

House Bill 2524

Sponsored by Representative GELSER; Representatives BARKER, DEMBROW, C EDWARDS, SCHAUFLEER, WITT

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 **as introduced**.

Requires Department of Human Services to request that Department of State Police conduct state and nationwide criminal records checks on individuals providing direct care to children, elderly persons and persons with disabilities. Authorizes Department of Human Services, and modifies authorization of Employment Department, to require fingerprints for purpose of state or nationwide criminal records check under specified circumstances.

A BILL FOR AN ACT

1
2 Relating to criminal records checks; creating new provisions; and amending ORS 181.537, 417.815,
3 657A.270, 657A.300, 657A.330, 657A.370, 657A.390, 657A.410 and 657A.420.

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

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

6 (a) "Care" means the provision of personal services, treatment, education, training, in-
7 struction, supervision, placement services, transportation, recreation or support to children,
8 the elderly or persons with disabilities.

9 (b) "Qualified entity" includes:

10 (A) A community mental health program;

11 (B) A developmental disabilities program;

12 (C) A local health department;

13 (D) An individual, business or organization, whether public, private, for-profit, nonprofit
14 or voluntary, that provides care;

15 (E) A business or organization that licenses, certifies or registers others to provide care;
16 or

17 (F) A mass transit district or transportation district that contracts with the Department
18 of Human Services for the transportation of medical assistance recipients.

19 (2) The Department of Human Services and a qualified entity shall require the finger-
20 prints of and shall request that the Department of State Police conduct a state and nation-
21 wide criminal records check under ORS 181.534 on any individual who is or will be
22 compensated using state funds for providing care directly to children, elderly persons or
23 persons with disabilities.

24 (3) Except as required by subsection (2) of this section, the Department of Human Ser-
25 vices may require the fingerprints of an individual for the purpose of requesting a state or
26 nationwide criminal records check under ORS 181.534:

27 (a) If the individual:

28 (A)(i) Is employed by or is applying for employment by the department;

29 (ii) Is employed by or applying for employment with a qualified entity that is regulated
30 or otherwise subject to oversight by the department and that provides care; or

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 (iii) Provides services or seeks to provide services to the department as a contractor or
2 volunteer; and

3 (B) Is, or will be, working or providing services in a position in which the individual:

4 (i) Is providing information technology services and has control over, or access to, in-
5 formation technology systems that would allow the individual to harm the information
6 technology systems or the information contained in the systems;

7 (ii) Has access to information, the disclosure of which is prohibited by state or federal
8 laws, rules or regulations or information that is defined as confidential under state or federal
9 laws, rules or regulations; or

10 (iii) Has access to personal information about employees or members of the public in-
11 cluding Social Security numbers, dates of birth, driver license numbers, personal financial
12 information or criminal background information;

13 (b) For the purposes of licensing, certifying, registering or otherwise regulating or ad-
14 ministering programs, persons or qualified entities that provide care; or

15 (c) As necessary to protect children, elderly persons, persons with disabilities or other
16 vulnerable persons.

17 (4) The Department of Human Services may furnish to qualified entities, in accordance
18 with rules of the department and the rules of the Department of State Police, information
19 received from the Law Enforcement Data System. However, any criminal offender records
20 and information furnished to the Department of Human Services by the Federal Bureau of
21 Investigation through the Department of State Police may not be disseminated to qualified
22 entities.

23 (5)(a) The Department of Human Services or a qualified entity, in accordance with ORS
24 181.534 and rules adopted by the department, shall determine whether an individual is fit to
25 hold a position, provide services or be employed, licensed, certified or registered. The rules
26 adopted by the department shall take into consideration:

27 (A) The criminal records check obtained pursuant to ORS 181.534;

28 (B) Any false statements made by the individual regarding the criminal history of the
29 individual;

30 (C) The nature of any crime committed;

31 (D) The facts that support any conviction or pending indictment or indicate the making
32 of a false statement;

33 (E) The relevancy, if any, of any crime or false statement to the specific requirements
34 of the individual's present or proposed position, care, services, employment, license, certif-
35 ication or registration; and

36 (F) Intervening circumstances relevant to the responsibilities and circumstances of the
37 position, care, services, employment, license, certification or registration. Intervening cir-
38 cumstances include but are not limited to the passage of time since the commission of the
39 crime, the age of the individual at the time of the crime, the likelihood of a repetition of
40 offenses, the subsequent commission of another relevant crime and a recommendation of an
41 employer.

