

A-Engrossed
House Bill 2740

Ordered by the House March 24
Including House Amendments dated March 24

Sponsored by Representative READ; Representatives BARKER, DEMBROW, DOHERTY, GELSER, GREENLICK, HUFFMAN, HUNT (Presession filed.)

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.

Directs State Registrar of Center for Health Statistics to send **data file containing parents' names and mother's address to State Treasurer for each child born in Oregon to residents of this state.** [*certified copy of birth certificate for each child born in Oregon to residents of this state to Oregon 529 College Savings Board.*]

Requires [*board*] **State Treasurer** to send notice to parents of child [*indicated on birth certificate*] **in data file** of opportunity to open college savings account. [*Directs board to make deposit from Oregon 529 College Savings Network Fund into account with child as designated beneficiary when parent acknowledges intent to establish account. Requires regular contributions by parent to maintain account. Directs board to adopt rules.*] **Directs Oregon 529 College Savings Board to establish college savings account at request of parent to establish account.**

Establishes Oregon College Savings Matching Fund. Continuously appropriates moneys in fund to board. Authorizes board to use moneys in fund, if board finds amount in fund sufficient, to make matching deposits into college savings accounts.

[*Takes effect July 1, 2012.*]

A BILL FOR AN ACT

1
2 Relating to Oregon 529 College Savings Network accounts; creating new provisions; amending ORS
3 348.841, 348.857 and 432.121; and appropriating money.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 432.005 to**
6 **432.165.**

7 **SECTION 2. The State Registrar of the Center for Health Statistics shall send or deliver**
8 **by secure electronic or other reasonable means on a quarterly basis to the State Treasurer**
9 **a data file containing the parents' names and mother's mailing address for each child born**
10 **in Oregon to residents of this state for the purpose of implementing section 5 of this 2011**
11 **Act. The state registrar and the State Treasurer shall enter into an agreement to implement**
12 **the provisions of this section, including but not limited to the transfer, storage and de-**
13 **struction of data files.**

14 **SECTION 3. ORS 432.121 is amended to read:**

15 432.121. (1) To protect the integrity of vital records and vital reports, to ensure their proper use
16 and to ensure the efficient and proper administration of the system of vital statistics, it shall be
17 unlawful for any person to permit inspection of, or to disclose information from vital records or vital
18 reports in the custody of the State Registrar of the Center for Health Statistics, county registrar
19 or local registrar or to copy or issue a copy of all or part of any such record or report unless au-
20 thorized by this chapter and by rules adopted pursuant thereto or by order of a court of competent

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 jurisdiction. Rules adopted under this section shall provide for adequate standards of security and
2 confidentiality of vital records and vital reports. The state registrar shall adopt rules to ensure
3 that, for records of dissolution of marriage issued in proceedings under ORS 107.085 or 107.485, So-
4 cial Security numbers of the parties are kept confidential and exempt from public inspection.

5 (2) The State Registrar of the Center for Health Statistics shall authorize the inspection, dis-
6 closure and copying of the information referred to in subsection (1) of this section as follows:

7 (a) To the subject of the record; spouse, child, parent, sibling or legal guardian of the subject
8 of the record; an authorized representative of the subject of the record, spouse, child, parent, sibling
9 or legal guardian of the subject of the record; and, in the case of death, marriage or divorce records,
10 to other next of kin.

11 (b) When a person demonstrates that a death, marriage or divorce record is needed for the de-
12 termination or protection of a personal or property right.

13 (c) When 100 years have elapsed after the date of birth or 50 years have elapsed after the date
14 of death, marriage or divorce.

15 (d) When the person requesting the information demonstrates that the person intends to use the
16 information solely for research purposes. In order to receive the information, the person must submit
17 a written request to the state registrar requesting a research agreement. The state registrar shall
18 issue a research agreement if the person demonstrates that the information will be used only for
19 research and will be held confidential. The research agreement shall prohibit the release by the
20 person of any information other than that authorized by the agreement that might identify any
21 person or institution.

22 (e) To the federal agency responsible for national vital statistics, upon request. The copies or
23 data may be used solely for the conduct of official duties. Before furnishing the records, reports or
24 data, the state registrar shall enter into an agreement with the federal agency indicating the sta-
25 tistical or research purposes for which the records, reports or data may be used. The agreement
26 shall also set forth the support to be provided by the federal agency for the collection, processing
27 and transmission of the records, reports or data. Upon written request of the federal agency, the
28 state registrar may approve, in writing, additional statistical or research uses of the records, reports
29 or data supplied under the agreement.

