

**A-Engrossed**  
**House Bill 2259**

Ordered by the House March 23  
Including House Amendments dated March 23

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Education)

**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.

**Authorizes Office of Child Care to maintain information in Central Background Registry through electronic records systems.**

Requires that office [*of Child Care*] complete criminal records [*checks and*] **check**, child abuse and neglect records check, **foster care certification check and adult protective services check** in accordance with rules adopted by Early Learning Council upon receipt of application for enrollment in Central Background Registry. **Directs office to enroll individual in registry if individual is determined to have no criminal, child abuse and neglect, negative adult protective services or negative foster home certification history. Allows office to enroll individual in registry if Department of Human Services has completed background check on individual and individual has received department approval to provide child care.** Prohibits enrollment of subject individual who has disqualifying condition as defined by rule.

Removes requirement that enrollment in Central Background Registry expires two years from date of enrollment. Authorizes Early Learning Council to adopt rules regarding expiration and renewal periods for enrollment in registry.

**Requires agreement to provide information to private agency or organization about Central Background Registry enrollment status of certain persons.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to enrollment in the Central Background Registry; creating new provisions; amending ORS  
3 329A.030 and 419B.035; and declaring an emergency.

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

5 **SECTION 1.** ORS 329A.030 is amended to read:

6 329A.030. (1) The Office of Child Care shall establish a Central Background Registry **and may**  
7 **maintain information in the registry through electronic records systems.**

8 (2) A subject individual shall apply to and must be enrolled in the Central Background Registry  
9 as part of the individual's application to operate a program or serve in a position described in sub-  
10 section [(8)] (10) of this section.

11 (3) Upon receiving an application for enrollment in the Central Background Registry, the office  
12 shall complete:

13 (a) A criminal records check under ORS 181A.195 [*and shall complete a child protective services*  
14 *records check with the Department of Human Services*];

15 (b) **A criminal records check of other registries or databases in accordance with rules**  
16 **adopted by the Early Learning Council;**

17 (c) **A child abuse and neglect records check in accordance with rules adopted by the**  
18 **council; and**

19 (d) **A foster care certification check and an adult protective services check in accordance**

**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 **with rules adopted by the council.**

2 (4)(a) The office shall enroll the individual in the **Central Background** Registry if the individ-  
3 ual:

4 [(a)] (A) Is determined to have no criminal, [*or child protective services history*] **child abuse and**  
5 **neglect, negative adult protective services or negative foster home certification history**, or  
6 to have dealt with the issues and provided adequate evidence of suitability for the registry;

7 [(b)] (B) Has paid the applicable fee established pursuant to ORS 329A.275; and

8 [(c)] (C) Has complied with the rules of the Early Learning Council adopted pursuant to this  
9 section.

10 (b) **Notwithstanding subsection (3) of this section and paragraph (a) of this subsection,**  
11 **the office may enroll an individual in the registry if the Department of Human Services has**  
12 **completed a background check on the individual and the individual has received approval**  
13 **from the department for purposes of providing child care.**

14 (5) **Notwithstanding subsections (3) and (4) of this section, the office may not enroll an**  
15 **individual in the Central Background Registry if the individual has a disqualifying condition**  
16 **as defined in rules adopted by the council.**

17 [(4)] (6)(a) The office may conditionally enroll an individual in the **Central Background** Regis-  
18 try pending the results of a nationwide criminal records check through the Federal Bureau of In-  
19 vestigation if the individual has met other requirements of the office for enrollment in the registry.

20 (b) **The office may enroll an individual in the registry subject to limitations identified in**  
21 **rules adopted by the council.**

22 [(5)] (7) An enrollment in the Central Background Registry [*shall expire two years from the date*  
23 *of enrollment and*] may be renewed upon application to the office, payment of the fee established  
24 pursuant to ORS 329A.275 and compliance with rules adopted by the Early Learning Council pur-  
25 suant to this section. However, an individual who is determined to be ineligible for enrollment in  
26 the registry after the date of initial enrollment shall be removed **or suspended** from the registry  
27 by the office.

28 [(6)(a)] (8)(a) A child care facility shall not hire or employ an individual if the individual is not  
29 enrolled in the Central Background Registry.

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

32 [(7)] (9) The Early Learning Council may adopt any rules necessary to carry out the purposes  
33 of this section, **including but not limited to rules regarding expiration and renewal periods and**  
34 **limitations related to the subject individual's enrollment in the Central Background Registry**  
35 [*and the criminal records check program*].

