

HOUSE AMENDMENTS TO HOUSE BILL 2259

By COMMITTEE ON EARLY CHILDHOOD AND FAMILY SUPPORTS

March 23

- 1 On page 1 of the printed bill, line 3, after “329A.030” insert “and 419B.035”.
- 2 Delete lines 5 through 27 and delete page 2.
- 3 On page 3, delete line 1 and insert:
- 4 “**SECTION 1.** ORS 329A.030 is amended to read:
- 5 “329A.030. (1) The Office of Child Care shall establish a Central Background Registry **and may**
- 6 **maintain information in the registry through electronic records systems.**
- 7 “(2) A subject individual shall apply to and must be enrolled in the Central Background Registry
- 8 as part of the individual’s application to operate a program or serve in a position described in sub-
- 9 section [(8)] **(10)** of this section.
- 10 “(3) Upon receiving an application for enrollment in the Central Background Registry, the office
- 11 shall complete:
- 12 “(a) A criminal records check under ORS 181A.195 [*and shall complete a child protective services*
- 13 *records check with the Department of Human Services*];
- 14 “(b) **A criminal records check of other registries or databases in accordance with rules**
- 15 **adopted by the Early Learning Council;**
- 16 “(c) **A child abuse and neglect records check in accordance with rules adopted by the**
- 17 **council; and**
- 18 “(d) **A foster care certification check and an adult protective services check in accord-**
- 19 **ance with rules adopted by the council.**
- 20 “(4)(a) The office shall enroll the individual in the **Central Background** Registry if the indi-
- 21 vidual:
- 22 “[*(a)*] **(A)** Is determined to have no criminal, [*or child protective services history*] **child abuse**
- 23 **and neglect, negative adult protective services or negative foster home certification history,**
- 24 or to have dealt with the issues and provided adequate evidence of suitability for the registry;
- 25 “[*(b)*] **(B)** Has paid the applicable fee established pursuant to ORS 329A.275; and
- 26 “[*(c)*] **(C)** Has complied with the rules of the Early Learning Council adopted pursuant to this
- 27 section.
- 28 “(b) **Notwithstanding subsection (3) of this section and paragraph (a) of this subsection,**
- 29 **the office may enroll an individual in the registry if the Department of Human Services has**
- 30 **completed a background check on the individual and the individual has received approval**
- 31 **from the department for purposes of providing child care.**
- 32 “(5) **Notwithstanding subsections (3) and (4) of this section, the office may not enroll an**
- 33 **individual in the Central Background Registry if the individual has a disqualifying condition**
- 34 **as defined in rules adopted by the council.**
- 35 “[~~4~~] **(6)(a)** The office may conditionally enroll an individual in the **Central Background Reg-**

1 istry pending the results of a nationwide criminal records check through the Federal Bureau of In-
2 vestigation if the individual has met other requirements of the office for enrollment in the registry.

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

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

11 “[6](a) (8)(a) A child care facility shall not hire or employ an individual if the individual is not
12 enrolled in the Central Background Registry.

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

15 “[7] (9) The Early Learning Council may adopt any rules necessary to carry out the purposes
16 of this section, **including but not limited to rules regarding expiration and renewal periods and**
17 **limitations related to the subject individual’s enrollment in the Central Background Registry**
18 [*and the criminal records check program*].

19 “[8] (10) For purposes of this section, ‘subject individual’ means a subject individual as defined
20 by the Early Learning Council by rule or a person who applies to be:

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

22 “(b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to
23 329.200;

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

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

28 “(e) A contractor or an employee of the contractor who provides early childhood special edu-
29 cation or early intervention services pursuant to ORS 343.455 to 343.534;

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

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

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

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

40 “[9](a) (11)(a) Information provided to a metropolitan service district organized under ORS
41 chapter 268 about the enrollment status of the persons described in subsection [(8)(g)] (10)(g) of this
42 section shall be subject to a reciprocal agreement with the metropolitan service district. The
43 agreement must provide for the recovery of administrative, including direct and indirect, costs in-
44 curred by the office from participation in the agreement. Any moneys collected under this para-
45 graph shall be deposited in the Child Care Fund established under ORS 329A.010.

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

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

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

15 “419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and
16 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records
17 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
18 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
19 ment of Human Services shall make the records available to:

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

22 “(b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-
23 tioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant
24 or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse
25 practitioner or coming before the physician, physician assistant or nurse practitioner for examina-
26 tion, care or treatment;

27 “(c) Attorneys of record for the child or child’s parent or guardian in any juvenile court pro-
28 ceeding;

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

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

35 “(f) The Office of Child Care for certifying, registering or otherwise regulating child care facil-
36 ities;

37 “(g) The Office of Children’s Advocate;

38 “(h) The Teacher Standards and Practices Commission for investigations conducted under ORS
39 342.176 involving any child or any student in grade 12 or below;

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

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

45 “(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the

1 Department of Human Services may exempt from disclosure the names, addresses and other identi-
2 fying information about other children, witnesses, victims or other persons named in the report or
3 record if the department determines, in written findings, that the safety or well-being of a person
4 named in the report or record may be jeopardized by disclosure of the names, addresses or other
5 identifying information, and if that concern outweighs the public's interest in the disclosure of that
6 information.

7 “(b) If the Department of Human Services does not have a report or record of abuse regarding
8 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
9 161.015, the department may disclose that information.

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

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

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

36 “(6)(a) Any record made available to a law enforcement agency or community corrections
37 agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison
38 Supervision or to a physician, physician assistant or nurse practitioner in this state, as authorized
39 by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board,
40 physician, physician assistant or nurse practitioner. Any record or report disclosed by the Depart-
41 ment of Human Services to other persons or entities pursuant to subsections (1) and (3) of this sec-
42 tion shall be kept confidential.

43 “(b) Notwithstanding paragraph (a) of this subsection:

44 “(A) A law enforcement agency, a community corrections agency, the Department of Corrections
45 and the State Board of Parole and Post-Prison Supervision may disclose records made available to

1 them under subsection (5) of this section to each other, to law enforcement, community corrections,
2 corrections and parole agencies of other states and to authorized treatment providers for the pur-
3 pose of managing and supervising offenders in custody or on probation, parole, post-prison super-
4 vision or other form of conditional or supervised release.

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

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

10 “(8) As used in this section, ‘law enforcement agency’ has the meaning given that term in ORS
11 181A.010.

12 “(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A
13 violation.”.

14 In line 2, delete “2” and insert “3”.

15 In line 3, after “occurring” insert “before,”.

16 In line 5, delete “3” and insert “4”.

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