

A-Engrossed

House Bill 4115

Ordered by the House February 16
Including House Amendments dated February 16

Sponsored by Representatives NATHANSON, SCHAFER, PHAM H; Representatives ANDERSEN, GAMBA, HARBICK, JAVADI, RIEKE SMITH, WALTERS, WISE, Senator GELSER BLOUIN (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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes changes to how often DHS and OHA may require caregivers to get a new background check. The Act requires a CCO to pay certain providers back to the date that the provider enrolled in the state Medicaid program. The Act makes other changes related to the process for vetting certain health care providers. (Flesch Readability Score: 62.4).

Provides that a criminal records check on certain caregivers shall last for three years, subject to exceptions. Requires certain valid criminal records checks to be portable to other care settings.

Requires the authority to publish information about when a credentialed behavioral health provider must undergo a new background check.

Requires a coordinated care organization to reimburse a **contracted** behavioral health provider retroactively to the date the provider submitted a successful application for enrollment in the state medical assistance program. Prohibits a coordinated care organization from requiring a credentialed behavioral health provider to submit a new credentialing application when the provider changes employer.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1 Relating to health care providers; creating new provisions; amending ORS 181A.195, 181A.200,
2 443.004 and 443.008; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 443.004 is amended to read:

6 443.004. (1) **As used in this section:**

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

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

9 (c) **“Home health agency” has the meaning given that term in ORS 443.014.**

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

11 (e) **“Mental health or substance abuse treatment provider” means:**

12 (A) **A peer support specialist;**

13 (B) **An employee of a residential treatment facility or a residential treatment home that**
14 **is licensed under ORS 443.415 to provide treatment for individuals with alcohol or drug de-**
15 **pendence;**

16 (C) **An individual who provides treatment or services for persons with substance use**
17 **disorders; or**

18 (D) **An individual who provides mental health treatment or services.**

19 (f) **“Peer support specialist” has the meaning given that term in ORS 414.025.**

20 (g) **“Personal support worker” has the meaning given that term in ORS 410.600.**

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 (h) "Residential facility" has the meaning given that term in ORS 443.400, except that
2 "residential facility" does not include a secure residential treatment facility that is located
3 on an Oregon State Hospital campus or otherwise operated by the state.

4 (i) "Valid criminal records check" means a current, approved criminal records check that
5 was completed by the background check unit of the Department of Human Services pursuant
6 to this section.

7 [(1)(a)] (2)(a) The department [of Human Services] or the Oregon Health Authority shall com-
8 plete a criminal records check under ORS 181A.195 on:

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

10 (B) Any individual who is paid directly or indirectly with public funds who has or will have
11 contact with a recipient of support services or a resident of an adult foster home or a residential
12 facility; and

13 (C) A home care worker or personal support worker registering with the Home Care Commission
14 or renewing a registration with the Home Care Commission.

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

18 (A) Receives credible evidence of a new criminal conviction;

19 (B) Receives credible evidence to substantiate a complaint of abuse or neglect;

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

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

23 (E) Determines, under criteria set forth in rules adopted by the department or the authority,
24 that it would be burdensome for a subject individual to wait for a new criminal records check.

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

29 (b) An in-home care agency shall conduct a criminal background check before hiring or con-
30 tracting with an individual and before allowing an individual to volunteer to provide services on
31 behalf of the in-home care agency, if the individual will have direct contact with a client of the in-
32 home care agency.

33 (c) The authority shall prescribe by rule the process for conducting a criminal background
34 check. **Except as provided by the authority by rule, a criminal background check under this**
35 **subsection shall last for three years.**

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

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

43 [(3)] (5) Public funds may not be used to support, in whole or in part, the employment in any
44 capacity having contact with a recipient of support services or a resident of a residential facility
45 or an adult foster home, of an individual, other than a mental health or substance abuse treatment

1 provider, who has been convicted:

2 (a) Of a crime described in ORS 163.095, 163.107, 163.115, 163.118, 163.125, 163.145, 163.149,
 3 163.165, 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275,
 4 163.465, 163.467, 163.535, 163.537, 163.547, 163.689, 163.700, 163.701, 164.055, 164.057, 164.098, 164.125
 5 (5)(c) or (d), 164.215, 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.013, 165.022, 165.032,
 6 165.800, 165.803, 167.012, 167.017, 167.057, 167.320 or 167.322;

