

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO  
SENATE BILL 246**

1 On page 1 of the printed bill, line 2, after the first semicolon insert  
2 “creating new provisions;”.

3 In line 3, after “and” delete the rest of the line and insert “prescribing  
4 an effective date.”.

5 On page 2, line 18, delete “In the following circumstances;”.

6 In line 20, delete “, and”.

7 In lines 21 and 22, delete the boldfaced material.

8 After line 30, insert:

9 “(d) If any of the circumstances described in paragraph (c) of this sub-  
10 section exists, the department may immediately place conditions on the li-  
11 cense, certificate or authorization of the child-caring agency prior to a  
12 hearing if, consistent with ORS 183.430, the department finds there is a se-  
13 rious danger to the public health or safety and sets forth specific reasons for  
14 such findings.”.

15 In line 31, delete “(d)” and insert “(e)”.

16 In line 41, delete “Attorney General” and insert “Director of the Oregon  
17 Youth Authority”.

18 In line 44, after the period insert “The Director of Human Services and  
19 the Director of the Oregon Youth Authority may consult with the Attorney  
20 General in making a rescission under this subsection.”.

21 On page 3, line 1, delete “and the Attorney General”.

1 In line 2, after “Governor” insert a period and delete the rest of the line.

2 In line 3, delete “child welfare.” and insert “The notice of intent to  
3 rescind is a public record and open for inspection by any person without  
4 order of a court.”.

5 In line 6, after “General” insert “, the Oregon Youth Authority”.

6 In line 16, after “agency” insert “and the potential liability to the State  
7 of Oregon should future abuses or fatalities occur at the child-caring  
8 agency”.

9 Delete lines 18 through 24.

10 In line 25, delete “(f)” and insert “(d)”.

11 In line 28, delete “(g)” and insert “(e)”.

12 On page 4, delete lines 40 through 42 and insert:

13 **“SECTION 2.** ORS 418.240, as amended by section 4, chapter 106, Oregon  
14 Laws 2016, and section 1 of this 2017 Act, is amended to read:

15 “418.240. (1) All child-caring agencies shall obtain from the Department  
16 of Human Services a license, certificate or other authorization to provide  
17 care or services to children under ORS 418.205 to 418.327, 418.470, 418.475 or  
18 418.950 to 418.970. The criteria for issuance, renewal, suspension or revoca-  
19 tion of, or for placing conditions on, a license, certificate or authorization  
20 under this section must:

21 “(a) Be set forth in rules adopted by the department;

22 “(b) Include the full compliance requirements set forth in subsection (2)  
23 of this section; and

24 “(c) Include, but are not limited to, the following:

25 “(A) The fitness of the child-caring agency.

26 “(B) The employment of capable, trained or experienced staff that meet  
27 minimum staffing requirements.

28 “(C) Sufficient financial backing to ensure effective operations.

29 “(D) The probability of permanence in the child-caring agency.

30 “(E) The care and services provided to the children served will be in their

1 best interests and that of society.

2 “(F) That the child-caring agency is or will be in compliance with the  
3 standards of care and treatment established in rules adopted by the depart-  
4 ment.

5 “(2)(a) The department may not issue or renew a license, certificate or  
6 other authorization to a child-caring agency unless the department finds the  
7 agency is or will be in full compliance with all of the following:

8 “(A) The agency ensures child and family rights.

9 “(B) The agency complies with abuse reporting and investigation re-  
10 quirements.

11 “(C) The agency engages in and applies appropriate behavior management  
12 techniques.

13 “(D) The agency provides adequate furnishings and personal items for  
14 children.

15 “(E) The agency provides appropriate food services.

16 “(F) The agency ensures the safety of children.

17 “(G) The agency utilizes approved procedures and protocols for use of  
18 medications for children receiving care or services from the agency.

19 “(H) The agency or the agency’s employees or agents have not engaged  
20 in financial mismanagement.

21 “(I) The agency fully and timely corrects violations and maintains stan-  
22 dards in accordance with any plan of correction imposed by the department.

23 “(J) The agency provides access as required under ORS 418.305 to a child  
24 or the agency’s premises to the department or the department’s employees,  
25 investigators, court appointed special advocates, attorneys for a child or  
26 other authorized persons or entities.

