

SENATE AMENDMENTS TO SENATE BILL 809

By COMMITTEE ON RULES

May 6

- 1 On page 1 of the printed bill, delete lines 10 through 12.
- 2 In line 13, delete “(F)” and insert “(C)”.
- 3 Delete lines 14 and 15 and insert:
- 4 “(D) A provider of specialized supports or support services for adults as defined in ORS
5 427.101.”.
- 6 Delete line 20 and insert:
- 7 “(d) ‘Subject individual’ means a person who is:
- 8 “(A) Employed by or who seeks to be employed by the authority or the department;
- 9 “(B) A volunteer or who seeks to be a volunteer to provide care on behalf of the authority or
10 the department; or
- 11 “(C) Providing care or who seeks to provide care on behalf of the authority or the
12 department.”.
- 13 In line 21, delete “for” and insert “to be considered in”.
- 14 In line 22, delete “determinations” and insert “determination findings of abuse that are sub-
15 stantiated”.
- 16 Delete pages 2 through 5 and insert:
- 17 “(4) This section applies to fitness determinations for providers of direct care services conducted
18 under ORS 181A.195 (10) or 443.004 (7).
- 19 “**SECTION 2.** ORS 443.004 is amended to read:
- 20 “443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete
21 a criminal records check under ORS 181A.195 on:
- 22 “(a) An employee of a residential facility or an adult foster home;
- 23 “(b) Any individual who is paid directly or indirectly with public funds who has or will have
24 contact with a recipient of support services or a resident of an adult foster home or a residential
25 facility; and
- 26 “(c) A home care worker registering with the Home Care Commission or renewing a registration
27 with the Home Care Commission.
- 28 “(2)(a) A home health agency shall conduct a criminal background check before hiring or con-
29 tracting with an individual and before allowing an individual to volunteer to provide services on
30 behalf of the home health agency, if the individual will have direct contact with a patient of the
31 home health agency.
- 32 “(b) An in-home care agency shall conduct a criminal background check before hiring or con-
33 tracting with an individual and before allowing an individual to volunteer to provide services on
34 behalf of the in-home care agency, if the individual will have direct contact with a client of the in-
35 home care agency.

1 “(c) The authority shall prescribe by rule the process for conducting a criminal background
2 check.

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

7 “(a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,
8 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,
9 163.467, 163.535, 163.537, 163.547, 163.689, 163.700, 163.701, 164.055, 164.057, 164.098, 164.125 (5)(c) or
10 (d), 164.215, 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.013, 165.022, 165.032, 165.800,
11 165.803, 167.012, 167.017, 167.057, 167.320 or 167.322;

12 “(b) Notwithstanding paragraph (a) of this subsection, of a crime described in ORS 163.465,
13 163.467, 163.700, 163.701, 164.055, 164.125 or 164.377, the date of conviction for which was within the
14 five years immediately preceding employment in any capacity of an individual, other than a mental
15 health or substance abuse treatment provider, having contact with a recipient of support services,
16 a resident of a residential facility or a resident of an adult foster home, when the recipient or resi-
17 dent is 65 years of age or older;

18 “(c) Of a crime listed in ORS 163A.005;

19 “(d) In the last 10 years, of a crime involving the delivery or manufacture of a controlled sub-
20 stance;

21 “(e) Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to
22 (d) of this subsection; or

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

25 “(4) If the criminal background check conducted by a home health agency or in-home care
26 agency under subsection (2) of this section reveals that the individual who is subject to the criminal
27 background check has been convicted of any of the crimes described in subsection (3) of this section,
28 the home health agency or in-home care agency may not employ the individual.

29 “(5) Public funds may not be used to support, in whole or in part, the employment, in any ca-
30 pacity having contact with a recipient of support services or a resident of a residential facility or
31 an adult foster home, of a mental health or substance abuse treatment provider who has been con-
32 victed of committing, or convicted of an attempt, conspiracy or solicitation to commit, a crime de-
33 scribed in ORS 163.095, 163.115, 163.375, 163.405, 163.411 or 163.427.

34 “(6) Upon the request of a mental health or substance abuse treatment provider, the department
35 or authority shall maintain a record of the results of any fitness determination made under ORS
36 181A.195 (10). The department or authority may disclose the record only to a person the provider
37 specifically authorizes, by a written release, to receive the information.