7 (b) Notwithstanding paragraph (a) of this subsection, of a crime described in ORS 163.465,
 8 163.467, 163.700, 163.701, 164.055, 164.125 or 164.377, the date of conviction for which was within the
 9 five years immediately preceding employment in any capacity of an individual, other than a mental
 10 health or substance abuse treatment provider, having contact with a recipient of support services,
 11 a resident of a residential facility or a resident of an adult foster home, when the recipient or resi-
 12 dent is 65 years of age or older;

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

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

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

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

20 [(4)] **(6)** If the criminal background check conducted by a home health agency or in-home care
 21 agency under subsection [(2)] **(3)** of this section reveals that the individual who is subject to the
 22 criminal background check has been convicted of any of the crimes described in subsection [(3)] **(5)**
 23 of this section, the home health agency or in-home care agency may not employ the individual.

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

29 [(6)] **(8)** Upon the request of a mental health or substance abuse treatment provider, the de-
 30 partment or authority shall maintain a record of the results of any fitness determination made under
 31 ORS 181A.195 (10). The department or authority may disclose the record only to a person the pro-
 32 vider specifically authorizes, by a written release, to receive the information.

33 [(7)] **(9)** If the department or authority has a record of substantiated abuse committed by an
 34 employee or potential employee of a home health agency, in-home care agency, adult foster home
 35 or residential facility, regardless of whether criminal charges were filed, the department or author-
 36 ity shall notify, in writing, the employer and the employee or potential employee and may conduct
 37 a fitness determination in accordance with this section and ORS 181A.195.

38 [(8) *As used in this section:*]

39 [(a) *“Adult foster home” has the meaning given that term in ORS 443.705.*]

40 [(b) *“Home care worker” has the meaning given that term in ORS 410.600.*]

41 [(c) *“Home health agency” has the meaning given that term in ORS 443.014.*]

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

43 [(e) *“Mental health or substance abuse treatment provider” means:*]

44 [(A) *A peer support specialist;*]

45 [(B) *An employee of a residential treatment facility or a residential treatment home that is licensed*

1 under ORS 443.415 to provide treatment for individuals with alcohol or drug dependence;]
2 [(C) An individual who provides treatment or services for persons with substance use disorders;
3 or]

4 [(D) An individual who provides mental health treatment or services.]

5 [(f) "Peer support specialist" has the meaning given that term in ORS 414.025.]

6 [(g) "Personal support worker" has the meaning given that term in ORS 410.600.]

7 [(h) "Residential facility" has the meaning given that term in ORS 443.400.]

8 **SECTION 2. No later than 90 days after the effective date of this 2026 Act, the Department**
9 **of Human Services and the Oregon Health Authority shall notify facilities or organizations**
10 **that employ individuals subject to a criminal records check under ORS 443.004 that**
11 **the cycle for conducting a new criminal records check on a subject individual has been ex-**
12 **tended to three years.**

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

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

16 (a) "Agency" means an organization that has received a certificate of approval from the
17 Oregon Health Authority to provide behavioral health services.

18 (b) "Behavioral health provider" means an individual who is licensed, certified or otherwise
19 authorized to provide behavioral health services in this state.

20 (2) The Oregon Health Authority shall communicate to behavioral health providers and
21 agencies and publish on the authority's website clear information about:

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

24 (b) When a credentialed behavioral health provider is required to undergo a new back-
25 ground check.

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

27 (a) "Agency" has the meaning given that term in section 4 of this 2026 Act.

28 (b) "Behavioral health provider" has the meaning given that term in section 4 of this 2026
29 Act.

30 (c) "Coordinated care organization" has the meaning given that term in ORS 414.025.

31 (2) For a behavioral health provider who is employed by an agency that contracts with
32 a coordinated care organization, the coordinated care organization shall reimburse the pro-
33 vider for the cost of services provided to a member of the coordinated care organization
34 retroactively to the date that the provider submitted to the Oregon Health Authority an
35 application for enrollment in the state medical assistance program that resulted in the as-
36 signment of a provider identification number.

37 (3) If a credentialed behavioral health provider begins working for a new agency, a coor-
38 dinated care organization may not require the provider to submit a new credentialing appli-
39 cation based solely on the provider's change in employer.