27 “(b) The department may suspend, revoke or place conditions on a license,  
28 certificate or authorization of a child-caring agency if the department finds  
29 the agency is not in full compliance with any one or more of the full com-  
30 pliance requirements listed in paragraph (a) of this subsection.

1       “(c) The department must take immediate steps to suspend or revoke the  
2 license, certificate or other authorization of a child-caring agency if any of  
3 the following are found to exist:

4       “(A) There has been the death of a child as a result of abuse or neglect  
5 on the part of the agency or any of the agency’s employees or agents.

6       “(B) There has been sexual or physical abuse or neglect of a child in the  
7 agency’s care or custody that was known to the agency and the agency did  
8 not take immediate steps to report the abuse or neglect and to ensure the  
9 child’s safety.

10       “(C) The agency failed to cooperate fully with any local, state or federal  
11 regulatory entity’s investigation of the agency or the agency’s operations or  
12 employees.

13       “(D) The agency failed to provide financial statements as required under  
14 ORS 418.255.

15       “(d) If any of the circumstances described in paragraph (c) of this sub-  
16 section exists, the department may immediately place conditions on the li-  
17 cense, certificate or authorization of the child-caring agency prior to a  
18 hearing if, consistent with ORS 183.430, the department finds there is a se-  
19 rious danger to the public health or safety and sets forth specific reasons for  
20 such findings.

21       “(e) It is grounds to deny issuance or renewal, suspend, revoke or place  
22 conditions on a license, certificate or other authorization if the department  
23 becomes aware that a child-caring agency, or the owner or operator of the  
24 agency, has been found by other state or federal entities to have engaged in  
25 financial, civil or criminal misconduct.

26       “(3)(a) If the Director of Human Services has taken action under sub-  
27 section (2)(c) of this section to suspend or revoke a license, certificate or  
28 other authorization, the notice of intent to suspend or revoke may be  
29 rescinded if the director determines that the concerns regarding the health  
30 and safety of the children in the child-caring agency’s care or custody have

1 been ameliorated and any conditions placed on the license, certificate or  
2 other authorization of the child-caring agency have been resolved. [A  
3 *rescission under this subsection must be made by agreement between the Di-*  
4 *rector of Human Services and the Director of the Oregon Youth Authority and,*  
5 *if the child-caring agency is licensed to provide medical or psychiatric services,*  
6 *with the additional agreement of the Director of the Oregon Health Authority*  
7 *in consultation with the medical director for such services within the*  
8 *authority.] The Director of Human Services [and the Director of the Oregon*  
9 *Youth Authority] may consult with the **Director of the Oregon Youth***  
10 ***Authority, the Director of the Oregon Health Authority or the** Attorney*  
11 *General in making a rescission under this subsection.*

12 “(b) Fourteen days before rescinding a notice of intent to suspend or re-  
13 voke, the Director of Human Services must provide written notice regarding  
14 the intent to rescind to the Governor. The notice of intent to rescind is a  
15 public record and open for inspection by any person without order of a court.  
16 The notice of intent to rescind must include the following information:

17 “(A) The circumstances that led to the notice of intent to suspend or re-  
18 voke;

19 “(B) The actions taken by the child-caring agency, the Department of  
20 Human Services, the Attorney General, the Oregon Youth Authority and the  
21 Oregon Health Authority in response to the circumstances leading to the  
22 notice of intent to suspend or revoke;

23 “(C) Any penalties, fees or charges made or levied against the child-caring  
24 agency; and

25 “(D) A complete description of changes that were made at the child-caring  
26 agency and the reasons for the determination that the concerns regarding the  
27 health and safety of children in the child-caring agency’s care or custody  
28 have been ameliorated or that any conditions placed on the license, certifi-  
29 cate or other authorization of the child-caring agency have been resolved.

30 “(c) In making a decision to rescind a notice of intent to suspend or re-

1 voke under this subsection, the decision must be based solely on the health  
2 and safety of the children served by the child-caring agency and the potential  
3 liability to the State of Oregon should future abuses or fatalities occur at  
4 the child-caring agency. Systemwide capacity of the child welfare system may  
5 not be considered as an element of the decision.

6 “(d) For three years after a notice of intent to suspend or revoke is  
7 rescinded under this subsection, the child-caring agency must apply for a  
8 renewal of the child-caring agency’s license, certificate or other authori-  
9 zation on an annual basis.

