

**A-Engrossed**  
**House Bill 2207**

Ordered by the House May 1  
Including House Amendments dated May 1

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Employment Department)

**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.

Changes name of Criminal History Registry to Central Background Registry.

**Expands definition of "subject individual" to include contractor, employee or volunteer of metropolitan service district who may have unsupervised contact with children.**

**Requires reciprocal agreement between Child Care Division of Employment Department and metropolitan service district for enrollment of contractors, employees or volunteers of district in Central Background Registry.**

**Authorizes disclosure of child abuse reports and records to Child Care Division.**

**Sunsets provisions other than name change January 1, 2014.**

**A BILL FOR AN ACT**

1  
2 Relating to Central Background Registry; creating new provisions; amending ORS 419B.035,  
3 657A.030 and 657A.275.

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

5 **SECTION 1.** ORS 657A.030 is amended to read:

6 657A.030. (1) The Child Care Division of the Employment Department shall establish a [*Criminal*  
7 *History*] **Central Background** Registry.

8 (2) All subject individuals shall be enrolled in the [*Criminal History*] **Central Background**  
9 Registry established by the division.

10 (3) Upon receiving an application for enrollment in the [*Criminal History*] **Central Background**  
11 Registry, the division shall complete a criminal records check under ORS 181.534 and shall complete  
12 a child protective services records check with the Department of Human Services. The division shall  
13 enroll the individual in the registry if the individual:

14 (a) Is determined to have no criminal or child protective services history or to have dealt with  
15 the issues and provided adequate evidence of suitability for the registry;

16 (b) Has paid the applicable fee established pursuant to ORS 657A.275; and

17 (c) Has complied with the rules of the division adopted pursuant to this section.

18 (4) The division may conditionally enroll an individual in the registry pending the results of a  
19 nationwide criminal records check through the Federal Bureau of Investigation if the individual has  
20 met other requirements of the division for enrollment in the registry.

21 (5) An enrollment in the [*Criminal History*] **Central Background** Registry shall expire two years  
22 from the date of enrollment and may be renewed upon application to the division, payment of the  
23 fee established pursuant to ORS 657A.275 and compliance with rules adopted by the division pursu-  
24 ant to this section. However, an individual who is determined to be ineligible for enrollment in the

**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 registry after the date of initial enrollment shall be removed from the registry by the division.

2 (6)(a) A child care facility shall not hire or employ an individual if the individual is not enrolled  
3 in the [*Criminal History*] **Central Background** Registry.

4 (b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a  
5 probationary basis an individual who is conditionally enrolled in the [*Criminal History*] **Central**  
6 **Background** Registry.

7 (7) The division may adopt any rules necessary to carry out the purposes of this section and the  
8 criminal records check program.

9 (8) For purposes of this section, "subject individual" means a subject individual as defined by  
10 the division by rule or a person who applies to be:

11 (a) The operator or an employee of a child care or treatment program;

12 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to  
13 329.200;

14 (c) The operator or an employee of a federal Head Start program regulated by the United States  
15 Department of Health and Human Services;

16 (d) An individual in a child care facility who may have unsupervised contact with children as  
17 identified by the division;

18 (e) A contractor or an employee of the contractor who provides early childhood special educa-  
19 tion or early intervention services pursuant to ORS 343.455 to 343.534; [*or*]

20 (f) A child care provider who is required to be enrolled in the [*Criminal History*] **Central**  
21 **Background** Registry by any state agency[.]; **or**

22 **(g) A contractor, employee or volunteer of a metropolitan service district organized un-**  
23 **der ORS chapter 268 who may have unsupervised contact with children and who is required**  
24 **to be enrolled in the Central Background Registry by the metropolitan service district.**

25 **(9) Information provided to a metropolitan service district organized under ORS chapter**  
26 **268 about the enrollment status of the persons described in subsection (8)(g) of this section**  
27 **shall be subject to a reciprocal agreement with the metropolitan service district. The agree-**  
28 **ment must provide for the recovery of administrative, including direct and indirect, costs**  
29 **incurred by the division from participation in the agreement. Any moneys collected under**  
30 **this subsection shall be deposited in the Child Care Fund established under ORS 657A.010.**

31 **SECTION 2.** ORS 657A.275 is amended to read:

32 657A.275. (1) Subject to prior approval of the Oregon Department of Administrative Services and  
33 a report to the Legislative Assembly prior to adopting the fees and charges, the fees and charges  
34 established under ORS 181.534, 657A.030 and 657A.250 to 657A.450 may not exceed the cost of ad-  
35 ministering the program of the Child Care Division of the Employment Department pertaining to the  
36 purpose for which the fee is established, as authorized by the Legislative Assembly within the  
37 budget of the division.