40 **SECTION 6. ORS 181A.195 is amended to read:**

41 181A.195. (1) As used in this section:

42 (a) "Authorized agency" means state government as defined in ORS 174.111, the Oregon State
43 Bar or a municipal tax collection agency in a city with a population of 250,000 or more. "Authorized
44 agency" does not include:

45 (A) The Oregon State Lottery Commission or the Oregon State Lottery; or

1 (B) A criminal justice agency, as defined in ORS 181A.010, that is authorized by federal law to
2 receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

3 (b) "Subject individual" means a person from whom an authorized agency may require finger-
4 prints pursuant to statute for the purpose of enabling the authorized agency to request a state or
5 nationwide criminal records check.

6 (2)(a) An authorized agency may request that the Department of State Police conduct a criminal
7 records check on a subject individual for noncriminal justice purposes.

8 (b) An authorized agency may request that the department conduct a criminal records check on
9 a subject individual who is a contractor or vendor and who provides services to the authorized
10 agency when access to criminal offender information is required to perform noncriminal justice ad-
11 ministrative functions on behalf of the authorized agency. Criminal records checks performed under
12 this paragraph are subject to state and federal criminal offender information access policies. An
13 authorized agency shall conduct fitness determinations for contractors and vendors in coordination
14 with the department.

15 (c) If a nationwide criminal records check of a subject individual is necessary, the authorized
16 agency may request that the department conduct the check, including fingerprint identification,
17 through the Federal Bureau of Investigation.

18 (3) The Department of State Police shall provide the results of a criminal records check con-
19 ducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

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

26 (5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of
27 State Police, the Department of State Police shall destroy the fingerprint cards and may not retain
28 facsimiles or other material from which a fingerprint can be reproduced, except that the Department
29 of State Police may retain the fingerprint cards or create facsimiles for the purpose of providing
30 information under ORS 181A.205 and for purposes of data security under subsection (12) of this
31 section.

32 (6) If only a state criminal records check is conducted, after the criminal records check is
33 completed, the Department of State Police shall destroy the fingerprint cards and the results of the
34 criminal records check provided to the authorized agency and may not retain facsimiles or other
35 material from which a fingerprint can be reproduced, except that the Department of State Police
36 may retain the fingerprint cards and results or create facsimiles for the purpose of providing infor-
37 mation under ORS 181A.205.

38 (7) An authorized agency may conduct criminal records checks on subject individuals through
39 the Law Enforcement Data System maintained by the Department of State Police in accordance with
40 rules adopted, and procedures established, by the Department of State Police.

41 (8) An authorized agency and the Department of State Police shall permit a subject individual
42 for whom a fingerprint-based criminal records check was conducted to inspect the individual's own
43 state and national criminal offender records and, if requested by the subject individual, provide the
44 individual with a copy of the individual's own state and national criminal offender records.

45 (9) Each authorized agency, in consultation with the Department of State Police, may adopt

1 rules to implement this section and other statutes relating to criminal offender information obtained
2 through fingerprint-based criminal records checks. The rules may include but need not be limited to:
3 (a) Identifying applicable categories of subject individuals as specified by the Oregon Department
4 of Administrative Services under ORS 181A.215 who are subject to criminal records checks
5 by the authorized agency.
6 (b) Identifying applicable information that may be required from a subject individual to permit
7 a criminal records check as specified by the Oregon Department of Administrative Services under
8 ORS 181A.215.
9 (c) Specifying which programs or services are subject to this section.
10 (d) If the authorized agency uses criminal records checks for agency employment purposes:
11 (A) Determining when and under what conditions a subject individual may be hired on a pre-
12 liminary basis pending a criminal records check; and
13 (B) Defining the conditions under which a subject individual may participate in training, orient-
14 ation and work activities pending completion of a criminal records check.
15 (e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing
16 criminal offender information.
17 (10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143, 342.223, 443.735,
18 475C.770 to 475C.919 and 703.090 and paragraph (d) of this subsection, an authorized agency, using
19 the rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, shall
20 determine whether a subject individual is fit to hold a position, provide services, be employed or be
21 granted a license, certification, registration or permit. If a subject individual is determined to be
22 unfit, then the individual may not hold the position, provide services, be employed or be granted a
23 license, certification, registration or permit.
24 (b)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness
25 determination of an individual under this subsection may request results of a previously made fitness
26 determination from an authorized agency that has already made a fitness determination for the in-
27 dividual. An authorized agency that receives a request under this paragraph shall provide the re-
28 quired information.
29 (B) An authorized agency may make a request under this paragraph only for individuals:
30 (i) Who are applying to hold a position, provide services, be employed or be granted a license,
31 certification, registration or permit;
32 (ii) Who are in a category of individuals as specified by the Oregon Department of Administra-
33 tive Services by rule under ORS 181A.215; and
34 (iii) For whom a fitness determination has already been made.
35 (c) Except as otherwise provided in ORS 181A.400, in making the fitness determination under
36 this subsection, the authorized agency shall consider:
37 (A) The nature of the crime;
38 (B) The facts that support the conviction or pending indictment or that indicate the making of
39 a false statement;
40 (C) The relevancy, if any, of the crime or the false statement to the specific requirements of the
41 subject individual's present or proposed position, services, employment, license, certification or reg-
42 istration; and
43 (D) Intervening circumstances relevant to the responsibilities and circumstances of the position,
44 services, employment, license, certification, registration or permit, such as:
45 (i) The passage of time since the commission of the crime;