38 “(7) If the department or authority has a record of substantiated abuse committed by an em-
39 ployee or potential employee of a home health agency, in-home care agency, adult foster home or
40 residential facility, regardless of whether criminal charges were filed, the department or authority
41 shall notify, in writing, the employer and the employee or potential employee **and may conduct a**
42 **fitness determination in accordance with this section and ORS 181A.195.**

43 “(8) As used in this section:

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

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

1 “(c) ‘Home health agency’ has the meaning given that term in ORS 443.014.
2 “(d) ‘In-home care agency’ has the meaning given that term in ORS 443.305.
3 “(e) ‘Mental health or substance abuse treatment provider’ means:
4 “(A) A peer support specialist;
5 “(B) An employee of a residential treatment facility or a residential treatment home that is li-
6 censed under ORS 443.415 to provide treatment for individuals with alcohol or drug dependence;
7 “(C) An individual who provides treatment or services for persons with substance use disorders;
8 or
9 “(D) An individual who provides mental health treatment or services.
10 “(f) ‘Peer support specialist’ has the meaning given that term in ORS 414.025.
11 “(g) ‘Residential facility’ has the meaning given that term in ORS 443.400.
12 “**SECTION 3.** ORS 443.004, as amended by section 24, chapter 75, Oregon Laws 2018, is
13 amended to read:
14 “443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete
15 a criminal records check under ORS 181A.195 on:
16 “(a) An employee of a residential facility or an adult foster home;
17 “(b) Any individual who is paid directly or indirectly with public funds who has or will have
18 contact with a recipient of support services or a resident of an adult foster home or a residential
19 facility; and
20 “(c) A home care worker or personal support worker registering with the Home Care Commis-
21 sion or renewing a registration with the Home Care Commission.
22 “(2)(a) A home health agency shall conduct a criminal background check before hiring or con-
23 tracting with an individual and before allowing an individual to volunteer to provide services on
24 behalf of the home health agency, if the individual will have direct contact with a patient of the
25 home health agency.
26 “(b) An in-home care agency shall conduct a criminal background check before hiring or con-
27 tracting with an individual and before allowing an individual to volunteer to provide services on
28 behalf of the in-home care agency, if the individual will have direct contact with a client of the in-
29 home care agency.
30 “(c) The authority shall prescribe by rule the process for conducting a criminal background
31 check.
32 “(3) Public funds may not be used to support, in whole or in part, the employment in any ca-
33 pacity having contact with a recipient of support services or a resident of a residential facility or
34 an adult foster home, of an individual, other than a mental health or substance abuse treatment
35 provider, who has been convicted:
36 “(a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,
37 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,
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40 165.803, 167.012, 167.017, 167.057, 167.320 or 167.322;
41 “(b) Notwithstanding paragraph (a) of this subsection, of a crime described in ORS 163.465,
42 163.467, 163.700, 163.701, 164.055, 164.125 or 164.377, the date of conviction for which was within the
43 five years immediately preceding employment in any capacity of an individual, other than a mental
44 health or substance abuse treatment provider, having contact with a recipient of support services,
45 a resident of a residential facility or a resident of an adult foster home, when the recipient or resi-

1 dent is 65 years of age or older;

2 “(c) Of a crime listed in ORS 163A.005;

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

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

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

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10 agency under subsection (2) of this section reveals that the individual who is subject to the criminal
11 background check has been convicted of any of the crimes described in subsection (3) of this section,
12 the home health agency or in-home care agency may not employ the individual.

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14 pacity having contact with a recipient of support services or a resident of a residential facility or
15 an adult foster home, of a mental health or substance abuse treatment provider who has been con-
16 victed of committing, or convicted of an attempt, conspiracy or solicitation to commit, a crime de-
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19 or authority shall maintain a record of the results of any fitness determination made under ORS
20 181A.195 (10). The department or authority may disclose the record only to a person the provider
21 specifically authorizes, by a written release, to receive the information.

22 “(7) If the department or authority has a record of substantiated abuse committed by an em-
23 ployee or potential employee of a home health agency, in-home care agency, adult foster home or
24 residential facility, regardless of whether criminal charges were filed, the department or authority
25 shall notify, in writing, the employer and the employee or potential employee **and may conduct a**
26 **fitness determination in accordance with this section and ORS 181A.195.**

27 “(8) As used in this section:

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

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

30 “(c) ‘Home health agency’ has the meaning given that term in ORS 443.014.

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

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

33 “(A) A peer support specialist;

34 “(B) An employee of a residential treatment facility or a residential treatment home that is li-
35 censed under ORS 443.415 to provide treatment for individuals with alcohol or drug dependence;

36 “(C) An individual who provides treatment or services for persons with substance use disorders;
37 or

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

39 “(f) ‘Peer support specialist’ has the meaning given that term in ORS 414.025.

40 “(g) ‘Personal support worker’ has the meaning given that term in ORS 410.600.

41 “(h) ‘Residential facility’ has the meaning given that term in ORS 443.400.”.