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Exemption Statute and Title: [ORS 125.240](#) Professional Fiduciaries

Summary: Makes confidential the results of criminal background checks required for the appointment of professional fiduciaries for protected persons. Also see [ORS 125.012](#) and [ORS 125.085](#).

Relevant Text: [ORS 125.240](#)

(2)(a) If a petition seeks the appointment of a professional fiduciary as described in subsection (5) of this section, the professional fiduciary and all staff with responsibility for making decisions for clients or for management of client assets must undergo a criminal records check before the court may appoint the professional fiduciary. The results of the criminal records check shall be provided by the petitioner to the court. Results of criminal records checks submitted to the court are confidential, shall be subject to inspection only by the parties to the proceedings and their attorneys, and shall not be subject to inspection by members of the public except pursuant to a court order entered after a showing of good cause. A professional fiduciary must disclose to the court any criminal conviction of the professional fiduciary that occurs after the criminal records check was performed. ***

Key Terms & Definitions:

As used in this section, “professional fiduciary” means a person nominated as a fiduciary or serving as a fiduciary who is acting at the same time as a fiduciary for three or more protected persons who are not related to the fiduciary. [ORS 125.240\(5\)](#)

“Protected person” means a person for whom a protective order has been entered. [ORS 125.005\(7\)](#)

“Protective order” means an order of a court appointing a fiduciary or any other order of the court entered for the purpose of protecting the person or estate of a respondent or protected person. [ORS 125.005\(8\)](#)

Enumerated Exceptions or Public Interest Balancing Test? No.

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 166.412](#) Definitions

Summary: Exempts from disclosure any information obtained during a request for a criminal history record check by a gun dealer, including information supplied by the dealer and information obtained during the background check.

Relevant Text: [ORS 166.412](#)

(7)(a) The department [Oregon State Police] may retain a record of the information obtained during a request for a criminal history record check for no more than five years * * * .

(b) The record of the information obtained during a request for a criminal history record check by a gun dealer is exempt from disclosure under public records law.

Enumerated Exceptions or Public Interest Balancing Test? No.

Cited in Court Cases, AG Opinions and/or Public Records Orders?

[PRO Suo, March 6, 2013](#) (denied petition seeking the identity of firearm dealers requesting background checks and the number of checks by month; the “information obtained during a request for a criminal history record check” includes information required to be submitted by the gun dealer when making the request and is not limited to information obtained during the background check itself)

Exemption Statute and Title: [ORS 166.436](#) Department of State Police Criminal Background Checks for Gun Show Firearm Transfers

Summary: Exempts from disclosure any information obtained during criminal history record check requested by a gun transferor (non-dealer) at gun shows.

Relevant Text: [ORS 166.436](#)

(5) (a) The department may retain a record of the information obtained during a request for a criminal background check under this section for the period of time provided in [ORS 166.412\(7\)](#).

(b) The record of the information obtained during a request for a criminal background check under this section is exempt from disclosure under public records law.

Enumerated Exceptions or Public Interest Balancing Test? No.

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 181A.195](#) Criminal Records Check

Summary: Makes criminal offender information confidential.

Relevant Text: [ORS 181A.195](#)

(12) Criminal offender information is confidential. Authorized agencies and the Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

Key Terms & Definitions:

“Criminal offender information” includes records and related data as to physical description and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release. [ORS 181A.010\(2\)](#)

“Authorized agency” means state government, the Oregon State Bar, or a municipal tax collection agency in a city with a population of 250,000 or more. [ORS 181A.195\(1\)\(a\)](#)

Enumerated Exceptions or Public Interest Balancing Test? Directs authorized agencies and the Department of State Police to adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

Cited in Court Cases, AG Opinions and/or Public Records Orders?

[PRO Ward, August 1, 2019](#) (denying petition seeking criminal offender information obtained by OLCC, an authorized agency, in the course of a criminal background check of an applicant).

Exemption Statute and Title: [ORS 181A.220](#) Confidentiality of Some Records

Summary: Makes confidential any fingerprints, photographs, records, and reports compiled under a motion to set aside an arrest or conviction; compiled as required in the course of an arrest; contained in an offender's disposition report; or related to ODOT records for undercover vehicles.

