

HB 4115-1
(LC 112)
2/3/26 (RH/ps)

Requested by Representative NATHANSON

**PROPOSED AMENDMENTS TO
HOUSE BILL 4115**

1 On page 1 of the printed bill, delete lines 5 through 23 and delete pages
2 2 through 11 and insert:

3 **“SECTION 1.** ORS 443.004 is amended to read:

4 **“443.004. (1) As used in this section:**

5 **“(a) ‘Adult foster home’ has the meaning given that term in ORS**
6 **443.705.**

7 **“(b) ‘Care’ has the meaning given that term in ORS 181A.200.**

8 **“(c) ‘Direct contact’ means interaction between a provider of care**
9 **and a recipient of care that occurs face-to-face, in physical proximity**
10 **or through electronic communication.**

11 **“(d) ‘Home care worker’ has the meaning given that term in ORS**
12 **410.600.**

13 **“(e) ‘Home health agency’ has the meaning given that term in ORS**
14 **443.014.**

15 **“(f) ‘Individual receiving care’ means an individual who receives**
16 **care from:**

17 **“(A) An individual or qualified entity that is licensed, certified or**
18 **otherwise regulated by the division of the Department of Human Ser-**
19 **vices that provides developmental disabilities services; or**

20 **“(B) An individual or qualified entity that is licensed, certified or**
21 **otherwise regulated by the division of the department that provides**

1 services to older adults and individuals with physical disabilities.

2 “(g) ‘In-home care agency’ has the meaning given that term in ORS
3 443.305.

4 “(h) ‘Mental health or substance abuse treatment provider’ means:

5 “(A) A peer support specialist;

6 “(B) An employee of a residential treatment facility or a residential
7 treatment home that is licensed under ORS 443.415 to provide treat-
8 ment for individuals with alcohol or drug dependence;

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

11 “(D) An individual who provides mental health treatment or ser-
12 vices.

13 “(i) ‘Peer support specialist’ has the meaning given that term in
14 ORS 414.025.

15 “(j) ‘Personal support worker’ has the meaning given that term in
16 ORS 410.600.

17 “(k) ‘Qualified entity’ has the meaning given that term in ORS
18 181A.200.

19 “(L) ‘Residential facility’ has the meaning given that term in ORS
20 443.400.

21 “(m) ‘Valid criminal records check’ means a current, approved
22 criminal records check that was completed pursuant to this section
23 by the background check unit that provides shared services for the
24 department and the Oregon Health Authority.

25 “[~~(1)(a)~~] (2)(a) The department [*of Human Services*] or the [*Oregon*
26 *Health*] authority shall complete a criminal records check **on, and may re-**
27 **quest fingerprints of, the following individuals** under ORS 181A.195 [*on*]
28 **and 181A.200:**

29 “(A) An employee of a residential facility or an adult foster home;

30 “(B) Any individual who is paid directly or indirectly with public funds

1 who has or will have **direct** contact with [*a recipient of support services*] **an**
2 **individual receiving care** or a resident of an adult foster home or a resi-
3 dential facility; and

4 “(C) A home care worker or personal support worker registering with the
5 Home Care Commission or renewing a registration with the Home Care
6 Commission.

7 “(b) [*The department or the authority shall complete the criminal records*
8 *check under paragraph (a) of this subsection not more than once during an*
9 *18-month period*] **A criminal records check under this subsection shall**
10 **last for three years** unless the department or the authority:

11 “(A) Receives credible evidence of a new criminal conviction, **arrest or**
12 **charge that is considered potentially disqualifying under state law or**
13 **administrative rule;**

14 “(B) Receives credible evidence to substantiate a complaint of abuse or
15 neglect;

16 “(C) Is required by federal law to conduct more frequent criminal records
17 checks;

18 “(D) Is notified that a subject individual has changed positions or duties
19 for which there are different criminal records check requirements; or

20 “(E) Determines, under criteria set forth in rules adopted by the depart-
21 ment or the authority, that it would be burdensome for a subject individual
22 to wait for a new criminal records check.

23 “[*(2)(a)*] **(3)(a)** A home health agency shall conduct a criminal background
24 check before hiring or contracting with an individual and before allowing
25 an individual to volunteer to provide services on behalf of the home health
26 agency, if the individual will have direct contact with a patient of the home
27 health agency.

28 “(b) An in-home care agency shall conduct a criminal background check
29 before hiring or contracting with an individual and before allowing an indi-
30 vidual to volunteer to provide services on behalf of the in-home care agency,

1 if the individual will have direct contact with a client of the in-home care
2 agency.