42 (b) If an individual is determined to be unfit under this subsection, that individual may
43 not hold the position, provide care or services or be employed, licensed, certified or regis-
44 tered.

45 (6) A qualified entity and an employee of a qualified entity acting within the course and

1 scope of employment are immune from any civil liability that might otherwise be incurred
 2 or imposed for a determination pursuant to subsection (5) of this section that an individual
 3 is fit or not fit to hold a position, provide care or services or be employed, licensed, certified
 4 or registered. A qualified entity, an employee of a qualified entity acting within the course
 5 and scope of employment and a qualified entity's agent who in good faith comply with this
 6 section and the decision of the qualified entity pursuant to subsection (5) of this section are
 7 not liable for the failure to hire a prospective employee or the decision to discharge an em-
 8 ployee on the basis of the qualified entity's decision. An employee of the state acting within
 9 the course and scope of employment is not liable for defamation or invasion of privacy in
 10 connection with the lawful dissemination of information lawfully obtained under this section.

11 (7) The department shall maintain information regarding criminal records checks in or-
 12 der to minimize the administrative burden imposed by this section and ORS 181.534. Records
 13 maintained under this subsection are confidential and may not be disseminated except for
 14 the purposes of this section and in accordance with the rules of the department and the
 15 Department of State Police. This subsection does not authorize the Department of Human
 16 Services to retain fingerprint cards obtained pursuant to this section, without the consent
 17 of the individual.

18 (8) In addition to the rules required by ORS 181.534, the Department of Human Services,
 19 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 whether a subject in-
 23 dividual is not fit to hold a position, provide care or services or be employed, licensed, cer-
 24 tified or registered; and

25 (d) Specifying when a qualified entity, in lieu of conducting a completely new criminal
 26 records check, may proceed to make a fitness determination under subsection (5) of this
 27 section using the information maintained by the Department of Human Services pursuant
 28 to subsection (7) of this section.

29 (9) If an individual refuses to consent to the criminal records check or refuses to be
 30 fingerprinted, the department or a qualified entity shall deny or terminate the employment
 31 of the individual or revoke or deny any applicable position, authority to provide care or ser-
 32 vices, license, certification or registration.

33 (10) If the qualified entity requires a criminal records check of employees or other indi-
 34 viduals, the application forms of the qualified entity must contain a notice that employment
 35 is subject to fingerprinting and a criminal records check.

36 **SECTION 2.** ORS 181.537 is amended to read:

37 181.537. [(1) As used in this section:]

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

40 [(b) "Qualified entity" means a community mental health and developmental disabilities program,
 41 a local health department or an individual or business or organization, whether public, private, for-
 42 profit, nonprofit or voluntary, that provides care, including a business or organization that licenses,
 43 certifies or registers others to provide care.]

44 [(2) The Department of Human Services and the Employment Department may require the finger-
 45 prints of a person for the purpose of requesting a state or nationwide criminal records check of the

1 *person under ORS 181.534:]*

2 *[(a) For agency employment purposes;]*

3 *[(b) For the purposes of licensing, certifying, registering or otherwise regulating or administering*
4 *programs, persons or qualified entities that provide care;]*

5 *[(c) For the purposes of employment decisions by or for qualified entities that are regulated or*
6 *otherwise subject to oversight by the Department of Human Services and that provide care; or]*

7 *[(d) For the purposes of employment decisions made by a mass transit district or transportation*
8 *district for qualified entities that, under contracts with the district or the Department of Human Ser-*
9 *vices, employ persons to operate motor vehicles for the transportation of medical assistance program*
10 *clients.]*

11 *[(3) The Department of Human Services may conduct criminal records checks on a person through*
12 *the Law Enforcement Data System maintained by the Department of State Police, if deemed necessary*
13 *by the Department of Human Services to protect children, elderly persons, persons with disabilities or*
14 *other vulnerable persons.]*

15 *[(4) The Department of Human Services may furnish to qualified entities, in accordance with the*
16 *Department of Human Services' rules and the rules of the Department of State Police, information re-*
17 *ceived from the Law Enforcement Data System. However, any criminal offender records and informa-*
18 *tion furnished to the Department of Human Services by the Federal Bureau of Investigation through*
19 *the Department of State Police may not be disseminated to qualified entities.]*

20 *[(5) A qualified entity, using rules adopted by the Department of Human Services, shall determine*
21 *under this section whether a person is fit to hold a position, provide services, be employed or, if the*
22 *qualified entity has authority to make such a determination, be licensed, certified or registered, based*
23 *on the criminal records check obtained pursuant to ORS 181.534, any false statements made by the*
24 *person regarding the criminal history of the person and any refusal to submit or consent to a criminal*
25 *records check including fingerprint identification. If a person is determined to be unfit, then that person*
26 *may not hold the position, provide services or be employed, licensed, certified or registered.]*