Relevant Text: [ORS 181A.220](#)

(1) Notwithstanding the provisions of [ORS 192.311](#) to [192.478](#) relating to public records the fingerprints, photographs, records and reports compiled under [ORS 137.225](#), [181A.010](#), [181A.160](#), [181A.175](#), [181A.230](#), [805.060](#) and this section are confidential and exempt from public inspection except:

(a) As ordered by a court;

(b) As provided in rules adopted by the Department of State Police under ORS chapter 183 to govern access to and use of computerized criminal offender information including access by an individual for review or challenge of the individual's own records;

(c) As provided in [ORS 181A.230](#) and [181A.245](#);

(d) As provided in [ORS 181A.180](#); or

(e) As provided in [ORS 418.747\(5\)](#).

(2) The records of the department of crime reports to the department and of arrests made by the department, however, shall not be confidential and shall be available in the same manner as the records of arrest and reports of crimes of other law enforcement agencies under [ORS 192.345](#).

Enumerated Exceptions or Public Interest Balancing Test? Various statutory exceptions permit disclosure for various official purposes, but none permit disclosure to the general public. Notwithstanding this provision, ORS 192.345(3) provides that "[t]he record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim." See [Pamplin v. City of Salem, 293 Or App 755 \(2018\)](#) (record of an arrest or report of a crime in a child abuse case were not exempt notwithstanding the general prohibition on the disclosure of child abuse investigatory information found in ORS 419B.035).

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 267.237](#) Criminal Records Check

Summary: Makes confidential any criminal offender information obtained by a mass transit district as part of a required criminal records check. Also see [ORS 181A.195](#).

Relevant Text: [ORS 267.237](#)

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

Key Terms & Definitions:

“Criminal offender information” is not defined in Chapter 267. It is defined in Chapter 181A to include “records and related data as to physical description and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.” [ORS 181A.010\(2\)](#)

Enumerated Exceptions or Public Interest Balancing Test? No.

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 418.747](#) County Teams for Investigation

Summary: Makes confidential any criminal history information obtained by county child abuse multidisciplinary teams on any person who is part of the household where DHS may place or has placed a child who is in the department's custody. Also see [ORS 419B.035](#).

Relevant Text: [ORS 418.747](#)

(1) The district attorney in each county shall be responsible for developing county child abuse multidisciplinary teams to consist of but not be limited to law enforcement personnel, Department of Human Services child protective service workers, school officials, local health department personnel, county mental health department personnel who have experience with children and family mental health issues, child abuse intervention center workers, if available, and juvenile department representatives, as well as others specially trained in child abuse, child sexual abuse and rape of children investigation.

(5) To ensure the protection and safe placement of a child, the Department of Human Services may request that team members obtain criminal history information on any person who is part of the household where the department may place or has placed a child who is in the department's custody. All information obtained by the team members and the department in the exercise of their duties is confidential and may be disclosed only when necessary to ensure the safe placement of a child.

Enumerated Exceptions or Public Interest Balancing Test? No.

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 443.004](#) Criminal Records Check Required for Employees and Volunteers Providing Direct Care

Summary: Upon the request of a mental health or substance abuse treatment provider who sought employment with a residential facility or adult foster home, DHS or OHA must retain the results of any fitness determination made under [ORS 181A.195\(10\)](#). Any disclosure of those results requires prior written authorization from the provider.

Relevant Text: [ORS 443.004](#)

(5) Public funds may not be used to support, in whole or in part, the employment, in any capacity having contact with a recipient of support services or a resident of a residential facility or an adult foster home, of a mental health or substance abuse treatment provider who has been convicted of committing, or convicted of an attempt, conspiracy or solicitation to commit, a crime described in [ORS 163.095](#) (“Aggravated murder” defined), [163.107](#) (Murder in the first degree), [163.115](#) (Murder in the second degree), [163.375](#) (Rape in the first degree), [163.405](#) (Sodomy in the first degree), [163.411](#) (Unlawful sexual penetration in the first degree) or [163.427](#) (Sexual abuse in the first degree).

(6) Upon the request of a mental health or substance abuse treatment provider, the department or authority shall maintain a record of the results of any fitness determination made under [ORS 181A.195\(10\)](#) (Criminal records check). The department or authority may disclose the record only to a person the provider specifically authorizes, by a written release, to receive the information.

Key Terms & Definitions:

“Mental health or substance abuse treatment provider” means:

- (A) A peer support specialist;
- (B) An employee of a residential treatment facility or a residential treatment home that is licensed under [ORS 443.415](#) to provide treatment for individuals with alcohol or drug dependence;
- (C) An individual who provides treatment or services for persons with substance use disorders; or
- (D) An individual who provides mental health treatment or services. [ORS 443.004 \(e\)](#)

Enumerated Exceptions or Public Interest Balancing Test? No.

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.