3 “(c) The authority shall prescribe by rule the process for conducting a
4 criminal background check. **Except as provided by the authority by rule,**
5 **a criminal background check under this subsection shall last for three**
6 **years.**

7 “(4)(a) **If an individual has a valid criminal records check and is**
8 **seeking to work in any of the care settings described in subsections**
9 **(2) and (3) of this section, the department or the authority may not**
10 **require a new criminal records check to be completed solely on the**
11 **basis that the individual is seeking to change employer or care setting.**

12 “(b) **The department and the authority shall publish on their**
13 **websites the requirements and process for a valid criminal records**
14 **check to be portable to a new employer or care setting.**

15 “[~~(3)~~] **(5)** Public funds may not be used to support, in whole or in part,
16 the employment in any capacity [*having contact with a recipient of support*
17 *services or a resident of a residential facility or an adult foster home, of an*
18 *individual*] **of a subject individual described in subsection (2) or (3) of**
19 **this section**, other than a mental health or substance abuse treatment pro-
20 vider, who has been convicted:

21 “(a) Of a crime described in ORS 163.095, 163.107, 163.115, 163.118, 163.125,
22 163.145, 163.149, 163.165, 163.175, 163.185, 163.187, 163.200, 163.205, 163.225,
23 163.235, 163.263, 163.264, 163.266, 163.275, 163.465, 163.467, 163.535, 163.537,
24 163.547, 163.689, 163.700, 163.701, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d),
25 164.215, 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.013, 165.022,
26 165.032, 165.800, 165.803, 167.012, 167.017, 167.057, 167.320 or 167.322;

27 “(b) Notwithstanding paragraph (a) of this subsection, of a crime de-
28 scribed in ORS 163.465, 163.467, 163.700, 163.701, 164.055, 164.125 or 164.377,
29 the date of conviction for which was within the five years immediately pre-
30 ceding employment in any capacity of [*an individual, other than a mental*

1 *health or substance abuse treatment provider, having contact with a recipient*
2 *of support services, a resident of a residential facility or a resident of an adult*
3 *foster home]* **a subject individual described in subsection (2) of this sec-**
4 **tion**, when the recipient or resident is 65 years of age or older;

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

6 “(d) In the last 10 years, of a crime involving the delivery or manufacture
7 of a controlled substance;

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

10 “(f) Of a crime in another jurisdiction that is substantially equivalent,
11 as defined by rule, to a crime described in paragraphs (a) to (e) of this sub-
12 section.

13 “[~~(4)~~] **(6)** If the criminal background check conducted by a home health
14 agency or in-home care agency under subsection [~~(2)~~] **(3)** of this section re-
15 veals that the individual who is subject to the criminal background check
16 has been convicted of any of the crimes described in subsection [~~(3)~~] **(5)** of
17 this section, the home health agency or in-home care agency may not employ
18 the individual.

19 “[~~(5)~~] **(7)** Public funds may not be used to support, in whole or in part,
20 the employment, in any capacity having **direct** contact with [*a recipient of*
21 *support services*] **an individual receiving care** or a resident of a residential
22 facility or an adult foster home, of a mental health or substance abuse
23 treatment provider who has been convicted of committing, or convicted of
24 an attempt, conspiracy or solicitation to commit, a crime described in ORS
25 163.095, 163.107, 163.115, 163.375, 163.405, 163.411 or 163.427.

26 “[~~(6)~~] **(8)** Upon the request of a mental health or substance abuse treat-
27 ment provider, the department or authority shall maintain a record of the
28 results of any fitness determination made under ORS 181A.195 (10) **or ORS**
29 **181A.200**. The department or authority may disclose the record only to a
30 person the provider specifically authorizes, by a written release, to receive

1 the information.

2 “[(7)] (9) If the department or authority has a record of substantiated
3 abuse committed by an employee or potential employee of a home health
4 agency, in-home care agency, adult foster home or residential facility, re-
5 gardless of whether criminal charges were filed, the department or authority
6 shall notify, in writing, the employer and the employee or potential employee
7 and may conduct a fitness determination in accordance with this section and
8 ORS 181A.195.

9 “[8] *As used in this section:*]

10 “[a] ‘Adult foster home’ has the meaning given that term in ORS
11 443.705.]

12 “[b] ‘Home care worker’ has the meaning given that term in ORS
13 410.600.]

14 “[c] ‘Home health agency’ has the meaning given that term in ORS
15 443.014.]

16 “[d] ‘In-home care agency’ has the meaning given that term in ORS
17 443.305.]

18 “[e] ‘Mental health or substance abuse treatment provider’ means:]

19 “[A] A peer support specialist;]

20 “[B] An employee of a residential treatment facility or a residential treat-
21 ment home that is licensed under ORS 443.415 to provide treatment for indi-
22 viduals with alcohol or drug dependence;]

23 “[C] An individual who provides treatment or services for persons with
24 substance use disorders; or]

25 “[D] An individual who provides mental health treatment or services.]