10 “(e) The department must provide the following with copies of a notice  
11 of intent to rescind within five business days of issuing the notice:

12 “(A) The Governor; and

13 “(B) The committees of the Legislative Assembly relating to child welfare.

14 “(4) The department may immediately place conditions on any license,  
15 certificate or authorization issued under this section, including but not lim-  
16 ited to placing full or partial restrictions on admission of children, tempo-  
17 rary suspension, limitation of operations subject to an intent to revoke and  
18 limitation of operations subject to correction of violations as specified in a  
19 plan of correction imposed by the department. The department shall imme-  
20 diately notify any state or governmental agency or unit that has a contract  
21 with the child-caring agency to provide care or services to a child, and the  
22 governing board, trustees, owners, managers, operators or other appropriate  
23 authorities responsible for the child-caring agency, of conditions placed by  
24 the department on the child-caring agency’s license, certificate or authori-  
25 zation under this section.

26 “(5) If applicable, an applicant shall submit written proof of compliance  
27 with the notification requirements in ORS 336.575.

28 “(6) The department may not charge a fee for inspections leading to de-  
29 cisions regarding, and issuance of, licenses, certifications or authorizations  
30 under this section, but may impose fees to cover costs of related inspections

1 done for the department by other governmental agencies.

2 “(7) Except as provided in subsection (3) of this section, a license, certifi-  
3 cate or authorization issued by the department under this section shall be  
4 valid for a period of two years, unless suspended or revoked sooner by the  
5 department. However, the department at any time may require amendments  
6 to an existing license, certificate or authorization to accommodate changes  
7 in the factors upon which the issuance was based.

8 “(8) When a condition exists that seriously endangers or places at risk  
9 the health, safety or welfare of a child who is receiving care or services at  
10 a child-caring agency:

11 “(a) The director shall issue an interim emergency order without notice,  
12 or with reasonable notice under the circumstances, requiring the agency to  
13 correct the conditions and ensure the safety of children in the care of the  
14 agency. The interim emergency order shall remain in force until a final or-  
15 der, after a hearing, has been entered in accordance with ORS chapter 183.

16 “(b) The director may commence an action to enjoin operation of a  
17 child-caring agency:

18 “(A) If the agency is being operated without a valid license, certificate  
19 or other authorization issued under this section; or

20 “(B) If the agency fails to comply with a plan of correction imposed by  
21 the department or to correct conditions not in conformity with standards as  
22 set out in an order issued under paragraph (a) of this subsection, within the  
23 time specified in the order.

24 “(9) If the director, the director’s designee or the department becomes  
25 aware through any means that a child-caring agency, or an owner, operator  
26 or employee of a child-caring agency, is the subject of an investigation by  
27 another state agency, law enforcement agency or federal agency, the director  
28 or director’s designee shall take immediate steps to cause an investigation  
29 to take place into the circumstances surrounding the investigation and  
30 whether there is a threat to a child, or whether a child is at risk, at the

1 child-caring agency. Upon determination of the level of threat or risk to  
2 children at the agency, the director shall take appropriate steps to protect  
3 and ensure the health, safety and welfare of children as necessary under the  
4 circumstances. Failure to comply with the requirements of this subsection  
5 constitutes grounds for a charge of official misconduct in the second degree  
6 under ORS 162.405.

7 “(10) If the Department of Justice or Bureau of Labor and Industries  
8 commences an investigation of a child-caring agency or an owner, operator  
9 or employee of a child-caring agency, the Department of Justice or Bureau  
10 of Labor and Industries shall notify, inform and regularly update the direc-  
11 tor, the director’s designee or such other personnel in the Department of  
12 Human Services designated to receive such information regarding the inves-  
13 tigation. The director and the department shall immediately undertake the  
14 responsive action required by subsection (9) of this section upon receiving  
15 such notification. Interference with, discouragement of or impediment to the  
16 receipt of the notification, information and updates required under this sub-  
17 section constitutes official misconduct in the second degree under ORS  
18 162.405.

19 “(11) The Department of Human Services shall adopt rules to implement  
20 the provisions of this section.

21 **“SECTION 3. The amendments to ORS 418.240 by section 2 of this**  
22 **2017 Act become operative on January 1, 2023.**

23 **“SECTION 4. This 2017 Act takes effect on the 91st day after the**  
24 **date on which the 2017 regular session of the Seventy-ninth Legislative**  
25 **Assembly adjourns sine die.”**

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