30 (f) To federal, state and local governmental agencies, upon request. The copies or data may be
31 used solely for the conduct of official duties of the requesting governmental agency.

32 (g) To offices of vital statistics outside this state when such records or other reports relate to
33 residents of those jurisdictions or persons born in those jurisdictions. Before furnishing the records,
34 reports or data, the state registrar shall enter into an agreement with the office of vital statistics.
35 The agreement shall specify the statistical and administrative purposes for which the records, re-
36 ports or data may be used and the agreement shall further provide instructions for the proper re-
37 tention and disposition of the copies. Copies received by the Center for Health Statistics from offices
38 of vital statistics in other states shall be handled in the same manner as prescribed in this section.

39 (h) To an investigator licensed under ORS 703.430, upon request.

40 **(i) To the State Treasurer as required by section 2 of this 2011 Act.**

41 (3) The state registrar, upon request of a family member or legal representative, shall issue a
42 certified copy or other copy of a death certificate containing the cause of death information as
43 provided in subsection (2) of this section or as follows:

44 (a) When a person has demonstrated through documented evidence a need for the cause of death
45 to establish a legal right or claim.

1 (b) When the request for the copy is made by or on behalf of an organization that provides
2 benefits to the decedent's survivors or beneficiaries.

3 (4) Nothing in this section prohibits the release of information or data that would not identify
4 any person or institution named in a vital record or a vital report.

5 (5) Nothing in this section shall prohibit a health care provider from disclosing information
6 contained in the provider's records as otherwise allowed by law.

7 (6) Nothing in this section shall be construed to permit disclosure of information contained in
8 the "Information for Medical and Health Use Only" section of the birth certificate, fetal death re-
9 port or the "Information for Statistical Purposes Only" section or other confidential section of the
10 application, license and record of marriage or certificate of divorce, unless specifically authorized
11 by the state registrar for statistical or research purposes. The data shall not be subject to subpoena
12 or court order and shall not be admissible before any court, tribunal or judicial body.

13 (7) All forms and procedures used in the issuance of certified copies of vital records and vital
14 reports shall be uniform and provided by or approved by the state registrar. All certified copies is-
15 sued shall have security features that safeguard the document against alteration, counterfeiting,
16 duplication or simulation without ready detection.

17 (8) Each copy issued shall show the date of filing. Copies issued from records marked
18 "Amended" shall be similarly marked and shall show the effective date of the amendment. Copies
19 issued from records marked "Delayed" shall be similarly marked and shall include the date of filing
20 and a description of the evidence used to establish the delayed certificate.

21 (9) Any copy issued of a certificate of foreign birth shall indicate this fact and show the actual
22 place of birth and the fact that the certificate is not proof of United States citizenship for an
23 adoptive child.

24 (10) Appeals from decisions of the state registrar to refuse to disclose information or to permit
25 inspection or copying of records as prescribed by this section and rules adopted pursuant thereto
26 shall be made under ORS chapter 183.

27 (11) The state registrar shall adopt rules to implement this section in accordance with the ap-
28 plicable sections of ORS chapter 183.

29 (12) Indexes of deaths, marriages or divorces that list names, dates of events, county of events
30 or certificate numbers may be disclosed.

31 **SECTION 4. Sections 5 and 6 of this 2011 Act are added to and made a part of ORS 348.841**
32 **to 348.873.**

33 **SECTION 5. (1) Within 30 days after receiving information about the birth of a child from**
34 **the State Registrar of the Center for Health Statistics under section 2 of this 2011 Act, the**
35 **State Treasurer shall notify the parents of the child whose birth information was received**
36 **of the opportunity to open an account under subsection (2) of this section for the benefit of**
37 **their child as designated beneficiary of the account. The notice shall be sent to the address**
38 **of the mother as received from the state registrar. The Oregon 529 College Savings Board**
39 **shall adopt rules specifying the contents of the notice. The notice must, at a minimum, in-**
40 **clude the following:**

41 (a) **The purpose of the account;**

42 (b) **Actions the parents must take to establish an account in their names as account**
43 **owners, either individually or jointly;**

44 (c) **How, when and for what purposes qualified withdrawals from the account may be**
45 **made; and**

1 (d) Other information as designated by the board by rule.