26 “[f] ‘Peer support specialist’ has the meaning given that term in ORS
27 414.025.]

28 “[g] ‘Personal support worker’ has the meaning given that term in ORS
29 410.600.]

30 “[h] ‘Residential facility’ has the meaning given that term in ORS

1 443.400.]

2 **“SECTION 2. No later than 90 days after the effective date of this**
3 **2026 Act, the Department of Human Services and the Oregon Health**
4 **Authority shall notify facilities or organizations that employ individ-**
5 **uals subject to a criminal records check under ORS 443.004 that the**
6 **cycle for conducting a new criminal records check on a subject indi-**
7 **vidual has been extended to three years.**

8 **“SECTION 3. The amendments to ORS 443.004 by section 1 of this**
9 **2026 Act apply to criminal records checks completed on or after the**
10 **effective date of this 2026 Act.**

11 **“SECTION 4. (1) As used in this section:**

12 **“(a) ‘Agency’ means an organization that has received a certificate**
13 **of approval from the Oregon Health Authority to provide behavioral**
14 **health services.**

15 **“(b) ‘Behavioral health provider’ means an individual who is li-**
16 **censed, certified or otherwise authorized to provide behavioral health**
17 **services in this state.**

18 **“(2) The Oregon Health Authority shall communicate to behavioral**
19 **health providers and agencies and publish on the authority’s website**
20 **clear information about:**

21 **“(a) The process by which a credentialed behavioral health provider**
22 **may update the provider’s contact information or employer with the**
23 **authority; and**

24 **“(b) When a credentialed behavioral health provider is required to**
25 **undergo a new background check.**

26 **“SECTION 5. (1) As used in this section:**

27 **“(a) ‘Agency’ has the meaning given that term in section 4 of this**
28 **2026 Act.**

29 **“(b) ‘Behavioral health provider’ has the meaning given that term**
30 **in section 4 of this 2026 Act.**

1 “(c) ‘Coordinated care organization’ has the meaning given that
2 term in ORS 414.025.

3 “(d) ‘Medical assistance’ has the meaning given that term in ORS
4 414.025.

5 “(2) A coordinated care organization shall provide reimbursement
6 for services provided to a medical assistance recipient by a behavioral
7 health provider retroactively to the date that the provider submitted
8 to the Oregon Health Authority an application for enrollment in the
9 medical assistance program that resulted in the assignment of a pro-
10 vider identification number.

11 “(3) If a credentialed behavioral health provider begins working for
12 a new agency, a coordinated care organization may not require the
13 provider to submit a new credentialing application based solely on the
14 provider’s change in employer.

15 “SECTION 6. ORS 181A.195 is amended to read:

16 “181A.195. (1) As used in this section:

17 “(a) ‘Authorized agency’ means state government as defined in ORS
18 174.111, the Oregon State Bar or a municipal tax collection agency in a city
19 with a population of 250,000 or more. ‘Authorized agency’ does not include:

20 “(A) The Oregon State Lottery Commission or the Oregon State Lottery;
21 or

22 “(B) A criminal justice agency, as defined in ORS 181A.010, that is au-
23 thorized by federal law to receive fingerprint-based criminal records checks
24 from the Federal Bureau of Investigation.

25 “(b) ‘Subject individual’ means a person from whom an authorized agency
26 may require fingerprints pursuant to statute for the purpose of enabling the
27 authorized agency to request a state or nationwide criminal records check.

28 “(2)(a) An authorized agency may request that the Department of State
29 Police conduct a criminal records check on a subject individual for non-
30 criminal justice purposes.

1 “(b) An authorized agency may request that the department conduct a
2 criminal records check on a subject individual who is a contractor or vendor
3 and who provides services to the authorized agency when access to criminal
4 offender information is required to perform noncriminal justice administra-
5 tive functions on behalf of the authorized agency. Criminal records checks
6 performed under this paragraph are subject to state and federal criminal
7 offender information access policies. An authorized agency shall conduct
8 fitness determinations for contractors and vendors in coordination with the
9 department.

10 “(c) If a nationwide criminal records check of a subject individual is
11 necessary, the authorized agency may request that the department conduct
12 the check, including fingerprint identification, through the Federal Bureau
13 of Investigation.

14 “(3) The Department of State Police shall provide the results of a criminal
15 records check conducted pursuant to subsection (2) of this section to the
16 authorized agency requesting the check.

17 “(4) The Federal Bureau of Investigation shall return or destroy the fin-
18 gerprint cards used to conduct the criminal records check and may not keep
19 any record of the fingerprints, except that the Federal Bureau of Investi-
20 gation may retain the fingerprint cards and records of the fingerprints for
21 purposes described in ORS 181A.205. If the federal bureau policy authorizing
22 return or destruction of the fingerprint cards is changed, the Department of
23 State Police shall cease to send the cards to the federal bureau but shall
24 continue to process the information through other available resources.