27 *[(6) In making the fitness determination under subsection (5) of this section, the qualified entity*
28 *shall consider:]*

29 *[(a) The nature of the crime;]*

30 *[(b) The facts that support the conviction or pending indictment or indicate the making of the false*
31 *statement;]*

32 *[(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the*
33 *person's present or proposed position, services, employment, license, certification or registration; and]*

34 *[(d) Intervening circumstances relevant to the responsibilities and circumstances of the position,*
35 *services, employment, license, certification or registration. Intervening circumstances include but are*
36 *not limited to the passage of time since the commission of the crime, the age of the person at the time*
37 *of the crime, the likelihood of a repetition of offenses, the subsequent commission of another relevant*
38 *crime and a recommendation of an employer.]*

39 *[(7) The Department of Human Services and the Employment Department may make fitness deter-*
40 *minations based on criminal offender records and information furnished by the Federal Bureau of In-*
41 *vestigation through the Department of State Police only as provided in ORS 181.534.]*

42 *[(8) A qualified entity and an employee of a qualified entity acting within the course and scope of*
43 *employment are immune from any civil liability that might otherwise be incurred or imposed for de-*
44 *termining pursuant to subsection (5) of this section that a person is fit or not fit to hold a position,*
45 *provide services or be employed, licensed, certified or registered. A qualified entity, employee of a*

1 *qualified entity acting within the course and scope of employment and an employer or employer's agent*
 2 *who in good faith comply with this section and the decision of the qualified entity or employee of the*
 3 *qualified entity acting within the course and scope of employment are not liable for the failure to hire*
 4 *a prospective employee or the decision to discharge an employee on the basis of the qualified entity's*
 5 *decision. An employee of the state acting within the course and scope of employment is not liable for*
 6 *defamation or invasion of privacy in connection with the lawful dissemination of information lawfully*
 7 *obtained under this section.]*

8 *[(9) The Department of Human Services shall develop a system that maintains information re-*
 9 *garding criminal records checks in order to minimize the administrative burden imposed by this section*
 10 *and ORS 181.534. Records maintained under this subsection are confidential and may not be dissem-*
 11 *inated except for the purposes of this section and in accordance with the rules of the Department of*
 12 *Human Services and the Department of State Police. Nothing in this subsection permits the Depart-*
 13 *ment of Human Services to retain fingerprint cards obtained pursuant to this section.]*

14 *[(10) In addition to the rules required by ORS 181.534, the Department of Human Services, in*
 15 *consultation with the Department of State Police, shall adopt rules:]*

16 *[(a) Specifying which qualified entities are subject to this section;]*

17 *[(b) Specifying which qualified entities may request criminal offender information;]*

18 *[(c) Specifying which qualified entities are responsible for deciding whether a subject individual is*
 19 *not fit for a position, service, license, certification, registration or employment; and]*

20 *[(d) Specifying when a qualified entity, in lieu of conducting a completely new criminal records*
 21 *check, may proceed to make a fitness determination under subsection (5) of this section using the in-*
 22 *formation maintained by the Department of Human Services pursuant to subsection (9) of this*
 23 *section.]*

24 *[(11) If a person refuses to consent to the criminal records check or refuses to be fingerprinted, the*
 25 *qualified entity shall deny or terminate the employment of the person, or revoke or deny any applicable*
 26 *position, authority to provide services, employment, license, certification or registration.]*

27 *[(12) If the qualified entity requires a criminal records check of employees or other persons, the*
 28 *application forms of the qualified entity must contain a notice that employment is subject to finger-*
 29 *printing and a criminal records check.]*

30 **The Employment Department may require the fingerprints of and may request that the**
 31 **Department of State Police conduct a state or nationwide criminal records check under ORS**
 32 **181.534 of an individual who:**

33 **(1)(a) Is applying for employment by the department; or**

34 **(b) Provides services or seeks to provide services to the department as a contractor or**
 35 **volunteer; and**

36 **(2) Is, or will be, working or providing services in a position in which the individual:**

37 **(a) Is providing information technology services and has control over, or access to, in-**
 38 **formation technology systems that would allow the individual to harm the information**
 39 **technology systems or the information contained in the systems;**