2 (2) Upon receipt of an acknowledgment from one or both parents of a child on whose
3 behalf a notice was sent under subsection (1) of this section that one or both parents want
4 to establish an account for their child as designated beneficiary, and upon compliance with
5 all other requirements preliminary to establishing an account as set forth by the board by
6 rule, an account shall be established as provided in ORS 348.857. The account shall designate:

7 (a) One or both parents, individually or jointly, as account owner or account owners; and

8 (b) The child whose birth information was received as designated beneficiary.

9 (3)(a) A parent who is younger than 18 years of age at the time an account is established
10 under subsection (2) of this section must have a person who is 18 years of age or older cosign
11 as account owner unless the parent is married or has been emancipated by judgment of the
12 court under ORS 419B.550 to 419B.558.

13 (b) Upon reaching the age of 18 years, a parent may make application to the board to
14 remove the cosigner designated under paragraph (a) of this subsection as account owner of
15 the account.

16 (4) A parent who was an Oregon resident at the time of the birth of a child of the parent,
17 where the child was born outside of Oregon and for whom information about the birth of the
18 child was not received by the State Treasurer from the state registrar pursuant to section
19 2 of this 2011 Act, may apply to the board to establish an account under this section, pro-
20 vided the parent is, at the time of application, an Oregon resident.

21 (5)(a) The State Treasurer may, upon determining that a child for whom an account has
22 not been established under this section has been lawfully adopted, send notice as provided in
23 subsection (1) of this section to the adoptive parents with modifications to the notice as
24 necessary to the circumstances of the adoptive parents and the adopted child and as provided
25 by the board by rule.

26 (b) If an account has already been established under this section for the adopted child
27 and the current account owner agrees, the adoptive parents may apply to the board to
28 change the designated account owners, if different from the adoptive parents, to the adoptive
29 parents as account owners in accordance with rules adopted by the board.

30 (c) All other provisions of this section shall apply to accounts established for an adopted
31 child under this subsection.

32 (6) The board shall adopt rules to administer the provisions of this section.

33 **SECTION 6.** (1) The Oregon College Savings Matching Fund is established in the State
34 Treasury, separate and distinct from the General Fund. Moneys in the Oregon College
35 Savings Matching Fund may be invested as provided by ORS 293.701 to 293.820. Interest
36 earned by moneys in the fund and the earnings of any investments shall be credited to the
37 fund. All moneys credited to the fund are continuously appropriated to the Oregon 529 Col-
38 lege Savings Board for the purposes of carrying out the provisions of this section and section
39 5 of this 2011 Act.

40 (2) The board may accept grants, donations, contributions or gifts from any source for
41 deposit in the Oregon College Savings Matching Fund for the purpose of providing matching
42 deposits as described in subsection (4) of this section.

43 (3) The State of Oregon has no proprietary interest in the contributions to or earnings
44 of the Oregon College Savings Matching Fund or in deposits made to the fund. The state
45 waives any right of reclamation the state may have to the fund assets. This subsection does

1 not limit the ability of the board to alter or refund a payment made erroneously. Except as
2 otherwise provided by law, the board is the trustee of all moneys in the fund.

3 (4) If amounts deposited in the Oregon College Savings Matching Fund are sufficient, the
4 board may use moneys in the fund to make matching deposits into accounts established un-
5 der section 5 of this 2011 Act of at least \$100 or such other amount as the board may specify
6 by rule. The board shall ensure that:

7 (a) A matching deposit made to an account under this subsection does not exceed the
8 amount otherwise deposited into the account in the preceding 12 months;

9 (b) The amount otherwise deposited into the account in the preceding 12 months is de-
10 posited in one or more installments at intervals as determined by the board by rule; and

11 (c) A designated beneficiary does not receive matching funds through more than one
12 account.

13 (5)(a) If a nonqualified withdrawal is made from an account established under section 5
14 of this 2011 Act that reduces the balance of the account to an amount less than the amount
15 deposited by the board into the account from the Oregon College Savings Matching Fund,
16 plus or minus earnings or losses on that amount, the amount of the withdrawal that is at-
17 tributable to the amount deposited by the board, plus or minus earnings or losses on that
18 amount, constitutes an amount owed to the board that may be recovered as a setoff of any
19 amounts owed by the State of Oregon to the account owner or by any other means available
20 at law for repayment of moneys owed to the state. Any moneys recovered as amounts owed
21 to the board under this subsection shall be deposited into the fund.