25 “(5) If the Federal Bureau of Investigation returns the fingerprint cards
26 to the Department of State Police, the Department of State Police shall de-
27 stroy the fingerprint cards and may not retain facsimiles or other material
28 from which a fingerprint can be reproduced, except that the Department of
29 State Police may retain the fingerprint cards or create facsimiles for the
30 purpose of providing information under ORS 181A.205 and for purposes of

1 data security under subsection (12) of this section.

2 “(6) If only a state criminal records check is conducted, after the criminal
3 records check is completed, the Department of State Police shall destroy the
4 fingerprint cards and the results of the criminal records check provided to
5 the authorized agency and may not retain facsimiles or other material from
6 which a fingerprint can be reproduced, except that the Department of State
7 Police may retain the fingerprint cards and results or create facsimiles for
8 the purpose of providing information under ORS 181A.205.

9 “(7) An authorized agency may conduct criminal records checks on sub-
10 ject individuals through the Law Enforcement Data System maintained by
11 the Department of State Police in accordance with rules adopted, and pro-
12 cedures established, by the Department of State Police.

13 “(8) An authorized agency and the Department of State Police shall per-
14 mit a subject individual for whom a fingerprint-based criminal records check
15 was conducted to inspect the individual’s own state and national criminal
16 offender records and, if requested by the subject individual, provide the in-
17 dividual with a copy of the individual’s own state and national criminal
18 offender records.

19 “(9) Each authorized agency, in consultation with the Department of State
20 Police, may adopt rules to implement this section and other statutes relating
21 to criminal offender information obtained through fingerprint-based criminal
22 records checks. The rules may include but need not be limited to:

23 “(a) Identifying applicable categories of subject individuals as specified
24 by the Oregon Department of Administrative Services under ORS 181A.215
25 who are subject to criminal records checks by the authorized agency.

26 “(b) Identifying applicable information that may be required from a sub-
27 ject individual to permit a criminal records check as specified by the Oregon
28 Department of Administrative Services under ORS 181A.215.

29 “(c) Specifying which programs or services are subject to this section.

30 “(d) If the authorized agency uses criminal records checks for agency

1 employment purposes:

2 “(A) Determining when and under what conditions a subject individual
3 may be hired on a preliminary basis pending a criminal records check; and

4 “(B) Defining the conditions under which a subject individual may par-
5 ticipate in training, orientation and work activities pending completion of
6 a criminal records check.

7 “(e) Establishing fees in an amount not to exceed the actual cost of ac-
8 quiring and furnishing criminal offender information.

9 “(10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143,
10 342.223, 443.735, 475C.770 to 475C.919 and 703.090 and paragraph (d) of this
11 subsection, an authorized agency, using the rules adopted by the Oregon
12 Department of Administrative Services under ORS 181A.215, shall determine
13 whether a subject individual is fit to hold a position, provide services, be
14 employed or be granted a license, certification, registration or permit. If a
15 subject individual is determined to be unfit, then the individual may not hold
16 the position, provide services, be employed or be granted a license, certi-
17 fication, registration or permit.

18 “(b)(A) Subject to subparagraph (B) of this paragraph, an authorized
19 agency making a fitness determination of an individual under this subsection
20 may request results of a previously made fitness determination from an au-
21 thorized agency that has already made a fitness determination for the indi-
22 vidual. An authorized agency that receives a request under this paragraph
23 shall provide the requested information.

24 “(B) An authorized agency may make a request under this paragraph only
25 for individuals:

26 “(i) Who are applying to hold a position, provide services, be employed
27 or be granted a license, certification, registration or permit;

28 “(ii) Who are in a category of individuals as specified by the Oregon De-
29 partment of Administrative Services by rule under ORS 181A.215; and

30 “(iii) For whom a fitness determination has already been made.

1 “(c) Except as otherwise provided in ORS 181A.400, in making the fitness
2 determination under this subsection, the authorized agency shall consider:

3 “(A) The nature of the crime;

4 “(B) The facts that support the conviction or pending indictment or that
5 indicate the making of a false statement;

6 “(C) The relevancy, if any, of the crime or the false statement to the
7 specific requirements of the subject individual’s present or proposed position,
8 services, employment, license, certification or registration; and

9 “(D) Intervening circumstances relevant to the responsibilities and cir-
10 cumstances of the position, services, employment, license, certification, reg-
11 istration or permit, such as:

12 “(i) The passage of time since the commission of the crime;

13 “(ii) The age of the subject individual at the time of the crime;

14 “(iii) The likelihood of a repetition of offenses or of the commission of
15 another crime;

16 “(iv) The subsequent commission of another relevant crime;

17 “(v) Whether the conviction was set aside and the legal effect of setting
18 aside the conviction; and

19 “(vi) The recommendation of an employer.