36 [(8)] (10) For purposes of this section, "subject individual" means a subject individual as defined  
37 by the Early Learning Council by rule or a person who applies to be:

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

39 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to  
40 329.200;

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

43 (d) An individual in a child care facility who may have unsupervised contact with children as  
44 identified by the office;

45 (e) A contractor or an employee of the contractor who provides early childhood special educa-

1 tion or early intervention services pursuant to ORS 343.455 to 343.534;

2 (f) A child care provider who is required to be enrolled in the Central Background Registry by  
3 any state agency;

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

7 (h) A provider of respite services, as defined in ORS 418.205, for parents pursuant to a properly  
8 executed power of attorney under ORS 109.056 who is providing respite services as a volunteer with  
9 a private agency or organization that facilitates the provision of such respite services; **or**

10 **(i) The operator or an employee of an early learning program as defined in rules adopted**  
11 **by the council.**

12 *[(9)(a)]* **(11)(a)** Information provided to a metropolitan service district organized under ORS  
13 chapter 268 about the enrollment status of the persons described in subsection *[(8)(g)]* **(10)(g)** of this  
14 section shall be subject to a reciprocal agreement with the metropolitan service district. The  
15 agreement must provide for the recovery of administrative, including direct and indirect, costs in-  
16 curred by the office from participation in the agreement. Any moneys collected under this para-  
17 graph shall be deposited in the Child Care Fund established under ORS 329A.010.

18 (b) Information provided to a private agency or organization facilitating the provision of respite  
19 services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney  
20 under ORS 109.056 about the enrollment status of the persons described in subsection *[(8)(h)]* **(10)(h)**  
21 of this section shall be subject to an agreement with the private agency or organization. The  
22 agreement must provide for the recovery of administrative, including direct and indirect, costs in-  
23 curred by the office from participation in the agreement. Any moneys collected under this paragraph  
24 shall be deposited in the Child Care Fund established under ORS 329A.010.

25 **(c) Information provided to a private agency or organization about the enrollment status**  
26 **of the persons described in subsection (10)(i) of this section shall be subject to an agreement**  
27 **with the private agency or organization. The agreement must provide for the recovery of**  
28 **administrative, including direct and indirect, costs incurred by the office from participation**  
29 **in the agreement. Any moneys collected under this paragraph shall be deposited in the Child**  
30 **Care Fund established under ORS 329A.010.**

31 **SECTION 2.** ORS 419B.035 is amended to read:

32 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and  
33 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records  
34 and public documents, reports and records compiled under the provisions of ORS 419B.010 to  
35 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-  
36 ment of Human Services shall make the records available to:

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

39 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-  
40 tioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant  
41 or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse  
42 practitioner or coming before the physician, physician assistant or nurse practitioner for examina-  
43 tion, care or treatment;

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

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

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

7 (f) The Office of Child Care for certifying, registering or otherwise regulating child care facili-  
8 ties;

9 (g) The Office of Children's Advocate;

10 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS  
11 342.176 involving any child or any student in grade 12 or below;

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

16 (j) The Office of Child Care for purposes of ORS 329A.030 [(8)(g)] **(10)(g), (h) and (i)**.

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

23 (b) If the Department of Human Services does not have a report or record of abuse regarding  
24 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
25 161.015, the department may disclose that information.

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

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

41 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific  
42 case relating to child abuse or neglect, shall make reports and records in the case available upon  
43 request to any law enforcement agency or community corrections agency in this state, to the De-  
44 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose  
45 of managing and supervising offenders in custody or on probation, parole, post-prison supervision

1 or other form of conditional or supervised release. A law enforcement agency may make reports and  
2 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,  
3 community corrections, corrections or parole agencies in an open case when the law enforcement  
4 agency determines that the disclosure will not interfere with an ongoing investigation in the case.  
5 The name, address and other identifying information about the person who made the report may not  
6 be disclosed under this subsection or subsection (6)(b) of this section.

7 (6)(a) Any record made available to a law enforcement agency or community corrections agency  
8 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-  
9 vision or to a physician, physician assistant or nurse practitioner in this state, as authorized by  
10 subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board,  
11 physician, physician assistant or nurse practitioner. Any record or report disclosed by the Depart-  
12 ment of Human Services to other persons or entities pursuant to subsections (1) and (3) of this sec-  
13 tion shall be kept confidential.

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

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

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

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

26 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS  
27 181A.010.

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

29 **SECTION 3. The amendments to ORS 329A.030 by section 1 of this 2017 Act apply to ini-**  
30 **tial or renewed enrollments in the Central Background Registry occurring before, on or after**  
31 **the effective date of this 2017 Act.**

32 **SECTION 4. This 2017 Act being necessary for the immediate preservation of the public**  
33 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
34 **on its passage.**