

**ORS 443.004**  
**(also known as HB 2442 or Oregon Law 837)**

ORS 443.004 (also known as HB 2442 or Oregon Law 837) is now in effect for individuals hired on or after July 28, 2009 or who are subject to a criminal records check on or after July 28, 2009. ORS 443.004 (HB 2442) directly impacts the criminal records check process. In this legislation, public funds may not be used to support, in whole or in part, the employment in any capacity of an individual who has contact with a recipient of home health or in-home care agency services or support services, or contact with a resident of a residential facility or an adult foster home, if the individual has specific convictions. **See list for crimes covered by ORS 443.004 (HB 2442).**

**What This Means for ADs/CPs**

Discovery of an individual with these specific convictions may occur in one of the following ways:

- During your application process you should determine if the individual has one of these convictions; if you find these convictions, the individual is not eligible for the position and may not be hired. No Background Check Request form is needed.
- If hiring occurs, however, and you find one or more disclosures of the convictions based on your review of the DHS301 Background Check Request form, you must submit the DHS301 to the DHS Background Check Unit. **DO NOT HIRE THE INDIVIDUAL ON A PRELIMINARY BASIS.** The Background Check Unit will review the 301, and if ORS 443.004 (HB 2442) crimes are confirmed, the Background Check Unit will deny the subject individual.
- Finally, if the BCU finds evidence of one of these convictions during a criminal records check, the BCU will deny the subject individual, notifying you of the outcome.

If the subject individual has other potentially disqualifying crimes or conditions not on the ORS 443.004 (HB 2442) list, proceed as you normally would with the Background Check Request form, weighing test and fitness determination.

**QEs Subject to ORS 443.004 (HB 2442) Crime List**

The Department divisions are updating program rules regarding ORS 443.004 (HB 2442) and other legislation. Go to [http://www.oregon.gov/DHS/admin/rule\\_policy.shtml](http://www.oregon.gov/DHS/admin/rule_policy.shtml) to find rules pertinent to your program and to eSubscribe to get updates. ORS 443.004 (HB 2442) effects the criminal records check process for many qualified entities including but not limited to:

- The Department of Human Services or qualified entity employees who have direct contact with recipients and residents described above
- All developmental disability program areas
- SPD assisted living facilities and residential care facilities
- Any paid individuals providing support services to clients, including home care workers, personal care assistants, respite care providers, etc.
- In-home care agencies and home health agencies
- Mental health residential treatment facilities and residential treatment homes
- All adult foster homes (Department divisions may include household members and volunteers also)

**QEs and SIs NOT Subject to Crime List**

Some qualified entities and subject individuals are not currently subject to ORS 443.004 (HB 2442) crimes. These include but are not limited to:

- Nursing facilities (Please contact BCU if you feel that your nursing home may be subject to the crime list due to an ALF or RCF on premises.)
- Private licensed child caring agencies (unless also licensed or certified as a developmental disability program)
- Some volunteers (Check specific program rules to determine if volunteers are subject.)
- Peer support specialists (in mental health or alcohol and drug programs)
- Hospitals (medical or psychiatric)

**Please check the Background Check Unit website frequently as interpretation of ORS 443.004 is ongoing: <http://www.oregon.gov/dhs/chc/>**

**ORS 443.004 (HB 2442) Crimes  
Information for All Authorized Designees (DHS, BCU, Local Providers)**

**PLEASE READ CAREFULLY!**

Public funds may not be used to support, in whole or in part, the employment in any capacity of an individual having contact with a recipient of home health or in-home care agency services or support services, or contact with a resident of a residential facility or an adult foster home, who has any of the following convictions. **ORS 443.004 (HB 2442) takes effect for anyone with this type of employment hired on or after July 28, 2009 (see attached information regarding who is subject).**