40 **(b) Has access to information, the disclosure of which is prohibited by state or federal**
 41 **laws, rules or regulations or information that is defined as confidential under state or federal**
 42 **laws, rules or regulations; or**

43 **(c) Has access to personal information about employees or members of the public in-**
 44 **cluding Social Security numbers, dates of birth, driver license numbers, personal financial**
 45 **information or criminal background information.**

1 **SECTION 3. Section 1 of this 2009 Act applies to individuals hired, rehired or otherwise**
2 **retained by the Department of Human Services or a qualified entity to provide care on or**
3 **after the effective date of this 2009 Act.**

4 **SECTION 4. The amendments to ORS 181.537 by section 2 of this 2009 Act apply to indi-**
5 **viduals hired, rehired or otherwise retained by the Employment Department on or after the**
6 **effective date of this 2009 Act.**

7 **SECTION 5.** ORS 417.815 is amended to read:

8 417.815. (1) The Office of Children’s Advocate shall be accessible to the public through the state
9 toll-free telephone line maintained pursuant to ORS 417.805 and through other electronic and writ-
10 ten forms of communication. The office shall:

11 (a) Disseminate information and educate the public about the detection and prevention of child
12 abuse and about the prosecution of persons accused of child abuse;

13 (b) Cooperate with other units within the Department of Human Services and law enforcement
14 officials in performing duties under ORS 418.747 and 418.748 and 419B.005 to 419B.050 when the in-
15 vestigation involves alleged child abuse;

16 (c) Provide technical assistance in the development and implementation of state and local pro-
17 grams that relate to child abuse;

18 (d) In cooperation with the department, objectively review the department’s systems for handling
19 child abuse cases; and

20 (e) Analyze data collected by the office to discern general patterns and trends, chronic problems
21 and other systemic difficulties in the detection, reporting, investigation, prosecution and resolution
22 of cases of child abuse.

23 (2) In addition to the duties required under subsection (1) of this section, the office shall:

24 (a) Review any complaint regarding the department’s involvement in a specific child abuse case,
25 unless the office determines there is an adequate remedy for the complaint;

26 (b) Make any appropriate referrals of the complaint or complainant at the time the office re-
27 ceives the complaint or during the office’s review process;

28 (c) Inform the complainant of the referral of the complaint or any other action taken by the
29 office on the complaint;

30 (d) Inform the department of the office’s intention to review the department’s action, unless the
31 office determines that advance notice will unduly hinder the review; and

32 (e) Conduct a review of the department’s action when appropriate, and inform the department
33 of the results of the review, including any recommendation the Children’s Advocate believes would
34 resolve any case or any systemic issues identified in the review.

35 (3) If the office has knowledge of confidential information relating to a child involved or
36 allegedly involved in child abuse, the office shall keep the information confidential from public dis-
37 closure. However, the office is subject to legal mandates in ORS 418.747 and 418.748 and 419B.005
38 to 419B.050.

39 (4) A person who files a complaint under this section or ORS 417.805 or participates in any in-
40 vestigation under this section may not be, because of that action:

41 (a) Subject to any penalties, sanctions or restrictions imposed by the department;

42 (b) Subject to any penalties, sanctions or restrictions connected with the person’s employment;

43 or

44 (c) Denied any right, privilege or benefit.

45 (5) If deemed necessary by the Children’s Advocate for the purposes of carrying out the duties

1 of the office, the office may conduct criminal records checks pursuant to ORS [181.537] **181.534** on
2 a person through the Law Enforcement Data System maintained by the Department of State Police.

3 **SECTION 6.** ORS 657A.270 is amended to read:

4 657A.270. (1) A certification or registration authorized by ORS 657A.030 and 657A.250 to
5 657A.450 and issued to a child care facility may be renewed upon submission of an application and
6 payment of the required fee not later than 30 days prior to the expiration date of the current cer-
7 tification or registration if the Child Care Division of the Employment Department finds that the
8 child care facility that is seeking renewal of the certification or registration is in compliance with
9 the requirements of ORS 181.537, 657A.030 and 657A.250 to 657A.450 and the rules promulgated
10 pursuant to ORS 181.534, [181.537,] 657A.030 and 657A.250 to 657A.450.

11 (2) Upon submission of an application for renewal in proper time, manner and form, and payment
12 of the required fee, the current certification or registration, unless officially revoked, shall remain
13 in force until the Child Care Division has acted on the application for renewal and has given notice
14 of the action taken.

