

A-Engrossed
House Bill 2650

Ordered by the House April 29
Including House Amendments dated April 29

Sponsored by Representative BARKER; Representative OLSON (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.

[Requires Oregon Health Authority and Department of Human Services to develop systems that run criminal records checks quarterly and to update criminal records check information on certain health care workers in order to minimize administrative burden on agencies and individuals in conducting subsequent criminal records checks.]

Requires home health agency or in-home care agency to complete criminal records check on individual paid by agency to provide home health or in-home care services.

A BILL FOR AN ACT

1
2 Relating to criminal records checks; amending ORS 443.004.

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

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

6 443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete
7 a criminal records check under ORS 181.534 on:

8 (a) An employee of a residential facility[,] **or an** adult foster home[, *in-home care agency or home*
9 *health agency*];

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

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

15 **(2)(a) A home health agency shall complete a criminal records check on any individual**
16 **paid by the home health agency to provide home health services.**

17 **(b) An in-home care agency shall complete a criminal records check on any individual**
18 **paid by the in-home care agency to provide in-home care services.**

19 **(c) In conducting criminal records checks under this subsection, a home health agency**
20 **and an in-home care agency are qualified entities for purposes of ORS 181.533.**

21 [(2)] **(3)** Public funds may not be used to support, in whole or in part, the employment in any
22 capacity having contact with a recipient of home health, in-home care or support services or a res-
23 ident of a residential facility or an adult foster home, of an individual who has been convicted:

24 (a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,
25 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,
26 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215,

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.

1 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017,
2 167.054 or 167.057;

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

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

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

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

10 [(3)] (4) Subsection [(2)] (3) of this section does not apply to:

11 (a) A peer support specialist; or

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

14 [(4)] (5) If the department or authority has a record of substantiated abuse committed by an
15 employee or potential employee of a home health agency, in-home care agency, adult foster home
16 or residential facility, regardless of whether criminal charges were filed, the department or author-
17 ity shall notify, in writing, the employer and the employee or potential employee.

18 [(5)] (6) As used in this section:

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

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

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

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

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

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

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

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

27 (D) Is currently receiving or has formerly received mental health services, or is in recovery from
28 a substance use disorder and meets the abstinence requirements for staff providing services in al-
29cohol or other drug treatment programs.

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

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

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

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

35 443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete
36 a criminal records check under ORS 181.534 on:

37 (a) An employee of a residential facility[,] **or an** adult foster home[, *in-home care agency or home*
38 *health agency*];

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

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

44 **(2)(a) A home health agency shall complete a criminal records check on any individual**
45 **paid by the home health agency to provide home health services.**

1 **(b) An in-home care agency shall complete a criminal records check on any individual**
2 **paid by the in-home care agency to provide in-home care services.**

3 **(c) In conducting criminal records checks under this subsection, a home health agency**
4 **and an in-home care agency are qualified entities for purposes of ORS 181.533.**

5 [(2)] **(3)** Public funds may not be used to support, in whole or in part, the employment in any
6 capacity having contact with a recipient of home health, in-home care or support services or a res-
7 ident of a residential facility or an adult foster home, of an individual who has been convicted:

8 (a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,
9 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,
10 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215,
11 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017,
12 167.054 or 167.057;

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

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

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

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

20 [(3)] **(4)** Subsection [(2)] **(3)** of this section does not apply to a peer support specialist.

21 [(4)] **(5)** If the department or authority has a record of substantiated abuse committed by an
22 employee or potential employee of a home health agency, in-home care agency, adult foster home
23 or residential facility, regardless of whether criminal charges were filed, the department or author-
24 ity shall notify, in writing, the employer and the employee or potential employee.

25 [(5)] **(6)** As used in this section:

26 (a) “Adult foster home” has the meaning given that term in ORS 443.705.

27 (b) “Home care worker” has the meaning given that term in ORS 410.600.

28 (c) “Home health agency” has the meaning given that term in ORS 443.005.

29 (d) “In-home care agency” has the meaning given that term in ORS 443.305.

30 (e) “Peer support specialist” means a person who:

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

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

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

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

37 (f) “Residential facility” has the meaning given that term in ORS 443.400.

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