22 (b) If a nonqualified withdrawal is made from an account established under section 5 of
23 this 2011 Act that has a balance less than the amount deposited into the account from the
24 Oregon College Savings Matching Fund, plus or minus earnings or losses on that amount,
25 the amount of the withdrawal constitutes an amount owed to the board that may be recov-
26 ered as a setoff of any amounts owed by the State of Oregon to the account owner or by any
27 other means available at law for repayment of moneys owed to the state. Any moneys re-
28 covered as amounts owed to the board under this subsection shall be deposited into the fund.

29 (6) The board shall adopt rules to administer the provisions of this section.

30 **SECTION 7.** ORS 348.841 is amended to read:

31 348.841. As used in ORS 348.841 to 348.873:

32 (1) "Account" means an individual account established in accordance with ORS 348.841 to
33 348.873.

34 (2) "Account owner" means the person who has the right to withdraw funds from the account.
35 The account owner may also be the designated beneficiary of the account, **except for accounts**
36 **established under section 5 of this 2011 Act.**

37 (3) "Board" means the Oregon 529 College Savings Board established under ORS 348.849.

38 (4) "Designated beneficiary" means, except as provided in ORS 348.867, the individual designated
39 at the time the account is opened as having the right to receive a qualified withdrawal for the
40 payment of qualified higher education expenses, or if the designated beneficiary is replaced in ac-
41 cordance with ORS 348.867, the replacement.

42 (5) "Financial institution" means a bank, a commercial bank, a national bank, a savings bank,
43 a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a
44 mutual fund, an investment firm or other similar entity authorized to do business in this state.

45 (6) "Higher education institution" means an eligible education institution as defined in section

1 529(e)(5) of the Internal Revenue Code.

2 (7) "Internal Revenue Code" means the federal Internal Revenue Code.

3 (8) "Member of the family" shall have the same meaning as contained in section 529(e) of the
4 Internal Revenue Code.

5 (9) "Network" means the Oregon 529 College Savings Network established under ORS 348.841
6 to 348.873.

7 (10) "Nonqualified withdrawal" means a withdrawal from an account that is not a qualified
8 withdrawal.

9 (11) "Qualified higher education expenses" means tuition and other permitted expenses as set
10 forth in section 529(e) of the Internal Revenue Code for the enrollment or attendance of a designated
11 beneficiary at a higher education institution.

12 (12) "Qualified withdrawal" means a withdrawal made as prescribed under ORS 348.870 and
13 made:

14 (a) From an account to pay the qualified higher education expenses of the designated benefi-
15 ciary;

16 (b) As the result of the death or disability of the designated beneficiary;

17 (c) As the result of a scholarship, allowance or payment described in section 135(d)(1)(A), (B)
18 or (C) of the Internal Revenue Code that is received by the designated beneficiary, but only to the
19 extent of the amount of the scholarship, allowance or payment; or

20 (d) As a rollover or change in the designated beneficiary described in ORS 348.867.

21 **SECTION 8.** ORS 348.857 is amended to read:

22 348.857. (1) An account owner may establish an account by:

23 (a) Making an initial contribution to the Oregon 529 College Savings Network in the name of
24 the designated beneficiary; or

25 (b) **Complying with the provisions of section 5 of this 2011 Act.** [*Once a contribution is made*
26 *it becomes part of the network and subject to the provisions of ORS 348.841 to 348.873.*]

27 (2) Any person may make a contribution to an account once an account is opened. **Once a**
28 **contribution is made it becomes part of the network and subject to the provisions of ORS**
29 **348.841 to 348.873.**

30 (3) Contributions to an account shall be made only in cash.

31 (4) Total contributions to all accounts established on behalf of a particular beneficiary may not
32 exceed those reasonably necessary to provide for the qualified higher education expenses of the
33 designated beneficiary. The Oregon 529 College Savings Board shall establish maximum contribution
34 limits applicable to network accounts and shall require the provision of any information from the
35 account owner and the designated beneficiary that the board deems necessary to establish these
36 limits.

37 (5) Separate records and accounting shall be required for each account and reports shall be
38 made no less frequently than annually to the account owner.

39 (6) The board may collect application, account or administrative fees to defray the costs of the
40 network.

41 **SECTION 9.** Sections 2, 5 and 6 of this 2011 Act and the amendments to ORS 348.841,
42 348.857 and 432.121 by sections 3, 7 and 8 of this 2011 Act apply to children born to Oregon
43 residents on or after the effective date of this 2011 Act.

44