

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2650

By COMMITTEE ON JUDICIARY

June 8

1 On page 1 of the printed A-engrossed bill, line 2, after the semicolon insert “creating new pro-  
2 visions;” and after “443.004” insert “; repealing section 15, chapter 93, Oregon Laws 2010; and de-  
3 claring an emergency”.

4 Delete lines 4 through 26 and delete pages 2 and 3 and insert:

5 **“SECTION 1.** ORS 443.004, as amended by sections 12 and 13, chapter 93, Oregon Laws 2010,  
6 is 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*  
10 *home 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**  
17 **or contracting with an individual and before allowing an individual to volunteer to provide**  
18 **services on behalf of the home health agency, if the individual will have direct contact with**  
19 **a 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.**

26 “[2] (3) Public funds may not be used to support, in whole or in part, the employment in any  
27 capacity having contact with a recipient of [*home health, in-home care or*] support services or a  
28 resident of a residential facility or an adult foster home, of an individual, **other than a mental**  
29 **health or substance abuse treatment provider**, who has been convicted:

30 “(a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,  
31 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,  
32 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215,  
33 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017,  
34 167.054 or 167.057;

35 “(b) Of a crime listed in ORS 181.594;

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

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

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

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

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

13 “**(5) Upon the request of a mental health or substance abuse treatment provider, the  
14 department or authority shall maintain a record of the results of any fitness determination  
15 made under ORS 181.534 (11) and (12). The department or authority may disclose the record  
16 only to a person the provider specifically authorizes, by a written release, to receive the in-  
17 formation.**

18 “[*(4)*] **(6) If the department or authority has a record of substantiated abuse committed by an  
19 employee or potential employee of a home health agency, in-home care agency, adult foster home  
20 or residential facility, regardless of whether criminal charges were filed, the department or author-  
21 ity shall notify, in writing, the employer and the employee or potential employee.**

22 “[*(5)*] **(7) As used in this section:**

23 “(a) ‘Adult foster home’ has the meaning given that term in ORS 443.705.

24 “(b) ‘Home care worker’ has the meaning given that term in ORS 410.600.

25 “(c) ‘Home health agency’ has the meaning given that term in ORS 443.005.

26 “(d) ‘In-home care agency’ has the meaning given that term in ORS 443.305.

27 “(e) **‘Mental health or substance abuse treatment provider’ means:**

28 “**(A) A peer support specialist;**

29 “**(B) An employee of a residential treatment facility or a residential treatment home that  
30 is licensed under ORS 443.415 to provide treatment for individuals with alcohol or drug de-  
31 pendence;**

32 “**(C) An individual who provides treatment or services for persons with substance use  
33 disorders; or**

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

35 “[*(e)*] **(f) ‘Peer support specialist’ means a person who:**

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

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

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

39 “(D) Is currently receiving or has formerly received mental health services, or is in recovery  
40 from a substance use disorder and meets the abstinence requirements for staff providing services in  
41 alcohol or other drug treatment programs.

42 “[*(f)*] **(g) ‘Residential facility’ has the meaning given that term in ORS 443.400.**

43 “**SECTION 2. The amendments to ORS 443.004 by section 1 of this 2011 Act apply to in-  
44 dividuals providing care or treatment paid for with public funds before, on or after the ef-  
45 fective date of this 2011 Act.**

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

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

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