

# Senate Bill 524

Sponsored by Senator SHIELDS (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**.

Exempts from disqualification based on specified criminal offenses individuals who provide mental health treatment or services and individuals who provide substance use disorder treatment or services. Repeals sunset on exemption for employees of residential facilities providing alcohol and drug abuse treatment.

Requires Department of Human Services and Oregon Health Authority, upon request of individual who is exempt from disqualification based on specified criminal offense, to maintain record of fitness determination made as result of criminal records check. Provides that department or authority may disclose record as authorized by individual.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to care providers; creating new provisions; amending ORS 443.004; repealing section 15,  
3 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, adult foster home, in-home care agency or home health  
10 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) Public funds may not be used to support, in whole or in part, the employment in any capacity  
17 having contact with a recipient of home health, in-home care or support services or a resident of a  
18 residential facility or an adult foster home, of an individual who has been convicted:

19 (a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,  
20 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,  
21 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215,  
22 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017,  
23 167.054 or 167.057;

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

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

27 (d) Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to

**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 (c) of this subsection; or

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

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

5 (a) A peer support specialist[.];

6 **(b) An employee of a residential treatment facility or a residential treatment home that**  
 7 **is licensed under ORS 443.415 to provide treatment for individuals with alcohol or drug de-**  
 8 **pendence;**

9 **(c) An individual who provides treatment or services for persons with substance use**  
 10 **disorders; or**

11 **(d) An individual who provides mental health treatment or services.**

12 **(4) Upon the request of an individual described in subsection (3) of this section, the de-**  
 13 **partment or authority shall maintain a record of the results of any fitness determination**  
 14 **made under ORS 181.534 (11) and (12). The department or authority may disclose the record**  
 15 **to any person authorized by the individual to receive the information.**

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

20 [(5)] **(6) As used in this section:**

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

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

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

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

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

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

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

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

29 (D) Is currently receiving or has formerly received mental health services, or is in recovery from  
 30 a substance use disorder and meets the abstinence requirements for staff providing services in al-  
 31cohol or other drug treatment programs.

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

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

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

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

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