20 “(d) A subject individual is not entitled to a fitness determination under
21 this subsection if the subject individual[.]

22 “[*(A) Is or seeks to be employed in any capacity having contact with a re-*
23 *cipient of support services or a resident of a residential facility or adult foster*
24 *home, as provided in ORS 443.004 (3), and has been convicted of any crime*
25 *listed in ORS 443.004 (3) or (5).*]

26 “[*(B)*] is prohibited by federal law from holding a position, providing
27 services, being employed or being granted a license, certification, registra-
28 tion or permit for which the fitness determination is requested by an au-
29 thorized agency.

30 “[*(11)(a) In conducting a fitness determination regarding a subject indi-*

vidual other than an individual described in paragraph (b) of this subsection, the Department of Human Services or the Oregon Health Authority may not consider:]

“(A) A conviction that is more than 10 years old unless the conviction is for a crime listed in ORS 443.004 (3) or (5);]

“(B) A charge or arrest for which there was no conviction unless the charge or arrest is for a crime listed in ORS 443.004 (3) or (5);]

“(C) A conviction on a charge relating to marijuana if the charge is no longer a criminal offense;]

“(D) A conviction under ORS 813.010 or 830.325, or a misdemeanor conviction under a law in another jurisdiction that imposes criminal penalties for operating a vehicle or boat while under the influence of intoxicants, if the subject individual had no more than one conviction described in this subparagraph in the five-year period prior to the date of the criminal records check;]

“(E) A deferred sentence, conditional discharge or participation in a diversion program for any crime unless the crime is listed in ORS 443.004 (3) and (5); and]

“(F) A pending indictment for a crime unless the crime is listed in ORS 443.004 (3) or (5).]

“(b) The department or the authority may consider a charge, arrest, conviction, deferred sentence, conditional discharge, participation in a diversion program or pending indictment that may not be considered under paragraph (a) of this subsection in making a fitness determination for a subject individual who is:]

“(A) Described in ORS 418.016;]

“(B) An employee, volunteer, contractor or provider in, or an agent of, a proctor foster home as defined in ORS 418.205 or a child-caring agency as defined in ORS 418.205;]

“(C) An exempt family child care provider, as defined in ORS 329A.430,

1 *the provider's household members who are 16 years of age or older or a fre-*
2 *quent visitor of a provider who is subject to a criminal records check;]*

3 *“(D) An employee or volunteer in a facility that:]*

4 *“(i) Provides care to children and is operated by a school district, as de-*
5 *fin ed in ORS 332.002, a political subdivision of this state, a preschool recorded*
6 *program, as defined in ORS 329A.250, or a government agency; and]*

7 *“(ii) Is not required to be certified under ORS 329A.280; or]*

8 *“(E) An emergency medical services provider, as defined in ORS 682.025,*
9 *for the purpose of determining the fitness of the emergency medical services*
10 *provider to receive or hold a license under ORS 670.280.]*

11 *“[(12)(a)]* **(11)(a)** Criminal offender information is confidential. Authorized
12 agencies and the Department of State Police shall adopt rules to restrict
13 dissemination of information received under this section to persons with a
14 demonstrated and legitimate need to know the information.

15 *“(b) For each employee, contractor or vendor of an authorized agency who*
16 *is required to have access to or review criminal offender information for*
17 *noncriminal justice purposes, the authorized agency shall:*

18 *“(A) Conduct a state and nationwide fingerprint-based criminal records*
19 *check;*

20 *“(B) Ensure that the employee, contractor or vendor meets the security*
21 *background check requirements of the Federal Bureau of Investigation*
22 *Criminal Justice Information Services Security Policy for having unescorted*
23 *access to criminal offender information; and*

24 *“(C) Pay fees as required under subsection (9) of this section.*

25 *“[(13)]* **(12)** If a subject individual refuses to consent to the criminal re-
26 cords check or refuses to be fingerprinted, the authorized agency shall deny
27 the employment of the individual, or revoke or deny any applicable position,
28 authority to provide services, license, certification, registration or permit.

29 *“[(14)]* **(13)** If an authorized agency requires a criminal records check of
30 employees, prospective employees, contractors, vendors or volunteers or ap-

1 plicants for a license, certification, registration or permit, the application
2 forms of the authorized agency must contain a notice that the person is
3 subject to fingerprinting and a criminal records check.

4 **“SECTION 7.** ORS 181A.200 is amended to read:

5 “181A.200. (1) As used in this section:

6 “(a) ‘Care’ means the provision of care, treatment, education, training,
7 instruction, supervision, placement services, recreation or support to chil-
8 dren, the elderly or persons with disabilities.

