



Oregon Department of Human Services

HB 2175: Using abuse and neglect information to screen DHS employees, volunteers and providers

Q: What is happening?

A: The Department of Human Services is taking important steps to ensure the safety and quality of care for the most vulnerable Oregonians. DHS is expanding background screening for DHS existing employees, volunteers, and new hires, to include histories of founded abuse and neglect complaints. This will be in addition to criminal background checks already conducted. As resources permit, that screening will also be expanded to those outside of DHS who provide services to DHS clients, such as home care providers and treatment facilities staff.

Q: What authority does DHS have to screen for abuse?

A: The 2007 Oregon Legislature approved House Bill 2175, giving DHS the authority to use abuse and neglect information to screen applicants for employee, volunteer and provider positions. The bill has since been codified as Oregon Revised Statute 409.025 and 409.027.

DHS already uses criminal history information for screening applicants. ORS 409.025 and 409.027 authorize DHS to:

- Adopt administrative rules and procedures for using abuse and neglect information to screen applicants for employee and volunteer positions with DHS, and to screen applicants for employment as providers of services to DHS clients;
- Convene a committee to develop recommendations for an abuse registry and screening process for DHS providers and persons licensed, certified, registered or otherwise regulated by DHS to provide care;

Q: What has DHS done so far to implement this process?

A: DHS is committed to creating a workable and fair system that effectively protects clients. Following passage of HB 2175 in 2007, a DHS steering committee and workgroup was formed that includes representatives from all DHS divisions and employee unions.

The group has been researching the complex legal and practical steps needed to implement the screening rules and criteria. We want to ensure Oregon's system is effective from the outset.

We held a series of regional meetings in the summer of 2008, and stakeholder workgroup meetings in the fall of 2008, receiving input from hundreds of participating employees, providers, and advocates.

Q: When is the screening expected to begin?

A: DHS Employees, volunteers, and new applicants: The new screening process begins in October 2009.

A: Providers: Screening of providers will begin as resources permit, after recommendations for implementation have been considered by the legislature. DHS does not currently have the resources needed to build a data base for identifying perpetrators across program areas, or staffing for the very large numbers of background checks that would be required for routine screening of all DHS providers.

Q: Who will be screened for abuse/neglect background?

A: At this time, only DHS Employees, volunteers, and new applicants will be screened. The new rules do not provide for routine screening of all current DHS employees or volunteers. So current employees and volunteers would only be subject to screening for abuse and neglect histories when they apply for new positions, or if they become subjects of new founded complaints of abuse or neglect.

Q: How will the background screening work?

- Current employees, volunteers and applicants who apply for new positions within DHS will be screened for abuse and neglect history, along with a criminal background check, by the Background Check Unit (formerly called the Criminal Records Unit) upon offer of employment.

- The DHS Background Check Unit will access investigative records every time a background check for employment is conducted. If the applicant's history includes a founded complaint of abuse or neglect, a weight test will be used to determine whether the individual is suitable for employment in the given position. In evaluating an applicant's background, DHS will consider the individual's intentions, and actions or inactions, as well as the responsibilities of the position.

Here's how it will work:

1. For current DHS employees and volunteers:

- Administrative rules/procedure have been established for current employees/volunteers.
- Those who are subject of a founded abuse will be offered an administrative review from the Program area in which the investigation was completed--CAF, OIT, or SPD.
- Subject individuals will receive notice of the findings/review and the opportunity to provide information in their defense.
- Current employees and volunteers who become a subject of a founded investigation of abuse and neglect are required to notify their supervisor of that fact.
- Investigating programs will forward founded cases to Human Resources for personnel investigation and personnel action if warranted, with appropriate due process.
- The employee or volunteer will be subject to a fitness determination by the Human Resources Division to decide whether they can remain in their current positions.
- Results will be tracked in a simple data base within HR.

2. For applicants offered employment or volunteer positions with DHS:

- The background check process will include checking founded abuse records.
- HR will perform the fitness determination and assist the Background Check Unit (formerly the Criminal Records Unit, or CRU) with appeals (through the current contested case hearing process).
- Position announcements and the background check authorization form will provide notice and a description of the new background check process.

Due to lack of resources, we will not be implementing screening for providers or an “employment exclusion registry” at this time.

Q: Do people have the right to appeal hiring decisions based on abuse/neglect information?

A: Yes. When an individual is denied a position, he/she will be notified of the decision and of the right to appeal. Through the appeal process, the individual may submit mitigating information to help explain or clarify the relevant incident(s).

Q: Next steps

A. Work continues on the following, to be completed and implemented as resources permit:

- Developing a comprehensive data base that allows for better information tracking, sharing across the department, and identification of perpetrators.
- Developing an objective classification system and instrument to be used at the point of findings as a screening tool for determining the severity of abuse findings.
- Developing an Employment Exclusion Registry for individuals with histories of abuse so serious they represent an unacceptable risk to the well-being of DHS clients.
- Improving due process procedures across all DHS programs at the time of substantiation for those who are founded for abuse and neglect.
- Developing provider screening procedures, to extend background screening for abuse histories to providers who are non-DHS employees. [Providers will include any person who provides services or care on behalf of DHS, and any person licensed, certified, registered or otherwise regulated by DHS. This includes but is not limited to: long term care providers (nursing facility, home care, assisted living), children’s services (foster providers, treatment services), mental health programs, services for persons with developmental disabilities, and alcohol and drug treatment service providers.]
- Learning from and refining the employee implementation process as we go.
- Preparing a report and resource request for the next legislative session to incorporate the preceding elements.

How can I get more information or provide additional feedback?

More information and updates will be available online at
<http://www.oregon.gov/DHS/chc/abuseneg/>

Contact

We welcome questions and feedback. Contact Georgena Carrow, who is leading the implementation team, at georgena.m.carrow@dhs.state.or.us.