- If the individual has a conviction for delivery (selling) of drugs or manufacture (making) of drugs (or attempt, conspiracy, or solicitation for these types of crimes) in the past 10 years, the individual cannot hold the position under ORS 443.004 (HB 2442): THE INDIVIDUAL IS NOT ELIGIBLE FOR THE POSITION. IF ONE OR MORE OF THESE CRIMES ARE DISCOVERED AFTER THE COMPLETION OF THE 301, SUBMIT THE 301 TO THE BACKGROUND CHECK UNIT.
- If the individual has ever been convicted of any of the listed crimes (or attempt, conspiracy, or solicitation for any of the listed crimes), the individual cannot hold the position under ORS 443.004 (HB 2442): THE INDIVIDUAL IS NOT ELIGIBLE FOR THE POSITION. IF ONE OR MORE OF THESE CRIMES ARE DISCOVERED AFTER THE COMPLETION OF THE 301, SUBMIT THE 301 TO THE BACKGROUND CHECK UNIT.

These crimes involve violence, harm to children, serious theft, identity theft, and sex crimes.

ORS 163.095 Aggravated murder	ORS 163.465 Public Indecency
ORS 163.115 Murder	ORS 163.467 Private Indecency
ORS 163.118 Manslaughter I	ORS 163.525 Incest with a child victim
ORS 163.125 Manslaughter II	ORS 163.535 Abandonment of a child
ORS 163.145 Criminally negligent homicide	ORS 163.537 Buying or selling a person under 18 years of age
ORS 163.149 Aggravated vehicular homicide	ORS 163.670 Using a child in display of sexually explicit conduct
ORS 163.165 Assault III	ORS 163.680 Paying for viewing a child's sexually explicit conduct
ORS 163.175 Assault II	ORS 163.686 Encouraging child sexual abuse I
ORS 163.185 Assault I	ORS 163.686 Encouraging child sexual abuse II
ORS 163.187 Strangulation	ORS 163.687 Encouraging child sexual abuse III
ORS 163.200 Criminal mistreatment II	ORS 163.688 Possession of materials depicting sexually explicit conduct of a child I
ORS 163.205 Criminal mistreatment I	ORS 163.689 Possession of materials depicting sexually explicit conduct of a child II
ORS 163.225 Kidnapping II	ORS 163.700 Invasion of personal privacy
ORS 163.235 Kidnapping I	ORS 164.055 Theft I
ORS 163.263 Subjecting another person to involuntary servitude II	ORS 164.057 Aggravated Theft I
ORS 163.264 Subjecting another person to involuntary servitude I	ORS 164.098 Organized retail theft
ORS 163.266 Trafficking in persons	ORS 164.125 Theft of services, if charged as a felony
ORS 163.275 Coercion	ORS 164.215 Burglary II
ORS 163.355 Rape III	ORS 164.225 Burglary I
ORS 163.365 Rape II	ORS 164.325 Arson I
ORS 163.375 Rape I	ORS 164.377 Computer crime, if charged with a felony
ORS 163.385 Sodomy III	ORS 164.405 Robbery II
ORS 163.395 Sodomy II	ORS 164.415 Robbery I
ORS 163.405 Sodomy I	ORS 165.022 Criminal possession of a forged instrument I
ORS 163.408 Unlawful sexual penetration II	ORS 165.032 Criminal possession of a forgery device
ORS 163.411 Unlawful sexual penetration I	ORS 165.800 Identity theft
ORS 163.415 Sexual Abuse III	ORS 165.803 Aggravated identity theft
ORS 163.425 Sexual Abuse II	ORS 167.012 Promoting prostitution
ORS 163.427 Sexual Abuse I	ORS 167.017 Compelling prostitution
ORS 163.432 Online sexual corruption of a child II, if the offender reasonably believed the child to be more than five years younger than the offender	ORS 167.054 Furnishing sexually explicit material to a child
ORS 163.432 Online sexual corruption of a child I, if the offender reasonably believed the child to be more than five years younger than the offender	ORS 167.057 Luring a minor
ORS 163.435 Contributing to the sexual delinquency of a minor	ORS 181.594 Sex Crimes, including Transporting child pornography into the state
ORS 163.445 Sexual misconduct, if the offender is at least 18 years of age	