38 (2) Notwithstanding subsection (1) of this section and any other provision of this chapter, the  
39 following fees established by the division under ORS 657A.030 and 657A.250 to 657A.450 may not  
40 exceed:

41 (a) For Certified Family Child Care Home Initial Certification, \$25;

42 (b) For Certified Family Child Care Home Annual Fee Per Certified Space, \$2;

43 (c) For Child Care Center Initial Certification, \$100;

44 (d) For Child Care Center Annual Fee Per Certified Space, \$2;

45 (e) For Registered Family Child Care Home Registration, \$30;

1 (f) For administering a class on child care abuse and neglect issues, \$10; and

2 (g) For enrollment in the [*Criminal History*] **Central Background** Registry, the cost of admin-  
3 istering the program, including fees for:

4 (A) Duplicate enrollment in the [*Criminal History*] **Central Background** Registry;

5 (B) Law Enforcement Data System criminal records check; and

6 (C) Federal Bureau of Investigation fingerprint check.

7 **SECTION 3.** ORS 419B.035 is amended to read:

8 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and  
9 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records  
10 and public documents, reports and records compiled under the provisions of ORS 419B.010 to  
11 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-  
12 ment of Human Services shall make the records available to:

13 (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of  
14 subsequent investigation of child abuse;

15 (b) Any physician, at the request of the physician, regarding any child brought to the physician  
16 or coming before the physician for examination, care or treatment;

17 (c) Attorneys of record for the child or child's parent or guardian in any juvenile court pro-  
18 ceeding;

19 (d) Citizen review boards established by the Judicial Department for the purpose of periodically  
20 reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile  
21 court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to  
22 participants in case reviews;

23 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged  
24 that a child has been subjected to child abuse or neglect;

25 (f) The Child Care Division for certifying, registering or otherwise regulating child care facili-  
26 ties;

27 (g) The Office of Children's Advocate; [*and*]

28 (h) Any person, upon request to the Department of Human Services, if the reports or records  
29 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-  
30 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be  
31 disclosed in accordance with ORS 192.410 to 192.505[.]; **and**

32 **(i) The Child Care Division of the Employment Department for purposes of ORS 657A.030**  
33 **(8)(g).**

34 (2)(a) When disclosing reports and records pursuant to subsection (1)(h) of this section, the De-  
35 partment of Human Services may exempt from disclosure the names, addresses and other identifying  
36 information about other children, witnesses, victims or other persons named in the report or record  
37 if the department determines, in written findings, that the safety or well-being of a person named in  
38 the report or record may be jeopardized by disclosure of the names, addresses or other identifying  
39 information, and if that concern outweighs the public's interest in the disclosure of that information.

40 (b) If the Department of Human Services does not have a report or record of abuse regarding  
41 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
42 161.015, the department may disclose that information.

43 (3) The Department of Human Services may make reports and records compiled under the pro-  
44 visions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court,  
45 agency, organization or other entity when the department determines that such disclosure is neces-

1 sary to administer its child welfare services and is in the best interests of the affected child, or that  
 2 such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect  
 3 children from abuse and neglect or for research when the Director of Human Services gives prior  
 4 written approval. The Department of Human Services shall adopt rules setting forth the procedures  
 5 by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this  
 6 section. The name, address and other identifying information about the person who made the report  
 7 may not be disclosed pursuant to this subsection and subsection (1) of this section.

8 (4) A law enforcement agency may make reports and records compiled under the provisions of  
 9 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-  
 10 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement  
 11 agency determines that disclosure is necessary for the investigation or enforcement of laws relating  
 12 to child abuse and neglect.

13 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific  
 14 case relating to child abuse or neglect, shall make reports and records in the case available upon  
 15 request to any law enforcement agency or community corrections agency in this state, to the De-  
 16 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose  
 17 of managing and supervising offenders in custody or on probation, parole, post-prison supervision  
 18 or other form of conditional or supervised release. A law enforcement agency may make reports and  
 19 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,  
 20 community corrections, corrections or parole agencies in an open case when the law enforcement  
 21 agency determines that the disclosure will not interfere with an ongoing investigation in the case.  
 22 The name, address and other identifying information about the person who made the report may not  
 23 be disclosed under this subsection or subsection (6)(b) of this section.

