

C-Engrossed
House Bill 2650

Ordered by the Senate June 13
Including House Amendments dated April 29 and Senate Amendments
dated June 8 and June 13

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 home health agency or in-home care agency to complete criminal background check on individual agency hires or contracts with, or allows to volunteer, to provide certain home health or in-home care services. **Prohibits agencies from hiring individuals convicted of certain crimes.**

Prohibits using public funds to support employment of mental health or substance abuse treatment provider who has been convicted of committing or attempting to commit certain crimes.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to criminal records checks; creating new provisions; amending ORS 443.004; repealing sec-
3 tion 15, chapter 93, Oregon Laws 2010; and declaring an emergency.

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

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

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

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

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

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

16 **(2)(a) A home health agency shall conduct a criminal background check before hiring or**
17 **contracting with an individual and before allowing an individual to volunteer to provide ser-**
18 **VICES ON BEHALF OF THE HOME HEALTH AGENCY, IF THE INDIVIDUAL WILL HAVE DIRECT CONTACT WITH A**
19 **PATIENT OF THE HOME HEALTH AGENCY.**

20 **(b) An in-home care agency shall conduct a criminal background check before hiring or**
21 **contracting with an individual and before allowing an individual to volunteer to provide ser-**
22 **VICES ON BEHALF OF THE IN-HOME CARE AGENCY, IF THE INDIVIDUAL WILL HAVE DIRECT CONTACT WITH A**
23 **CLIENT OF THE IN-HOME CARE AGENCY.**

24 **(c) The authority shall prescribe by rule the process for conducting a criminal back-**
25 **ground check.**

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 [2] (3) Public funds may not be used to support, in whole or in part, the employment in any
2 capacity having contact with a recipient of [*home health, in-home care or*] support services or a
3 resident of a residential facility or an adult foster home, of an individual, **other than a mental**
4 **health or substance abuse treatment provider**, who has been convicted:

5 (a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,
6 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,
7 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215,
8 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017,
9 167.054 or 167.057;

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

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

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

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

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

18 (4) **If the criminal background check conducted by a home health agency or in-home care**
19 **agency under subsection (2) of this section reveals that the individual who is subject to the**
20 **criminal background check has been convicted of any of the crimes described in subsection**
21 **(3) of this section, the home health agency or in-home care agency may not employ the in-**
22 **dividual.**

23 (5) **Public funds may not be used to support, in whole or in part, the employment, in any**
24 **capacity having contact with a recipient of support services or a resident of a residential**
25 **facility or an adult foster home, of a mental health or substance abuse treatment provider**
26 **who has been convicted of committing, or convicted of an attempt, conspiracy or solicitation**
27 **to commit, a crime described in ORS 163.095, 163.115, 163.375, 163.405, 163.411 or 163.427.**

28 (6) **Upon the request of a mental health or substance abuse treatment provider, the de-**
29 **partment or authority shall maintain a record of the results of any fitness determination**
30 **made under ORS 181.534 (11) and (12). The department or authority may disclose the record**
31 **only to a person the provider specifically authorizes, by a written release, to receive the in-**
32 **formation.**

33 [(4)] (7) If the department or authority has a record of substantiated abuse committed by an
34 employee or potential employee of a home health agency, in-home care agency, adult foster home
35 or residential facility, regardless of whether criminal charges were filed, the department or author-
36 ity shall notify, in writing, the employer and the employee or potential employee.

37 [(5)] (8) As used in this section:

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

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

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

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

42 (e) **“Mental health or substance abuse treatment provider” means:**

43 **(A) A peer support specialist;**

44 **(B) An employee of a residential treatment facility or a residential treatment home that**
45 **is licensed under ORS 443.415 to provide treatment for individuals with alcohol or drug de-**

1 **pendence;**

2 (C) **An individual who provides treatment or services for persons with substance use**
3 **disorders; or**

4 (D) **An individual who provides mental health treatment or services.**

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

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

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

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

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

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

13 **SECTION 2. The amendments to ORS 443.004 by section 1 of this 2011 Act apply to indi-**
14 **viduals providing care or treatment paid for with public funds before, on or after the effec-**
15 **tive date of this 2011 Act.**

16 **SECTION 3. Section 15, chapter 93, Oregon Laws 2010, is repealed.**

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

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