileges or any identification card of the person
determined to have committed the act. A suspension under this subsection
shall continue for a period of one year.

(6) Upon determination by the department that a person has submitted
false information to the department for the purpose of establishing or main-
taining qualification to operate a commercial motor vehicle or hold com-
mercial driving privileges, the department shall suspend the commercial
driving privileges or the person’s right to apply for commercial driving
privileges for a period of one year.

SECTION 11. ORS 809.416, as amended by section 34, chapter 76, Oregon
Laws 2018, is amended to read:

809.416. [This section establishes circumstances that will make a person subject to suspension under ORS 809.415 (4) and what a person is required to do to make the person no longer subject to suspension. The following apply as described:]

[(1)] A person is subject to suspension under ORS 809.415 (4) if the Department of Transportation receives notice from a court to apply this section under ORS 809.220. A person who is subject under this subsection remains subject until the person presents the department with notice issued by the court showing that the person is no longer subject to this section or until 10 years have elapsed from the date the traffic offense or violation of ORS 471.430 or 475B.316 occurred, whichever is earlier. [This subsection shall not subject a person to ORS 809.415 (4) for any pedestrian offense, bicycling offense or parking offense.] Upon receipt of notice from a court, the department shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the department with the notice required by this subsection.

[(2) A person is subject to suspension under ORS 809.415 (4) if the department receives a notice of suspension from a court under ORS 809.210 indicating that the person has failed or refused to pay a fine or obey an order of the court. A person who is subject under this subsection remains subject until the earlier of the following:]

[(a) The person presents the department with a notice of reinstatement issued by the court showing that the person:]

[(A) Is making payments, has paid the fine or has obeyed the order of the court; or]

[(B) Has enrolled in a preapprenticeship program, as defined in ORS 660.010, or is a registered apprentice under ORS 660.020; or]

[(b) Twenty years have elapsed from the date the traffic offense occurred.]

[(3) Subsection (2) of this section does not subject a person to ORS 809.415 (4) for failure or refusal to pay a fine relating to any pedestrian offense, bicy-
clinging offense or parking offense. Upon receipt of a notice of suspension from a court, the department shall send a letter by first class mail advising the person that the suspension will commence 60 days from the date of the letter unless the person presents the department with the notice of reinstatement required by this subsection.]  

SECTION 12. ORS 809.515 is amended to read:

809.515. (1)(a) The Department of Transportation shall suspend the commercial driving privileges of a person if the department receives a notice from another jurisdiction that the person failed to appear, pay a fine or comply with an order of the court in a prosecution on a citation for a traffic offense or for a violation in the other jurisdiction that, if committed in this state, would be grounds for suspension under ORS 809.210 or 809.220, and the person held commercial driving privileges or was operating a commercial motor vehicle at the time of the offense. The period of a suspension under this subsection is the shorter of:

(A) Ten years; or

(B) Until the department receives notice from the other jurisdiction that the person appeared, paid the fine or complied with the court’s order.

(b) The department shall suspend a person’s commercial driving privileges under this subsection without regard to whether the other jurisdiction suspends any driving privileges of the person by reason of the person’s failure to appear, pay a fine or comply with an order of the court.

(c) This subsection does not apply to failure to appear, pay a fine or comply with an order of the court in a proceeding relating to a parking, pedestrian, vehicle defect or bicycling offense.

(2) The department shall suspend the commercial driving privileges of a person if the department receives a notice from the Federal Motor Carrier Safety Administration that the person has been disqualified from operating a commercial motor vehicle and that the disqualification is due to a determination that the driving of that person constitutes an imminent hazard. The department shall immediately suspend commercial driving privileges under
this subsection without hearing, but the person may request a post-
imposition hearing under ORS 809.440 (4), without regard to any hearings
conducted by the Federal Motor Carrier Safety Administration. The period
of a suspension under this section is the period of suspension prescribed by
the Federal Motor Carrier Safety Administration, or one year, whichever is
shorter.

SECTION 13. ORS 809.210 is repealed.

SECTION 14. The amendments to ORS 153.061, 153.073, 153.772,
419C.306, 807.010, 807.120, 809.220, 809.280, 809.380, 809.415, 809.416 and
809.515 by sections 1 to 12 of this 2019 Act and the repeal of ORS 809.210
by section 13 of this of this 2019 Act apply to conduct giving rise to a
driving privilege restriction or driving privilege suspension on or after
the effective date of this 2019 Act. Driving privilege restrictions or
driving privilege suspensions imposed before the effective date of this
2019 Act shall be governed by law applicable to driving privilege re-
strictions and driving privilege suspensions in effect at the time of the
most recent restriction or suspension.

A BILL FOR AN ACT
Relating to prison education; and declaring an emergency.

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

SECTION 1. (1) The Task Force on Prison Education is established, consisting of 14 members appointed as follows:
(a) The President of the Senate shall appoint two members from among members of the Senate. The appointed members may not belong to the same political party.
(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives. The appointed members may not belong to the same political party.
(c) The Governor shall appoint:
(A) One member representing the office of the Governor;
(B) One member representing the Employment Department;
(C) One member representing community colleges;
(D) One member representing four-year colleges;
(E) One member representing the Department of Corrections;
(F) One member representing Oregon businesses;
(G) One member representing building trades;
(H) One male individual who was formerly incarcerated;

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.
(I) One female individual who was formerly incarcerated; and

(J) One member with expertise in community reentry for former prisoners.

(2) The task force shall study the following:

(a) Existing prisoner education and training programs provided by prisons, Oregon Corrections Enterprises and volunteers;

(b) Barriers to access to such programs, including space and budget limitations; and

(c) Options and opportunities for expanding, updating and improving such programs.

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

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

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

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

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

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

(9) The task force shall submit a report, which may include recommendations for legislation, to the standing or interim committees of the Legislative Assembly with subject matter jurisdiction over the judiciary no later than September 15, 2020.

(10) The office of the Governor shall provide staff support to the task force.

(11) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation or reimbursement.
for expenses and serve as volunteers on the task force.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

SECTION 2. Section 1 of this 2019 Act is repealed on December 31, 2020.

SECTION 3. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.