24 (6)(a) Any record made available to a law enforcement agency or community corrections agency  
 25 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-  
 26 vision or to a physician in this state, as authorized by subsections (1) to (5) of this section, shall be  
 27 kept confidential by the agency, department, board or physician. Any record or report disclosed by  
 28 the Department of Human Services to other persons or entities pursuant to subsections (1) and (3)  
 29 of this section shall be kept confidential.

30 (b) Notwithstanding paragraph (a) of this subsection:

31 (A) A law enforcement agency, a community corrections agency, the Department of Corrections  
 32 and the State Board of Parole and Post-Prison Supervision may disclose records made available to  
 33 them under subsection (5) of this section to each other, to law enforcement, community corrections,  
 34 corrections and parole agencies of other states and to authorized treatment providers for the pur-  
 35 pose of managing and supervising offenders in custody or on probation, parole, post-prison super-  
 36 vision or other form of conditional or supervised release.

37 (B) A person may disclose records made available to the person under subsection (1)(h) of this  
 38 section if the records are disclosed for the purpose of advancing the public interest.

39 (7) An officer or employee of the Department of Human Services or of a law enforcement agency  
 40 or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section  
 41 may not release any information not authorized by subsections (1) to (6) of this section.

42 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS  
 43 181.010.

44 (9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

45 **SECTION 4.** ORS 419B.035, as amended by section 3 of this 2009 Act, is amended to read:

1           419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and  
2 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records  
3 and public documents, reports and records compiled under the provisions of ORS 419B.010 to  
4 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-  
5 ment of Human Services shall make the records available to:

6           (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of  
7 subsequent investigation of child abuse;

8           (b) Any physician, at the request of the physician, regarding any child brought to the physician  
9 or coming before the physician for examination, care or treatment;

10           (c) Attorneys of record for the child or child's parent or guardian in any juvenile court pro-  
11 ceeding;

12           (d) Citizen review boards established by the Judicial Department for the purpose of periodically  
13 reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile  
14 court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to  
15 participants in case reviews;

16           (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged  
17 that a child has been subjected to child abuse or neglect;

18           (f) The Child Care Division for certifying, registering or otherwise regulating child care facili-  
19 ties;

20           (g) The Office of Children's Advocate; **and**

21           (h) Any person, upon request to the Department of Human Services, if the reports or records  
22 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-  
23 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be  
24 disclosed in accordance with ORS 192.410 to 192.505.[: and]

25           [i] *The Child Care Division of the Employment Department for purposes of ORS 657A.030*  
26 *(8)(g).*]

27           (2)(a) When disclosing reports and records pursuant to subsection (1)(h) of this section, the De-  
28 partment of Human Services may exempt from disclosure the names, addresses and other identifying  
29 information about other children, witnesses, victims or other persons named in the report or record  
30 if the department determines, in written findings, that the safety or well-being of a person named in  
31 the report or record may be jeopardized by disclosure of the names, addresses or other identifying  
32 information, and if that concern outweighs the public's interest in the disclosure of that information.

33           (b) If the Department of Human Services does not have a report or record of abuse regarding  
34 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
35 161.015, the department may disclose that information.

36           (3) The Department of Human Services may make reports and records compiled under the pro-  
37 visions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court,  
38 agency, organization or other entity when the department determines that such disclosure is neces-  
39 sary to administer its child welfare services and is in the best interests of the affected child, or that  
40 such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect  
41 children from abuse and neglect or for research when the Director of Human Services gives prior  
42 written approval. The Department of Human Services shall adopt rules setting forth the procedures  
43 by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this  
44 section. The name, address and other identifying information about the person who made the report  
45 may not be disclosed pursuant to this subsection and subsection (1) of this section.

1 (4) A law enforcement agency may make reports and records compiled under the provisions of  
2 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-  
3 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement  
4 agency determines that disclosure is necessary for the investigation or enforcement of laws relating  
5 to child abuse and neglect.

6 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific  
7 case relating to child abuse or neglect, shall make reports and records in the case available upon  
8 request to any law enforcement agency or community corrections agency in this state, to the De-  
9 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose  
10 of managing and supervising offenders in custody or on probation, parole, post-prison supervision  
11 or other form of conditional or supervised release. A law enforcement agency may make reports and  
12 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,  
13 community corrections, corrections or parole agencies in an open case when the law enforcement  
14 agency determines that the disclosure will not interfere with an ongoing investigation in the case.  
15 The name, address and other identifying information about the person who made the report may not  
16 be disclosed under this subsection or subsection (6)(b) of this section.