9 “(b) ‘Native American tribe’ has the meaning given that term in ORS
10 181A.210 (4).

11 “(c) ‘Qualified entity’ means a community mental health program, a com-
12 munity developmental disabilities program, a local health department, the
13 government of a Native American tribe or an agency of a Native American
14 tribe responsible for child welfare or an individual or business or organiza-
15 tion, whether public, private, for-profit, nonprofit or voluntary, that provides
16 care, including a business or organization that licenses, certifies or registers
17 others to provide care.

18 “(2) For the purpose of requesting a state or nationwide criminal records
19 check under ORS 181A.195, the Department of Human Services, the Oregon
20 Health Authority and the Employment Department may require the finger-
21 prints of [*a person*] **an individual**:

22 “(a) Who is employed by or is applying for employment with either de-
23 partment or the authority;

24 “(b) Who provides or seeks to provide services to either department or the
25 authority as a contractor, subcontractor, vendor or volunteer who:

26 “(A) May have contact with recipients of care;

27 “(B) Has access to personal information about employees of either de-
28 partment or the authority, recipients of care from either department or the
29 authority or members of the public, including Social Security numbers, dates
30 of birth, driver license numbers, medical information, personal financial in-

1 formation or criminal background information;

2 “(C) Has access to information the disclosure of which is prohibited by
3 state or federal laws, rules or regulations, or information that is defined as
4 confidential under state or federal laws, rules or regulations;

5 “(D) Has access to property held in trust or to private property in the
6 temporary custody of the state;

7 “(E) Has payroll or fiscal functions or responsibility for:

8 “(i) Receiving, receipting or depositing money or negotiable instruments;

9 “(ii) Billing, collections, setting up financial accounts or other financial
10 transactions; or

11 “(iii) Purchasing or selling property;

12 “(F) Provides security, design or construction services for government
13 buildings, grounds or facilities;

14 “(G) Has access to critical infrastructure or secure facilities information;
15 or

16 “(H) Is providing information technology services and has control over
17 or access to information technology systems;

18 “(c) For the purposes of licensing, certifying, registering, **providing**
19 **grants of public funds to** or otherwise regulating or administering pro-
20 grams, persons or qualified entities that provide care, **if the subject indi-**
21 **vidual:**

22 “(A) **May have contact with recipients of care;**

23 “(B) **Has access to personal information about recipients of care**
24 **from either department or the authority or members of the public,**
25 **including Social Security numbers, medical information, personal fi-**
26 **nancial information or criminal background information;**

27 “(C) **Has access to the personal funds of recipients of care; or**

28 “(D) **Has access to information the disclosure of which is prohibited**
29 **by state or federal laws, rules or regulations, or information that is**
30 **defined as confidential under state or federal laws, rules or**

1 **regulations;**

2 “(d) For the purposes of employment **and volunteer placement** decisions
3 by or for qualified entities that are regulated or otherwise subject to over-
4 sight by the Department of Human Services or the Oregon Health Authority
5 [*and that provide care*], **if the subject individual:**

6 “(A) **May have contact with recipients of care;**

7 “(B) **Has access to personal information about recipients of care**
8 **from the Department of Human Services, the Employment Depart-**
9 **ment or the authority or members of the public, including Social Se-**
10 **curity numbers, medical information, personal financial information**
11 **or criminal background information;**

12 “(C) **Has access to the personal funds of recipients of care; or**

13 “(D) **Has access to information the disclosure of which is prohibited**
14 **by state or federal laws, rules or regulations, or information that is**
15 **defined as confidential under state or federal laws, rules or**
16 **regulations;**

17 “(e) For the purposes of employment decisions made by a mass transit
18 district or transportation district for qualified entities that, under contracts
19 with the district or the Oregon Health Authority, employ persons to operate
20 motor vehicles for the transportation of medical assistance program clients;
21 or

22 “(f) For the purposes of licensure, certification or registration of foster
23 homes by the government of a Native American tribe or an agency of a Na-
24 tive American tribe responsible for child welfare.

25 “(3)(a) The Department of Human Services and the Oregon Health Au-
26 thority may conduct criminal records checks on a person through the Law
27 Enforcement Data System maintained by the Department of State Police, if
28 deemed necessary by the Department of Human Services or the Oregon
29 Health Authority to protect children, elderly persons, persons with disabili-
30 ties or other vulnerable persons.