1 (ii) The age of the subject individual at the time of the crime;
2 (iii) The likelihood of a repetition of offenses or of the commission of another crime;
3 (iv) The subsequent commission of another relevant crime;
4 (v) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
5 (vi) The recommendation of an employer.

6 (d) A subject individual is not entitled to a fitness determination under this subsection if the
7 subject individual:
8 (A) Is or seeks to be employed in any capacity having contact with a recipient of support ser-
9 vices or a resident of a residential facility or adult foster home, as provided in ORS 443.004 [(3)]
10 (5), and has been convicted of any crime listed in ORS 443.004 [(3)] (5) or [(5)] (7).
11 (B) Is prohibited by federal law from holding a position, providing services, being employed or
12 being granted a license, certification, registration or permit for which the fitness determination is
13 requested by an authorized agency.

14 (11)(a) In conducting a fitness determination regarding a subject individual other than an indi-
15 vidual described in paragraph (b) of this subsection, the Department of Human Services or the
16 Oregon Health Authority may not consider:
17 (A) A conviction that is more than 10 years old unless the conviction is for a crime listed in
18 ORS 443.004 [(3)] (5) or [(5)] (7);
19 (B) A charge or arrest for which there was no conviction unless the charge or arrest is for a
20 crime listed in ORS 443.004 [(3)] (5) or [(5)] (7);
21 (C) A conviction on a charge relating to marijuana if the charge is no longer a criminal offense;
22 (D) A conviction under ORS 813.010 or 830.325, or a misdemeanor conviction under a law in
23 another jurisdiction that imposes criminal penalties for operating a vehicle or boat while under the
24 influence of intoxicants, if the subject individual had no more than one conviction described in this
25 subparagraph in the five-year period prior to the date of the criminal records check;
26 (E) A deferred sentence, conditional discharge or participation in a diversion program for any
27 crime unless the crime is listed in ORS 443.004 [(3)] (5) and [(5)] (7); and
28 (F) A pending indictment for a crime unless the crime is listed in ORS 443.004 [(3)] (5) or [(5)]
29 (7).
30 (b) The department or the authority may consider a charge, arrest, conviction, deferred sen-
31 tence, conditional discharge, participation in a diversion program or pending indictment that may
32 not be considered under paragraph (a) of this subsection in making a fitness determination for a
33 subject individual who is:
34 (A) Described in ORS 418.016;
35 (B) An employee, volunteer, contractor or provider in, or an agent of, a proctor foster home as
36 defined in ORS 418.205 or a child-caring agency as defined in ORS 418.205;
37 (C) An exempt family child care provider, as defined in ORS 329A.430, the provider's household
38 members who are 16 years of age or older or a frequent visitor of a provider who is subject to a
39 criminal records check;
40 (D) An employee or volunteer in a facility that:
41 (i) Provides care to children and is operated by a school district, as defined in ORS 332.002, a
42 political subdivision of this state, a preschool recorded program, as defined in ORS 329A.250, or a
43 government agency; and
44 (ii) Is not required to be certified under ORS 329A.280; or
45 (E) An emergency medical services provider, as defined in ORS 682.025, for the purpose of de-

1 terminating the fitness of the emergency medical services provider to receive or hold a license under
2 ORS 670.280.

3 (12)(a) Criminal offender information is confidential. Authorized agencies and the Department
4 of State Police shall adopt rules to restrict dissemination of information received under this section
5 to persons with a demonstrated and legitimate need to know the information.

6 (b) For each employee, contractor or vendor of an authorized agency who is required to have
7 access to or review criminal offender information for noncriminal justice purposes, the authorized
8 agency shall:

9 (A) Conduct a state and nationwide fingerprint-based criminal records check;

10 (B) Ensure that the employee, contractor or vendor meets the security background check re-
11 quirements of the Federal Bureau of Investigation Criminal Justice Information Services Security
12 Policy for having unescorted access to criminal offender information; and

13 (C) Pay fees as required under subsection (9) of this section.