15 **SECTION 7.** ORS 657A.300 is amended to read:

16 657A.300. (1) Upon receipt of an application for a certification, accompanied by the required fee,
17 the Child Care Division shall issue a certification if the division finds that the child care facility
18 and its operations are in compliance with the requirements of ORS 181.537, 657A.030 and 657A.250
19 to 657A.450 and the rules promulgated pursuant to ORS 181.534, [181.537,] 657A.030 and 657A.250
20 to 657A.450.

21 (2) The Child Care Division may issue a temporary certification, subject to reasonable terms and
22 conditions, for a period not longer than 180 days to a child care facility that does not comply with
23 the requirements and rules if the division finds that the health and safety of any child will not be
24 endangered thereby. Not more than one temporary certification shall be issued for the same child
25 care facility in any 12-month period.

26 (3) The Child Care Division shall serve as the state agency authorized, upon request, to certify
27 compliance with applicable federal child care standards or requirements by any facility providing
28 child care in the state.

29 **SECTION 8.** ORS 657A.330 is amended to read:

30 657A.330. (1) A provider operating a family child care home where care is provided in the family
31 living quarters of the provider's home that is not subject to the certification requirements of ORS
32 657A.280 may not operate a child care facility without registering with the Child Care Division of
33 the Employment Department.

34 (2) A child care facility holding a registration may care for a maximum of 10 children, including
35 the provider's own children. Of the 10 children:

36 (a) No more than six may be younger than school age; and

37 (b) No more than two may be 24 months of age or younger.

38 (3)(a) To obtain a registration, a provider must apply to the Child Care Division by submitting
39 a completed application work sheet and a nonrefundable fee. The fee shall vary according to the
40 number of children for which the facility is requesting to be registered, and shall be determined and
41 applied through rules adopted by the division under ORS 657A.275. The fee shall be deposited as
42 provided in ORS 657A.310 (2). The division may waive any or all of the fee if the division determines
43 that imposition of the fee would impose a hardship on the provider.

44 (b) Upon receipt of an initial or renewal application satisfactory to the division, the division
45 shall conduct an on-site review of the child care facility under this section. The on-site review shall

1 be conducted within 30 days of the receipt of a satisfactory application.

2 (4) The division shall issue a registration to a provider operating a family child care home if:

3 (a) The provider has completed a child care overview class administered by the division;

4 (b) The provider has completed two hours of training on child abuse and neglect issues;

5 (c) The provider is currently certified in infant and child first aid and cardiopulmonary resus-
6 citation;

7 (d) The provider is certified as a food handler under ORS 624.570; and

8 (e) The division determines that the application meets the requirements of ORS 181.537,
9 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant to ORS 181.534, [181.537,]
10 657A.030 and 657A.250 to 657A.450, and receives a satisfactory records check, including criminal
11 records and protective services records.

12 (5) Unless the registration is revoked as provided in ORS 657A.350, the registration is valid for
13 a period of two years from the date of issuance. The division may renew a registration of a provider
14 operating a family child care home if the provider:

15 (a) Is currently certified in infant and child first aid and cardiopulmonary resuscitation;

16 (b) Has completed a minimum of eight hours of training related to child care during the most
17 recent registration period; and

18 (c) Is certified as a food handler under ORS 624.570.

19 (6) A registration authorizes operation of the facility only on the premises described in the
20 registration and only by the person named in the registration.

21 (7) The division shall adopt rules:

22 (a) Creating the application work sheet required under subsection (3) of this section;

23 (b) Defining full-time and part-time care;

24 (c) Establishing under what circumstances the adult to child ratio requirements may be tempo-
25 rarily waived; and

26 (d) Establishing health and safety procedures and standards on:

27 (A) The number and type of toilets and sinks available to children;

28 (B) Availability of steps or blocks for use by children;

29 (C) Room temperature;

30 (D) Lighting of rooms occupied by children;

31 (E) Glass panels on doors;

32 (F) Condition of floors;

33 (G) Availability of emergency telephone numbers; and

34 (H) Smoking.

35 (8) The division shall adopt the application work sheet required by subsection (3) of this section.
36 The work sheet must include, but need not be limited to, the following:

37 (a) The number and ages of the children to be cared for at the facility; and

38 (b) The health and safety procedures in place and followed at the facility.

39 (9) The division, upon good cause shown, may waive one or more of the registration require-
40 ments. The division may waive a requirement only if appropriate conditions or safeguards are im-
41 posed to protect the welfare of the children and the consumer interests of the parents of the
42 children. The division may not waive the on-site review requirement for applicants applying for an
43 initial registration or renewal of a registration.

