

House Bill 2461

Sponsored by Representative GELSER (Presession 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 **as introduced**.

Limits prohibition on using public funds to pay for direct care provided by person with conviction of theft in first degree to prohibit use of public funds only if conviction resulted in enhanced sentence due to vulnerability of victim.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to theft from a vulnerable victim; amending ORS 443.004; and declaring an emergency.

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

SECTION 1. ORS 443.004, as amended by section 12, chapter 93, Oregon Laws 2010, is amended to read:

443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete a criminal records check under ORS 181.534 on:

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

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

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

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

(a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165, 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465, 163.467, 163.535, 163.537, 163.689, 163.700, [164.055,] 164.057, 164.098, 164.125 (5)(c) or (d), 164.215, 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, 167.054 or 167.057;

(b) Of a crime listed in ORS 181.594;

(c) In the last 10 years, of a crime involving the delivery or manufacture of a controlled substance;

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

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

(f) Of a crime described in ORS 164.055 if the sentence imposed as a result of the con-

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 **viction was enhanced under ORS 137.085.**

2 (3) Subsection (2) of this section does not apply to:

3 (a) A peer support specialist; or

4 (b) An employee of a residential treatment facility or a residential treatment home that is li-
5 censed under ORS 443.415 to provide for individuals with alcohol or drug dependence.

6 (4) If the department or authority has a record of substantiated abuse committed by an employee
7 or potential employee of a home health agency, in-home care agency, adult foster home or residen-
8 tial facility, regardless of whether criminal charges were filed, the department or authority shall
9 notify, in writing, the employer and the employee or potential employee.

10 (5) As used in this section:

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

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

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

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

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

16 (A) Is providing peer support services as defined by the authority by rule;

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

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

19 (D) Is currently receiving or has formerly received mental health services, or is in recovery from
20 a substance use disorder and meets the abstinence requirements for staff providing services in al-
21 cohol or other drug treatment programs.

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

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

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

25 **SECTION 2.** ORS 443.004, as amended by sections 12 and 13, chapter 93, Oregon Laws 2010, is
26 amended to read:

27 443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete
28 a criminal records check under ORS 181.534 on:

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

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

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

36 (2) Public funds may not be used to support, in whole or in part, the employment in any capacity
37 having contact with a recipient of home health, in-home care or support services or a resident of a
38 residential facility or an adult foster home, of an individual who has been convicted:

39 (a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,
40 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,
41 163.467, 163.535, 163.537, 163.689, 163.700, [164.055,] 164.057, 164.098, 164.125 (5)(c) or (d), 164.215,
42 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017,
43 167.054 or 167.057;

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

45 (c) In the last 10 years, of a crime involving the delivery or manufacture of a controlled sub-

1 stance;

2 (d) Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to
3 (c) of this subsection; [or]

4 (e) Of a crime in another jurisdiction that is substantially equivalent, as defined by rule, to a
5 crime described in paragraphs (a) to (d) of this subsection; or

6 **(f) Of a crime described in ORS 164.055 if the sentence imposed as a result of the con-**
7 **viction was enhanced under ORS 137.085.**

8 (3) Subsection (2) of this section does not apply to a peer support specialist.

9 (4) If the department or authority has a record of substantiated abuse committed by an employee
10 or potential employee of a home health agency, in-home care agency, adult foster home or residen-
11 tial facility, regardless of whether criminal charges were filed, the department or authority shall
12 notify, in writing, the employer and the employee or potential employee.

13 (5) As used in this section:

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

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

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

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

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

19 (A) Is providing peer support services as defined by the authority by rule;

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

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

22 (D) Is currently receiving or has formerly received mental health services, or is in recovery from
23 a substance use disorder and meets the abstinence requirements for staff providing services in al-
24 cohol or other drug treatment programs.

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

26 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**
27 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
28 **on its passage.**

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