14 (13) If a subject individual refuses to consent to the criminal records check or refuses to be
15 fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny
16 any applicable position, authority to provide services, license, certification, registration or permit.

17 (14) If an authorized agency requires a criminal records check of employees, prospective em-
18 ployees, contractors, vendors or volunteers or applicants for a license, certification, registration or
19 permit, the application forms of the authorized agency must contain a notice that the person is
20 subject to fingerprinting and a criminal records check.

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

22 181A.200. (1) As used in this section:

23 (a) "Care" means the provision of care, treatment, education, training, instruction, supervision,
24 placement services, recreation or support to children, the elderly or persons with disabilities.

25 (b) "Native American tribe" has the meaning given that term in ORS 181A.210 (4).

26 (c) "Qualified entity" means a community mental health program, a community developmental
27 disabilities program, a local health department, the government of a Native American tribe or an
28 agency of a Native American tribe responsible for child welfare or an individual or business or or-
29 ganization, whether public, private, for-profit, nonprofit or voluntary, that provides care, including
30 a business or organization that licenses, certifies or registers others to provide care.

31 (2) For the purpose of requesting a state or nationwide criminal records check under ORS
32 181A.195, the Department of Human Services, the Oregon Health Authority and the Employment
33 Department may require the fingerprints of a person:

34 (a) Who is employed by or is applying for employment with either department or the authority;

35 (b) Who provides or seeks to provide services to either department or the authority as a con-
36 tractor, subcontractor, vendor or volunteer who:

37 (A) May have contact with recipients of care;

38 (B) Has access to personal information about employees of either department or the authority,
39 recipients of care from either department or the authority or members of the public, including Social
40 Security numbers, dates of birth, driver license numbers, medical information, personal financial in-
41 formation or criminal background information;

42 (C) Has access to information the disclosure of which is prohibited by state or federal laws,
43 rules or regulations, or information that is defined as confidential under state or federal laws, rules
44 or regulations;

45 (D) Has access to property held in trust or to private property in the temporary custody of the

1 state;

2 (E) Has payroll or fiscal functions or responsibility for:

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

4 (ii) Billing, collections, setting up financial accounts or other financial transactions; or

5 (iii) Purchasing or selling property;

6 (F) Provides security, design or construction services for government buildings, grounds or fa-

7 cilities;

8 (G) Has access to critical infrastructure or secure facilities information; or

9 (H) Is providing information technology services and has control over or access to information

10 technology systems;

11 (c) For the purposes of licensing, certifying, registering or otherwise regulating or administering

12 programs, persons or qualified entities that provide care;

13 (d) For the purposes of employment decisions by or for qualified entities that are regulated or

14 otherwise subject to oversight by the Department of Human Services or the Oregon Health Au-

15 thority and that provide care;

16 (e) For the purposes of employment decisions made by a mass transit district or transportation

17 district for qualified entities that, under contracts with the district or the Oregon Health Authority,

18 employ persons to operate motor vehicles for the transportation of medical assistance program cli-

19 ents; or

20 (f) For the purposes of licensure, certification or registration of foster homes by the government

21 of a Native American tribe or an agency of a Native American tribe responsible for child welfare.

22 (3) The Department of Human Services and the Oregon Health Authority may conduct criminal

23 records checks on a person through the Law Enforcement Data System maintained by the Depart-

24 ment of State Police, if deemed necessary by the Department of Human Services or the Oregon

25 Health Authority to protect children, elderly persons, persons with disabilities or other vulnerable

26 persons.

27 (4) The Department of Human Services and the Oregon Health Authority may furnish to qualifi-

28 ed entities, in accordance with the rules of the Department of Human Services or the Oregon

29 Health Authority and the rules of the Department of State Police, information received from the

30 Law Enforcement Data System. However, any criminal offender records and information furnished

31 to the Department of Human Services or the Oregon Health Authority by the Federal Bureau of

32 Investigation through the Department of State Police may not be disseminated to qualified entities.

33 (5)(a) Except as otherwise provided in ORS 443.735 and 475C.770 to 475C.919, a qualified entity,

34 subject to rules adopted by the Oregon Department of Administrative Services under ORS 181A.215,

35 shall determine under this section whether a person is fit to hold a position, provide services, be

36 employed or, if the qualified entity has authority to make such a determination, be licensed, certified

37 or registered. If a person is determined to be unfit, then that person may not hold the position,

38 provide services or be employed, licensed, certified or registered.