1 **“(b) Any criminal records check on behalf of the Department of**
2 **Human Services or the Oregon Health Authority shall be conducted**
3 **by the background check unit that provides shared services for the**
4 **department and the authority. The background check unit shall com-**
5 **ply with all state and federal laws, rules and regulations governing the**
6 **security and confidentiality of state and federal criminal records in-**
7 **formation.**

8 *“[(4) The Department of Human Services and the Oregon Health Authority*
9 *may furnish to qualified entities, in accordance with the rules of the Depart-*
10 *ment of Human Services or the Oregon Health Authority and the rules of the*
11 *Department of State Police, information received from the Law Enforcement*
12 *Data System. However, any criminal offender records and information fur-*
13 *nished to the Department of Human Services or the Oregon Health Authority*
14 *by the Federal Bureau of Investigation through the Department of State Police*
15 *may not be disseminated to qualified entities.]*

16 *“[(5)(a)]* **(4)(a)** Except as otherwise provided in ORS 443.735 and 475C.770
17 to 475C.919, *[a qualified entity]* **the background check unit that provides**
18 **shared services for the Department of Human Services and the Oregon**
19 **Health Authority**, subject to rules **required under this section and ORS**
20 **181A.195 and** adopted by the Oregon Department of Administrative Services
21 under ORS 181A.215, shall determine under this section whether a person is
22 fit to hold a position, provide services, be employed or *[, if the qualified en-*
23 *tity has authority to make such a determination,]* be licensed, certified or
24 registered. If a person is determined to be unfit, then that person may not
25 hold the position, provide services or be employed, licensed, certified or
26 registered.

27 *“[(b) A person prohibited from receiving public funds for employment under*
28 *ORS 443.004 (3) is not entitled to a determination of fitness under this sub-*
29 *section.]*

30 **“(b) A subject individual is not entitled to a fitness determination**

1 **under this subsection if the subject individual:**

2 **“(A) Has been convicted of any crime listed in ORS 443.004 (5) or (7);**

3 **or**

4 **“(B) Is prohibited by federal law from holding a position, providing**
5 **services, being employed or being granted a license, certification, reg-**
6 **istration or permit for which the fitness determination is requested.**

7 **“(c) In making the fitness determination under this subsection, the**
8 **[qualified entity] background check unit shall consider:**

9 **“(A) The nature of the crime;**

10 **“(B) The facts that support the conviction or pending indictment or indi-**
11 **cate the making of a false statement;**

12 **“(C) The relevancy, if any, of the crime or the false statement to the**
13 **specific requirements of the person’s present or proposed position, services,**
14 **employment, license, certification or registration; and**

15 **“(D) Intervening circumstances relevant to the responsibilities and cir-**
16 **cumstances of the position, services, employment, license, certification or**
17 **registration, such as:**

18 **“(i) The passage of time since the commission of the crime;**

19 **“(ii) The age of the person at the time of the crime;**

20 **“(iii) The likelihood of a repetition of offenses;**

21 **“(iv) The subsequent commission of another relevant crime; and**

22 **“(v) The recommendation of an employer.**

23 **“(d) In making a fitness determination about a subject individual**
24 **other than an individual described in paragraph (e) of this subsection,**
25 **the background check unit may not consider:**

26 **“(A) A conviction that is more than 10 years old unless the con-**
27 **viction is for a crime listed in ORS 443.004 (5) or (7);**

28 **“(B) A charge or arrest for which there was no conviction unless**
29 **the charge or arrest is for a crime listed in ORS 443.004 (5) or (7);**

30 **“(C) A conviction on a charge relating to marijuana if the charge**

1 is no longer a criminal offense;

2 “(D) A conviction under ORS 813.010 or 830.325, or a misdemeanor
3 conviction under a law in another jurisdiction that imposes criminal
4 penalties for operating a vehicle or boat while under the influence of
5 intoxicants, if the subject individual had no more than one conviction
6 described in this subparagraph in the five-year period prior to the date
7 of the criminal records check;

8 “(E) A deferred sentence, conditional discharge or participation in
9 a diversion program for any crime unless the crime is listed in ORS
10 443.004 (5) and (7); or

11 “(F) A pending indictment for a crime unless the crime is listed in
12 ORS 443.004 (5) or (7).

13 “(e) The background check unit may consider a charge, arrest,
14 conviction, deferred sentence, conditional discharge, participation in
15 a diversion program or pending indictment that may not be considered
16 under paragraph (d) of this subsection in making a fitness determi-
17 nation for a subject individual who is:

18 “(A) Described in ORS 418.016;

19 “(B) An employee, volunteer, contractor or provider in, or an agent
20 of, a proctor foster home as defined in ORS 418.205 or a child-caring
21 agency as defined in ORS 418.205;

22 “(C) An exempt family child care provider, as defined in ORS
23 329A.430, the provider’s household members who are 16 years of age
24 or older or a frequent visitor of a provider who is subject to a criminal
25 records check;

26 “(D) An employee or volunteer in a facility that:

27 “(i) Provides care to children and is operated by a school district,
28 as defined in ORS 332.002, a political subdivision of this state, a pre-
29 school recorded program, as defined in ORS 329A.250, or a government
30 agency; and

1 “(ii) Is not required to be certified under ORS 329A.280; or

2 “(E) An emergency medical services provider, as defined in ORS
3 **682.025**, for the purpose of determining the fitness of the emergency
4 **medical services provider to receive or hold a license under ORS**
5 **670.280.**

6 “[(6)] (5) The Department of Human Services and the Oregon Health Au-
7 thority, subject to rules adopted by the Oregon Department of Administrative
8 Services under ORS 181A.215, shall develop systems that maintain informa-
9 tion regarding criminal records checks in order to minimize the administra-
10 tive burden imposed by this section and ORS 181A.195. Records maintained
11 under this subsection are confidential and may not be disseminated except
12 for the purposes of this section and in accordance with the rules of the De-
13 partment of Human Services, the Oregon Health Authority and the Depart-
14 ment of State Police. Nothing in this subsection permits the Department of
15 Human Services **or the Oregon Health Authority** to retain fingerprint
16 cards obtained pursuant to this section.

17 “[(7)] (6) In addition to the rules required by ORS 181A.195, the Depart-
18 ment of Human Services and the Oregon Health Authority, in consultation
19 with the Department of State Police, shall adopt rules:

20 “(a) Specifying which qualified entities are subject to this section;

21 “(b) Specifying which qualified entities may request criminal offender in-
22 formation;

23 “(c) Specifying which qualified entities are responsible for deciding, sub-
24 ject to rules adopted by the Oregon Department of Administrative Services
25 under ORS 181A.215, whether a subject individual is not fit for a position,
26 service, license, certification, registration or employment; and

27 “(d) Specifying when a qualified entity, in lieu of conducting a completely
28 new criminal records check, may proceed to make a fitness determination
29 under subsection [(5)] (4) of this section using the information maintained
30 by the Department of Human Services and the Oregon Health Authority

pursuant to subsection [(6)] (5) of this section.

“(8) (7) If a person refuses to consent to the criminal records check or refuses to be fingerprinted, the qualified entity shall deny or terminate the employment of the person, or revoke or deny any applicable position, authority to provide services, employment, license, certification or registration.

“(9) (8) If the qualified entity requires a criminal records check of employees or other persons, the application forms of the qualified entity must contain a notice that employment is subject to fingerprinting and a criminal records check.

“SECTION 8. ORS 443.008 is amended to read:

“443.008. (1) As used in this section:

“(a) ‘Direct care services’ means services provided to clients of the Department of Human Services or the Oregon Health Authority by:

“(A) An adult foster home, as defined in ORS 443.705;

“(B) A home care worker, as defined in ORS 410.600;

“(C) A residential facility, as defined in ORS 443.400; or

“(D) A service provider as defined in ORS 427.101.

“(b) ‘Fitness determination’ means the evaluation of whether a subject individual or other individual providing direct care services is fit to hold a position, provide direct care services or be granted a license, certification, registration or permit to provide direct care services.

“[(c) ‘Qualified entity’ has the meaning given that term in ORS 181A.190.]

“[(d)] (c) ‘Subject individual’ means a person who is:

“(A) Employed by or who seeks to be employed by the authority or the department;

“(B) A volunteer or who seeks to be a volunteer to provide care on behalf of the authority or the department; or

“(C) Providing care or who seeks to provide care on behalf of the authority or the department.

“(2) The department and the authority shall prescribe by rule the criteria

1 to be considered in making fitness determination findings of abuse that are
2 substantiated. The criteria must include the types of substantiated abuse for
3 which a subject individual may be found to be unfit and conditions, if any,
4 for the reinstatement of a subject individual who is found to be unfit.

5 “(3) A subject individual who is found to be unfit is entitled to challenge
6 the fitness determination in a contested case hearing conducted in accord-
7 ance with ORS chapter 183. The subject individual may not challenge a
8 finding of substantiated abuse or criminal conviction that was the basis for
9 the fitness determination but may contest the weight accorded the evidence,
10 mitigating factors or other aspects of the evaluation. The individual may be
11 represented by an attorney or other person or, if the individual is a member
12 of a bargaining unit, by the certified or recognized exclusive representative
13 for the bargaining unit.

14 “(4) This section applies to fitness determinations for providers of direct
15 care services conducted under ORS 181A.195 (10), **181A.200** or 443.004 [(7)]
16 **(9)**.

17 **“SECTION 9. This 2026 Act takes effect on the 91st day after the**
18 **date on which the 2026 regular session of the Eighty-third Legislative**
19 **Assembly adjourns sine die.”.**