

House Bill 2988

Sponsored by Representatives KOTEK, WHISNANT; Representatives STIEGLER, VANORMAN (at the request of Oregon Commission for Child Care)

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**.

Establishes Voluntary Central Background Registry in Child Care Division of Employment Department for individuals employed or volunteering to provide services to children. Allows agencies and organizations to accept enrollment in registry in lieu of certain agency or organization records check requirements. Directs division to conduct quarterly criminal records checks and to notify agencies and organizations of disqualification of enrolled individuals.

Becomes operative June 30, 2010.

A BILL FOR AN ACT

1
2 Relating to the Voluntary Central Background Registry; creating new provisions; and amending ORS
3 657A.030 and 657A.275.

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

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 657A.**

6 **SECTION 2. (1) The Child Care Division of the Employment Department shall establish
7 a Voluntary Central Background Registry.**

8 **(2) An individual who is employed or volunteers to provide services to children may enroll
9 in the Voluntary Central Background Registry if the individual, as a condition of the indi-
10 vidual's employment or volunteer work, is required by an agency or organization to:**

11 **(a) Complete a criminal records check under ORS 181.534 or 181.537;**

12 **(b) Complete a child protective services records check with the Department of Human
13 Services; or**

14 **(c) Enroll in the Criminal History Registry under ORS 657A.030.**

15 **(3) Upon receiving an application for enrollment in the Voluntary Central Background
16 Registry, the division shall complete a criminal records check under ORS 181.534 or 181.537
17 and shall complete a child protective services record check with the Department of Human
18 Services. The division shall enroll the individual in the registry if the individual:**

19 **(a) Is determined by the division to have no criminal or child protective services history
20 or to have dealt with the issues and provided adequate evidence of suitability for the registry;**

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

22 **(c) Has complied with the rules for enrollment adopted by the division pursuant to this
23 section.**

24 **(4) An individual who is enrolled in the Voluntary Central Background Registry may
25 submit evidence of enrollment in the registry to any agency or organization that accepts
26 such enrollment in lieu of the agency's or organization's own requirement of completing a
27 criminal records check under ORS 181.534 or 181.537, a child protective services records
28 check with the Department of Human Services or enrollment in the Criminal History Regis-**

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 try under ORS 657A.030. The individual shall notify the division in writing within 30 days of
 2 providing any agency or organization with evidence of enrollment in the Voluntary Central
 3 Background Registry. The division shall establish by rule the information required to be
 4 provided to the division by this subsection.

5 (5) An enrollment in the Voluntary Central Background Registry expires two years from
 6 the date of enrollment and may be renewed upon application to the division, payment of the
 7 fee established under ORS 657A.275 and compliance with rules for renewal of enrollment
 8 adopted by the division.

9 (6) The division shall conduct on a quarterly basis a criminal records check on individuals
 10 enrolled in the registry through the Law Enforcement Data System maintained by the De-
 11 partment of State Police in accordance with rules adopted and procedures established by the
 12 Department of State Police to determine that the individual is still eligible for enrollment in
 13 the registry. If the criminal records check reveals information that would make the individ-
 14 ual ineligible for enrollment, the division shall disqualify the individual from enrollment and
 15 remove the individual from the registry.

16 (7) If an individual is determined by the division to be ineligible for enrollment in the
 17 registry after the date of the individual's initial enrollment or after subsequent renewal of
 18 enrollment, the division shall:

19 (a) Remove the individual from the registry; and

20 (b) Notify any agency or organization to which the individual provided evidence of en-
 21 rollment under subsection (4) of this section of the individual's ineligibility.

22 (8) The division shall keep a list to be available to the public of any agency or organiza-
 23 tion that accepts, pursuant to subsection (4) of this section, an individual's enrollment in the
 24 registry in lieu of that agency's or organization's own requirements for a criminal records
 25 check or a child protective services records check, and of any additional requirements an
 26 agency or organization may have in addition to the division's requirements for eligibility for
 27 enrollment in the registry.

28 (9) For purposes of this section, "child" or "children" means a child or children under
 29 18 years of age.

30 (10) The division shall adopt any rules necessary to carry out the purposes of this sec-
 31 tion.

32 **SECTION 3.** ORS 657A.030 is amended to read:

33 657A.030. (1) The Child Care Division of the Employment Department shall establish a Criminal
 34 History Registry.

35 (2) **Unless the subject individual is enrolled in the Voluntary Central Background Registry**
 36 **under section 2 of this 2009 Act and the individual's enrollment has been accepted by an**
 37 **agency or organization under section 2 (4) of this 2009 Act,** all subject individuals shall be en-
 38 rolled in the Criminal History Registry established by the division.

39 (3) Upon receiving an application for enrollment in the Criminal History Registry, the division
 40 shall complete a criminal records check under ORS 181.534 and shall complete a child protective
 41 services records check with the Department of Human Services. The division shall enroll the indi-
 42 vidual in the registry if the individual:

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

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

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

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

5 (5) An enrollment in the Criminal History Registry [*shall expire*] **expires** two years from the
 6 date of enrollment and may be renewed upon application to the division, payment of the fee estab-
 7 lished pursuant to ORS 657A.275 and compliance with rules adopted by the division pursuant to this
 8 section. However, an individual who is determined to be ineligible for enrollment in the registry
 9 after the date of initial enrollment shall be removed from the registry by the division.

10 (6)(a) A child care facility [*shall*] **may** not hire or employ an individual if the individual is not
 11 enrolled in the Criminal History Registry **unless the facility accepts the individual's enrollment**
 12 **in the Voluntary Central Background Registry established by section 2 of this 2009 Act in lieu**
 13 **of enrollment in the Criminal History Registry.**

14 (b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a
 15 probationary basis an individual who is conditionally enrolled in the Criminal History Registry.

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

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

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

21 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to
 22 329.200;

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

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

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

29 (f) A child care provider who is required to be enrolled in the Criminal History Registry by any
 30 state agency.

31 **SECTION 4.** 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 **and section 2 of this 2009 Act**
 35 **may not exceed the cost of administering the program of the Child Care Division of the Employment**
 36 **Department pertaining to the purpose for which the fee is established, as authorized by the Legis-**
 37 **lative Assembly within the 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 Registry, the cost of administering the program, in-
- 3 cluding fees for:
 - 4 (A) Duplicate enrollment in the Criminal History Registry;
 - 5 (B) Law Enforcement Data System criminal records check; and
 - 6 (C) Federal Bureau of Investigation fingerprint check[.]; **and**
 - 7 **(h) For enrollment in the Voluntary Central Background Registry, the cost of adminis-**
 - 8 **tering the program, including fees for:**
 - 9 **(A) Renewal of enrollment in the Voluntary Central Background Registry; and**
 - 10 **(B) Law Enforcement Data System criminal records checks.**
- 11 **SECTION 5. Section 2 of this 2009 Act and the amendments to ORS 657A.030 and 657A.275**
- 12 **by sections 3 and 4 of this 2009 Act become operative on June 30, 2010.**
- 13 **SECTION 6. The Child Care Division may take any action before the operative date set**
- 14 **forth in section 5 of this 2009 Act necessary to enable it to implement the provisions of**
- 15 **section 2 of this 2009 Act on and after the operative date.**
- 16