

House Bill 4024

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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**.

Repeals sunset. Requires certain contractors, employees and volunteers of metropolitan service district to be enrolled in Central Background Registry. Requires reciprocal agreement with metropolitan service district.

A BILL FOR AN ACT

1
2 Relating to Central Background Registry; amending ORS 419B.035 and 657A.030; and repealing sec-
3 tion 6, chapter 348, Oregon Laws 2009.

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

5 **SECTION 1. Section 6, chapter 348, Oregon Laws 2009, is repealed.**

6 **SECTION 2.** ORS 419B.035, as amended by section 4, chapter 348, Oregon Laws 2009, is
7 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;

28 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
29 342.176 involving any child or any student in grade 12 or below; *[and]*

30 (i) Any person, upon request to the Department of Human Services, if the reports or records

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 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-
2 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be
3 disclosed in accordance with ORS 192.410 to 192.505; **and**

4 **(j) The Child Care Division of the Employment Department for purposes of ORS 657A.030**
5 **(8)(g).**

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

12 (b) If the Department of Human Services does not have a report or record of abuse regarding
13 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
14 161.015, the department may disclose that information.

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

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

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

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

1 of this section shall be kept confidential.

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

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

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

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

14 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS
 15 181.010.

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

17 **SECTION 3.** ORS 657A.030, as amended by section 5, chapter 348, Oregon Laws 2009, and sec-
 18 tion 7, chapter 60, Oregon Laws 2010, is amended to read:

19 657A.030. (1) The Child Care Division of the Employment Department shall establish a Central
 20 Background Registry.

21 (2) A subject individual shall apply to and must be enrolled in the Central Background Registry
 22 as part of the individual's application to operate a program or serve in a position described in sub-
 23 section (8) of this section.

24 (3) Upon receiving an application for enrollment in the Central Background Registry, the divi-
 25 sion shall complete a criminal records check under ORS 181.534 and shall complete a child protec-
 26 tive services records check with the Department of Human Services. The division shall enroll the
 27 individual in the registry if the individual:

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

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

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

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

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

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

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

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

1 (8) For purposes of this section, “subject individual” means a subject individual as defined by
2 the division by rule or a person who applies to be:

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

4 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to
5 329.200;

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

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

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

12 (f) A child care provider who is required to be enrolled in the Central Background Registry by
13 any state agency; *[or]*

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

17 *[(g)]* **(h)** A provider of respite services, as defined in ORS 418.205, for parents pursuant to a
18 properly executed power of attorney under ORS 109.056 who is providing respite services as a vol-
19 unteer with a private agency or organization that facilitates the provision of such respite services.

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

27 *[(9)]* **(b)** Information provided to a private agency or organization facilitating the provision of
28 respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of
29 attorney under ORS 109.056 about the enrollment status of the persons described in subsection
30 *[(8)(g)]* **(8)(h)** of this section shall be subject to an agreement with the private agency or organiza-
31 tion. The agreement must provide for the recovery of administrative, including direct and indirect,
32 costs incurred by the division from participation in the agreement. Any moneys collected under this
33 *[subsection]* **paragraph** shall be deposited in the Child Care Fund established under ORS 657A.010.

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