44 (10) The division, by rule, shall develop a list of recommended standards consistent with stan-
45 dards established by professional organizations regarding child care programs for child care facili-

1 ties. Compliance with the standards is not required for a registration, but the division shall
 2 encourage voluntary compliance and shall provide technical assistance to a child care facility at-
 3 tempting to comply with the standards. The child care facility shall distribute the list of recom-
 4 mended minimum standards to the parents of all children cared for at the facility.

5 (11) In adopting rules relating to registration, the division shall consult with the appropriate
 6 legislative committee in developing the rules to be adopted. If the rules are being adopted during a
 7 period when the Legislative Assembly is not in session, the division shall consult with the appro-
 8 priate interim legislative committee.

9 (12) A person who violates this section is subject to a civil penalty not to exceed \$100. The Child
 10 Care Division may impose the civil penalty for violation of any of the terms or conditions of a reg-
 11 istration.

12 **SECTION 9.** ORS 657A.370 is amended to read:

13 657A.370. Without the necessity of prior administrative proceedings or hearing and entry of an
 14 order or at any time during such proceedings if they have been commenced, the Child Care Division
 15 may institute proceedings to enjoin the operation of any child care facility operating in violation
 16 of ORS 181.537, 657A.030 and 657A.250 to 657A.450 or the rules promulgated pursuant to ORS
 17 181.534, [181.537,] 657A.030 and 657A.250 to 657A.450.

18 **SECTION 10.** ORS 657A.390 is amended to read:

19 657A.390. (1) Whenever an authorized representative of the Child Care Division is advised or
 20 has reason to believe that child care that is subject to regulation by the division is being provided
 21 without a certification or registration, the authorized representative may visit and conduct an on-
 22 site investigation of the premises of the facility at any reasonable time to determine whether the
 23 facility is subject to the requirements of ORS 181.537, 657A.030 and 657A.250 to 657A.450.

24 (2) At any reasonable time, an authorized representative of the Child Care Division may conduct
 25 an on-site investigation of the premises of any certified or registered child care facility to determine
 26 whether the child care facility is in conformity with ORS 181.537, 657A.030 and 657A.250 to 657A.450
 27 and the rules promulgated pursuant to ORS 181.534, [181.537,] 657A.030 and 657A.250 to 657A.450.

28 (3) An authorized representative of the Child Care Division shall conduct an on-site investi-
 29 gation of the premises of any certified or registered child care facility or of any other child care
 30 facility that is subject to regulation by the division if the division receives a serious complaint about
 31 the child care facility. The division, by rule, shall adopt a definition for "serious complaint."

32 (4) Any state agency that receives a complaint about a certified or registered child care facility
 33 shall notify the Child Care Division about the complaint and any subsequent action taken by the
 34 state agency based on that complaint.

35 (5) The director and operator of a child care facility shall permit an authorized representative
 36 of the division to inspect records of the facility and shall furnish promptly reports and information
 37 required by the division.

38 **SECTION 11.** ORS 657A.410 is amended to read:

39 657A.410. (1) In the event that any authorized representative of the Child Care Division[, *De-*
 40 *partment of Human Services*] or other agency is denied access to any premises for the purpose of
 41 making an inspection in the administration of ORS [181.537] **181.534**, 657A.030 and 657A.250 to
 42 657A.450, the representative shall not inspect the premises without a search warrant.

43 (2) Application for a search warrant to inspect the premises shall be made to any magistrate
 44 authorized to issue a warrant of arrest. The application must be supported by an affidavit filed with
 45 the magistrate showing probable cause for the inspection by stating the purpose and extent of the

1 proposed inspection, the statutes and rules which provide the basis for inspection, whether it is a
2 routine or periodic inspection, an on-site review or an investigation instituted by complaint and
3 other specific or general information concerning the premises.

4 (3) If the magistrate is satisfied that there is probable cause to believe that the grounds of the
5 application exist, the magistrate shall issue the search warrant specifying the purpose and extent
6 of the inspection, on-site review or investigation of the premises covered by the warrant.

7 **SECTION 12.** ORS 657A.420 is amended to read:

8 657A.420. The Child Care Division may enter into cooperative arrangements with the Depart-
9 ment of Human Services, the State Fire Marshal and other public agencies for the provision of ser-
10 vices in the inspection of child care facilities in the administration of ORS [181.537] **181.534**,
11 657A.030 and 657A.250 to 657A.450. The arrangements shall designate which services shall be reim-
12 bursed and the rate and manner of reimbursement.

13