

A-Engrossed
House Bill 2460

Ordered by the House February 24
Including House Amendments dated February 24

Sponsored by Representative GELSNER (Pre-session filed.)

SUMMARY

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

[Exempts alcohol or drug treatment providers from requirement to report elder abuse and from criminal records check requirement.] **Makes criminal records check requirement of alcohol and drug treatment providers nonmandatory. Specifies that peer support specialist and alcohol and drug treatment provider may request maintenance of criminal records check and disclosure of criminal records check to authorized persons.** Repeals sunset on exemption of alcohol or drug treatment providers from disqualification based on criminal conviction.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to providers of residential treatment to individuals with alcohol or drug dependence; cre-
3 ating new provisions; amending ORS 443.004; repealing section 15, chapter 93, Oregon Laws
4 2010; and declaring an emergency.

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

6 **SECTION 1.** ORS 443.004, as amended by sections 12 and 13, chapter 93, Oregon Laws 2010, is
7 amended to read:

8 443.004. **(1) As used in this section:**

9 **(a) "Adult foster home" has the meaning given that term in ORS 443.705.**

10 **(b) "Home care worker" has the meaning given that term in ORS 410.600.**

11 **(c) "Home health agency" has the meaning given that term in ORS 443.005.**

12 **(d) "In-home care agency" has the meaning given that term in ORS 443.305.**

13 **(e) "Peer support specialist" means a person who:**

14 **(A) Is providing peer support services as defined by the Oregon Health Authority by rule;**

15 **(B) Is under the supervision of a qualified clinical supervisor;**

16 **(C) Has completed training required by the authority; and**

17 **(D) Is currently receiving or has formerly received mental health services, or is in re-**
18 **covery from a substance use disorder and meets the abstinence requirements for staff pro-**
19 **viding services in alcohol or other drug treatment programs.**

20 **(f) "Residential facility" has the meaning given that term in ORS 443.400.**

21 **(g) "Residential treatment facility" has the meaning given that term in ORS 443.400.**

22 **(h) "Residential treatment home" has the meaning given that term in ORS 443.400.**

23 *[(1)]* **(2)** The Department of Human Services or the Oregon Health Authority shall complete a
24 criminal records check under ORS 181.534 on:

25 (a) An employee of a residential facility, adult foster home, in-home care agency or home health

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

1 agency;

2 (b) Any individual who is paid directly or indirectly with public funds who has or will have
3 contact with a recipient of home health, in-home care or support services or a resident of an adult
4 foster home or a residential facility; and

5 (c) A home care worker registering with the Home Care Commission or renewing a registration
6 with the Home Care Commission.

7 **(3) Notwithstanding subsection (2) of this section, the department or authority may**
8 **complete a criminal records check under ORS 181.534 on an employee of a residential treat-**
9 **ment facility or a residential treatment home that is licensed under ORS 443.415 to provide**
10 **for individuals with alcohol or drug dependence.**

11 [(2)] (4) Public funds may not be used to support, in whole or in part, the employment in any
12 capacity having contact with a recipient of home health, in-home care or support services or a res-
13 ident of a residential facility or an adult foster home, of an individual who has been convicted:

14 (a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,
15 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,
16 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215,
17 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017,
18 167.054 or 167.057;

19 (b) Of a crime listed in ORS 181.594;

20 (c) In the last 10 years, of a crime involving the delivery or manufacture of a controlled sub-
21 stance;

22 (d) Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to
23 (c) of this subsection; or

24 (e) Of a crime in another jurisdiction that is substantially equivalent, as defined by rule, to a
25 crime described in paragraphs (a) to (d) of this subsection.

26 [(3)] (5) Subsection [(2)] (4) of this section does not apply to:

27 (a) A peer support specialist[.]; or

28 **(b) An employee of a residential treatment facility or a residential treatment home that**
29 **is licensed under ORS 443.415 to provide for individuals with alcohol or drug dependence.**

30 **(6) Upon the request of an individual described in subsection (5) of this section, the de-**
31 **partment or authority shall maintain a record of the results of any fitness determination**
32 **made under ORS 181.534 (11) and (12). The department or authority may disclose the record**
33 **to any person authorized by the individual to receive the information.**

34 [(4)] (7) If the department or authority has a record of substantiated abuse committed by an
35 employee or potential employee of a home health agency, in-home care agency, adult foster home
36 or residential facility, regardless of whether criminal charges were filed, the department or author-
37 ity shall notify, in writing, the employer and the employee or potential employee.

38 [(5) As used in this section:]

39 [(a) "Adult foster home" has the meaning given that term in ORS 443.705.]

40 [(b) "Home care worker" has the meaning given that term in ORS 410.600.]

41 [(c) "Home health agency" has the meaning given that term in ORS 443.005.]

42 [(d) "In-home care agency" has the meaning given that term in ORS 443.305.]

43 [(e) "Peer support specialist" means a person who:]

44 [(A) Is providing peer support services as defined by the authority by rule;]

45 [(B) Is under the supervision of a qualified clinical supervisor;]

1 *[(C) Has completed training required by the authority; and]*

2 *[(D) Is currently receiving or has formerly received mental health services, or is in recovery from*
3 *a substance use disorder and meets the abstinence requirements for staff providing services in alcohol*
4 *or other drug treatment programs.]*

5 *[(f) "Residential facility" has the meaning given that term in ORS 443.400.]*

6 **SECTION 2. Section 15, chapter 93, Oregon Laws 2010, is repealed.**

7 **SECTION 3. (1) If this 2011 Act does not become effective until after July 1, 2011, section**
8 **2 of this 2011 Act (repealing section 15, chapter 93, Oregon Laws 2010) is repealed.**

9 **(2) If this 2011 Act does not become effective until after July 1, 2011, this 2011 Act shall**
10 **be operative retroactively to July 1, 2011.**

11 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**
12 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
13 **on its passage.**

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