39 (b) A person prohibited from receiving public funds for employment under ORS 443.004 [3] (5)

40 is not entitled to a determination of fitness under this subsection.

41 (c) In making the fitness determination under this subsection, the qualified entity shall consider:

42 (A) The nature of the crime;

43 (B) The facts that support the conviction or pending indictment or indicate the making of a false

44 statement;

45 (C) The relevancy, if any, of the crime or the false statement to the specific requirements of the

1 person's present or proposed position, services, employment, license, certification or registration;
2 and

3 (D) Intervening circumstances relevant to the responsibilities and circumstances of the position,
4 services, employment, license, certification or registration, such as:

5 (i) The passage of time since the commission of the crime;
6 (ii) The age of the person at the time of the crime;
7 (iii) The likelihood of a repetition of offenses;
8 (iv) The subsequent commission of another relevant crime; and
9 (v) The recommendation of an employer.

10 (6) The Department of Human Services and the Oregon Health Authority, subject to rules
11 adopted by the Oregon Department of Administrative Services under ORS 181A.215, shall develop
12 systems that maintain information regarding criminal records checks in order to minimize the ad-
13 ministrative burden imposed by this section and ORS 181A.195. Records maintained under this sub-
14 section are confidential and may not be disseminated except for the purposes of this section and in
15 accordance with the rules of the Department of Human Services, the Oregon Health Authority and
16 the Department of State Police. Nothing in this subsection permits the Department of Human Ser-
17 vices to retain fingerprint cards obtained pursuant to this section.

18 (7) In addition to the rules required by ORS 181A.195, the Department of Human Services and
19 the Oregon Health Authority, in consultation 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 information;
22 (c) Specifying which qualified entities are responsible for deciding, subject to rules adopted by
23 the Oregon Department of Administrative Services under ORS 181A.215, whether a subject individ-
24 ual is not fit for a position, service, license, certification, registration or employment; and
25 (d) Specifying when a qualified entity, in lieu of conducting a completely new criminal records
26 check, may proceed to make a fitness determination under subsection (5) of this section using the
27 information maintained by the Department of Human Services and the Oregon Health Authority
28 pursuant to subsection (6) of this section.

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

32 (9) If the qualified entity requires a criminal records check of employees or other persons, the
33 application forms of the qualified entity must contain a notice that employment is subject to fin-
34 gerprinting and a criminal records check.

35 **SECTION 8.** ORS 443.008 is amended to read:

36 443.008. (1) As used in this section:

37 (a) "Direct care services" means services provided to clients of the Department of Human Ser-
38 vices or the Oregon Health Authority by:

39 (A) An adult foster home, as defined in ORS 443.705;
40 (B) A home care worker, as defined in ORS 410.600;
41 (C) A residential facility, as defined in ORS 443.400; or
42 (D) A service provider as defined in ORS 427.101.

43 (b) "Fitness determination" means the evaluation of whether a subject individual or other indi-
44 vidual providing direct care services is fit to hold a position, provide direct care services or be
45 granted a license, certification, registration or permit to provide direct care services.

1 (c) "Qualified entity" has the meaning given that term in ORS 181A.190.

2 (d) "Subject individual" means a person who is:

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

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

5 department; or

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

7 (2) The department and the authority shall prescribe by rule the criteria to be considered in

8 making fitness determination findings of abuse that are substantiated. The criteria must include the

9 types of substantiated abuse for which a subject individual may be found to be unfit and conditions,

10 if any, for the reinstatement of a subject individual who is found to be unfit.

11 (3) A subject individual who is found to be unfit is entitled to challenge the fitness determination

12 in a contested case hearing conducted in accordance with ORS chapter 183. The subject individual

13 may not challenge a finding of substantiated abuse or criminal conviction that was the basis for the

14 fitness determination but may contest the weight accorded the evidence, mitigating factors or other

15 aspects of the evaluation. The individual may be represented by an attorney or other person or, if

16 the individual is a member of a bargaining unit, by the certified or recognized exclusive represen-

17 tative for the bargaining unit.

18 (4) This section applies to fitness determinations for providers of direct care services conducted

19 under ORS 181A.195 (10) or 443.004 [(7)] (9).

20 **SECTION 9. This 2026 Act takes effect on the 91st day after the date on which the 2026**

21 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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