17 (6)(a) Any record made available to a law enforcement agency or community corrections agency  
18 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-  
19 vision or to a physician in this state, as authorized by subsections (1) to (5) of this section, shall be  
20 kept confidential by the agency, department, board or physician. Any record or report disclosed by  
21 the Department of Human Services to other persons or entities pursuant to subsections (1) and (3)  
22 of this section shall be kept confidential.

23 (b) Notwithstanding paragraph (a) of this subsection:

24 (A) A law enforcement agency, a community corrections agency, the Department of Corrections  
25 and the State Board of Parole and Post-Prison Supervision may disclose records made available to  
26 them under subsection (5) of this section to each other, to law enforcement, community corrections,  
27 corrections and parole agencies of other states and to authorized treatment providers for the pur-  
28 pose of managing and supervising offenders in custody or on probation, parole, post-prison super-  
29 vision or other form of conditional or supervised release.

30 (B) A person may disclose records made available to the person under subsection (1)(h) of this  
31 section if the records are disclosed for the purpose of advancing the public interest.

32 (7) An officer or employee of the Department of Human Services or of a law enforcement agency  
33 or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section  
34 may not release any information not authorized by subsections (1) to (6) of this section.

35 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS  
36 181.010.

37 (9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

38 **SECTION 5.** ORS 657A.030, as amended by section 1 of this 2009 Act, is amended to read:

39 657A.030. (1) The Child Care Division of the Employment Department shall establish a Central  
40 Background Registry.

41 (2) All subject individuals shall be enrolled in the Central Background Registry established by  
42 the division.

43 (3) Upon receiving an application for enrollment in the Central Background Registry, the divi-  
44 sion shall complete a criminal records check under ORS 181.534 and shall complete a child protec-  
45 tive services records check with the Department of Human Services. The division shall enroll the

1 individual in the registry if the individual:

2 (a) Is determined to have no criminal or child protective services history or to have dealt with  
3 the issues and provided adequate evidence of suitability for the registry;

4 (b) Has paid the applicable fee established pursuant to ORS 657A.275; and

5 (c) Has complied with the rules of the division adopted pursuant to this section.

6 (4) The division may conditionally enroll an individual in the registry pending the results of a  
7 nationwide criminal records check through the Federal Bureau of Investigation if the individual has  
8 met other requirements of the division for enrollment in the registry.

9 (5) An enrollment in the Central Background Registry shall expire two years from the date of  
10 enrollment and may be renewed upon application to the division, payment of the fee established  
11 pursuant to ORS 657A.275 and compliance with rules adopted by the division pursuant to this sec-  
12 tion. However, an individual who is determined to be ineligible for enrollment in the registry after  
13 the date of initial enrollment shall be removed from the registry by the division.

14 (6)(a) A child care facility shall not hire or employ an individual if the individual is not enrolled  
15 in the Central Background Registry.

16 (b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a  
17 probationary basis an individual who is conditionally enrolled in the Central Background Registry.

18 (7) The division may adopt any rules necessary to carry out the purposes of this section and the  
19 criminal records check program.

20 (8) For purposes of this section, "subject individual" means a subject individual as defined by  
21 the division by rule or a person who applies to be:

22 (a) The operator or an employee of a child care or treatment program;

23 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to  
24 329.200;

25 (c) The operator or an employee of a federal Head Start program regulated by the United States  
26 Department of Health and Human Services;

27 (d) An individual in a child care facility who may have unsupervised contact with children as  
28 identified by the division;

29 (e) A contractor or an employee of the contractor who provides early childhood special educa-  
30 tion or early intervention services pursuant to ORS 343.455 to 343.534; **or**

31 (f) A child care provider who is required to be enrolled in the Central Background Registry by  
32 any state agency.[: or]

33 [(g) A contractor, employee or volunteer of a metropolitan service district organized under ORS  
34 chapter 268 who may have unsupervised contact with children and who is required to be enrolled in  
35 the Central Background Registry by the metropolitan service district.]

36 [(9) Information provided to a metropolitan service district organized under ORS chapter 268 about  
37 the enrollment status of the persons described in subsection (8)(g) of this section shall be subject to a  
38 reciprocal agreement with the metropolitan service district. The agreement must provide for the recovery  
39 of administrative, including direct and indirect, costs incurred by the division from participation in the  
40 agreement. Any moneys collected under this subsection shall be deposited in the Child Care Fund es-  
41 tablished under ORS 657A.010.]

42 **SECTION 6. The amendments to ORS 419B.035 and 657A.030 by sections 4 and 5 of this**  
43 **2009 Act become operative on January 1, 2014.**