

SB 809 -2 STAFF MEASURE SUMMARY

Senate Committee On Rules

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Meeting Dates: 4/22, 4/29

WHAT THE MEASURE DOES:

Requires Department of Human Services (DHS) and Oregon Health Authority (OHA) to adopt rules prescribing criteria to determine the fitness of direct care service providers that includes substantiated abuses for which a provider may be deemed unfit, and conditions for reinstatement, if any. Requires DHS and OHA conduct fitness determination for any employee or potential employees of specified entities with record of substantiated abuse, and notify employer of determination. Defines "fitness determination" as an evaluation whether an individual is fit to provide, or be authorized to provide, direct care services. Defines "direct care services" as care or placement services provided by individuals and organizations to clients of DHS or OHA. Provides right to contested case hearing to challenge determinations.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Requires Department of Human Services and Oregon Health Authority to "prescribe by rule the criteria for considering in fitness determinations findings of abuse that are substantiated." Modifies list of care providers subject to rules.

BACKGROUND:

Oregon law prohibits using public funds to employ individuals with certain criminal histories in capacities that involve direct contact with recipients of support services or residential care. The Department of Human Services (DHS), the Oregon Health Authority (OHA), home health agencies, and in-home care agencies conduct background checks on employees of residential facilities, adult foster homes, home care workers registering with the Home Care Commission, providers and volunteers in contact with patients in home health agencies and in-home care agencies, and any individual paid by public funds who is in contact with recipients of support services or residential care. DHS and OHA are also required to notify employers and employees in writing of any records of substantiated abuse committed by an employee of a home health agency, in-home care agency, adult foster home, or residential facility, regardless of whether criminal charges were filed.

Senate Bill 809 requires DHS and OHA to make rules prescribing criteria for fitness determinations about individuals who provide direct care services. The rules must specify provider conduct that will result in the provider being deemed unfit, as well as conditions, if any, for reinstatement. The measure also provides due process via contested case hearings for individuals to challenge fitness evaluations. Finally, Senate Bill 809 requires DHS and OHA to conduct a fitness determination for any employee or potential employee of specified entities who have a record of substantiated abuse and to notify employers of the outcome.