

**FISCAL IMPACT OF PROPOSED LEGISLATION**

80th Oregon Legislative Assembly – 2019 Regular Session  
Legislative Fiscal Office

**Measure: SB 725**

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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**Measure Description:**

Specifies charges or convictions that may not be considered in fitness determinations.

**Government Unit(s) Affected:**

Department of Human Services (DHS), Oregon Health Authority (OHA), Oregon State Police (OSP)

**Summary of Fiscal Impact:**

Costs related to the measure are indeterminate at this time - See explanatory analysis.

**Analysis:**

SB 725 makes changes to statutes governing criminal background checks of individuals who provide direct care for youth, elderly persons, or dependent persons. The measure:

- Makes certain employees or prospective employees of clearinghouse qualified entities ineligible for employment if their criminal record includes a conviction or pending indictment for specific crimes. These are individuals who would have, during their employment, contact with a recipient of support services, a resident of a residential facility, or a resident of an adult foster home. The applicable crimes involve violence, harm to vulnerable persons, serious theft, and sex crimes. Clearinghouse qualified entities are defined as businesses or organizations that are not governed by a state regulatory or licensing agency, that provide care or placement services (or licenses or certifies others to provide care or placement services) for youth, elderly persons, or dependent persons. These entities include organizations such as church groups, Boys and Girls Clubs of America, Court Appointed Special Advocates (CASA), the Mental Health and Addiction Certification Board of Oregon (MHACBO), and the Oregon Museum of Science and Industry (OMSI).
- Prohibits from consideration, for determining fitness of an individual as an employee, contractor, or volunteer of clearinghouse qualified entities: (1) convictions more than 10 years old; (2) charges or arrests without conviction; (3) convictions on charges related to marijuana that is no longer a criminal offense; (4) convictions for driving under the influence of intoxicants if the individual has only one such conviction in the past five years; or (5) deferred sentences, conditional discharges, or participation in a diversion program for any crime other than the crimes specified by the provisions of this measure.
- Prohibits the Department of Human Services (DHS) and the Oregon Health Authority (OHA) from conducting criminal background checks on long term care and support service providers more than once in a two-year period.
- Specifies that criminal background checks required for employees and volunteers providing direct care do not apply to employees hired prior to July 28, 2009 who has remained with the same employer.

**Department of Human Services (DHS) and the Oregon Health Authority (OHA)**

The fiscal impact of this measure on DHS and OHA is indeterminate, however, the agencies predict an increase in workload for the Background Check Unit (BCU) – a shared service of DHS and OHA – because the bill makes individuals with certain crimes on their record ineligible for employment by clearinghouse qualified entities. Since criminal background checks for these entities are currently voluntary, the BCU will need to perform outreach, training, and compliance-related activities with these affected entities to inform them of their new required

responsibilities. At this time, DHS and OHA cannot quantify the number of affected entities and individuals. Some fitness determination work may be eliminated if subject individuals are screened out due to convictions.

DHS and OHA report that any reduction as a result of the “no more than one criminal background check in a two-year period” provision is anticipated to be nominal, since DHS and OHA continue to project overall growth in criminal background check requests, regardless of any law changes.

In addition, DHS and OHA report that provisions of this bill could be in conflict with federal codes governing Medicaid provider enrollment, which requires a state Medicaid agency to terminate or deny enrollment if the provider, or any person with a 5% or greater direct or indirect ownership interest in the provider, fails to submit fingerprints within 30 days of a Centers for Medicare and Medicaid Services or a state Medicaid agency request.

#### Oregon State Police (OSP)

The fiscal impact of this measure on OSP is indeterminate, depending on the number of clearinghouse qualified entities that serve the population and facilities specified in this bill to be identified by the Background Check Unit.