

HB 2259-3
(LC 629)
3/9/17 (BLS/ps)

Requested by HOUSE COMMITTEE ON EARLY CHILDHOOD AND FAMILY SUPPORTS

**PROPOSED AMENDMENTS TO
HOUSE BILL 2259**

1 On page 1 of the printed bill, line 3, after “329A.030” insert “and
2 419B.035”.

3 Delete lines 5 through 27 and delete page 2.

4 On page 3, delete line 1 and insert:

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

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

9 “(2) A subject individual shall apply to and must be enrolled in the Cen-
10 tral Background Registry as part of the individual’s application to operate
11 a program or serve in a position described in subsection [(8)] **(10)** of this
12 section.

13 “(3) Upon receiving an application for enrollment in the Central Back-
14 ground Registry, the office shall complete:

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

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

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

1 “(d) A foster care certification check and an adult protective ser-
2 vices check in accordance with rules adopted by the council.

3 “(4)(a) The office shall enroll the individual in the **Central Background**
4 Registry if the individual:

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

9 “[(b)] (B) Has paid the applicable fee established pursuant to ORS
10 329A.275; and

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

13 “(b) **Notwithstanding subsection (3) of this section and paragraph**
14 **(a) of this subsection, the office may enroll an individual in the reg-**
15 **istry if the Department of Human Services has completed a back-**
16 **ground check on the individual and the individual has received**
17 **approval from the department for purposes of providing child care.**

18 “(5) **Notwithstanding subsections (3) and (4) of this section, the of-**
19 **fice may not enroll an individual in the Central Background Registry**
20 **if the individual has a disqualifying condition as defined in rules**
21 **adopted by the council.**

22 “[(4)] (6)(a) The office may conditionally enroll an individual in the
23 **Central Background** Registry pending the results of a nationwide criminal
24 records check through the Federal Bureau of Investigation if the individual
25 has met other requirements of the office for enrollment in the registry.

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

28 “[(5)] (7) An enrollment in the Central Background Registry [*shall expire*
29 *two years from the date of enrollment and*] may be renewed upon application
30 to the office, payment of the fee established pursuant to ORS 329A.275 and

1 compliance with rules adopted by the Early Learning Council pursuant to
2 this section. However, an individual who is determined to be ineligible for
3 enrollment in the registry after the date of initial enrollment shall be re-
4 moved **or suspended** from the registry by the office.

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

7 “(b) Notwithstanding paragraph (a) of this subsection, a child care facility
8 may employ on a probationary basis an individual who is conditionally en-
9 rolled in the Central Background Registry.

10 “[~~(7)~~] **(9)** The Early Learning Council may adopt any rules necessary to
11 carry out the purposes of this section, **including but not limited to rules**
12 **regarding expiration and renewal periods and limitations related to the**
13 **subject individual’s enrollment in the Central Background Registry**
14 [*and the criminal records check program*].

15 “[~~(8)~~] **(10)** For purposes of this section, ‘subject individual’ means a sub-
16 ject individual as defined by the Early Learning Council by rule or a person
17 who applies to be:

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

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

21 “(c) The operator or an employee of a federal Head Start program regu-
22 lated by the United States Department of Health and Human Services;

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

25 “(e) A contractor or an employee of the contractor who provides early
26 childhood special education or early intervention services pursuant to ORS
27 343.455 to 343.534;

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

30 “(g) A contractor, employee or volunteer of a metropolitan service district

1 organized under ORS chapter 268 who may have unsupervised contact with
2 children and who is required to be enrolled in the Central Background Reg-
3 istry by the metropolitan service district; *[or]*

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

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

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

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

27 **“(c) Information provided to a private agency or organization about**
28 **the enrollment status of the persons described in subsection (10)(i) of**
29 **this section shall be subject to an agreement with the private agency**
30 **or organization. The agreement must provide for the recovery of ad-**

1 **ministrative, including direct and indirect, costs incurred by the office**
2 **from participation in the agreement. Any moneys collected under this**
3 **paragraph shall be deposited in the Child Care Fund established under**
4 **ORS 329A.010.**

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

6 “419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170,
7 192.210 to 192.505 and 192.610 to 192.810 relating to confidentiality and ac-
8 cessibility for public inspection of public records and public documents, re-
9 ports and records compiled under the provisions of ORS 419B.010 to 419B.050
10 are confidential and may not be disclosed except as provided in this section.
11 The Department of Human Services shall make the records available to:

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

14 “(b) Any physician, physician assistant licensed under ORS 677.505 to
15 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, at the
16 request of the physician, physician assistant or nurse practitioner, regarding
17 any child brought to the physician, physician assistant or nurse practitioner
18 or coming before the physician, physician assistant or nurse practitioner for
19 examination, care or treatment;

20 “(c) Attorneys of record for the child or child’s parent or guardian in any
21 juvenile court proceeding;

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

27 “(e) A court appointed special advocate in any juvenile court proceeding
28 in which it is alleged that a child has been subjected to child abuse or neg-
29 lect;

30 “(f) The Office of Child Care for certifying, registering or otherwise reg-

1 ulating child care facilities;

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

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

6 “(i) Any person, upon request to the Department of Human Services, if
7 the reports or records requested regard an incident in which a child, as the
8 result of abuse, died or suffered serious physical injury as defined in ORS
9 161.015. Reports or records disclosed under this paragraph must be disclosed
10 in accordance with ORS 192.410 to 192.505; and

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

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

21 “(b) If the Department of Human Services does not have a report or re-
22 cord of abuse regarding a child who, as the result of abuse, died or suffered
23 serious physical injury as defined in ORS 161.015, the department may dis-
24 close that information.

25 “(3) The Department of Human Services may make reports and records
26 compiled under the provisions of ORS 419B.010 to 419B.050 available to any
27 person, administrative hearings officer, court, agency, organization or other
28 entity when the department determines that such disclosure is necessary to
29 administer its child welfare services and is in the best interests of the af-
30 fected child, or that such disclosure is necessary to investigate, prevent or

1 treat child abuse and neglect, to protect children from abuse and neglect or
2 for research when the Director of Human Services gives prior written ap-
3 proval. The Department of Human Services shall adopt rules setting forth the
4 procedures by which it will make the disclosures authorized under this sub-
5 section or subsection (1) or (2) of this section. The name, address and other
6 identifying information about the person who made the report may not be
7 disclosed pursuant to this subsection and subsection (1) of this section.

8 “(4) A law enforcement agency may make reports and records compiled
9 under the provisions of ORS 419B.010 to 419B.050 available to other law
10 enforcement agencies, district attorneys, city attorneys with criminal
11 prosecutorial functions and the Attorney General when the law enforcement
12 agency determines that disclosure is necessary for the investigation or
13 enforcement of laws relating to child abuse and neglect.

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

29 “(6)(a) Any record made available to a law enforcement agency or com-
30 munity corrections agency in this state, to the Department of Corrections

1 or the State Board of Parole and Post-Prison Supervision or to a physician,
2 physician assistant or nurse practitioner in this state, as authorized by sub-
3 sections (1) to (5) of this section, shall be kept confidential by the agency,
4 department, board, physician, physician assistant or nurse practitioner. Any
5 record or report disclosed by the Department of Human Services to other
6 persons or entities pursuant to subsections (1) and (3) of this section shall
7 be kept confidential.

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

9 “(A) A law enforcement agency, a community corrections agency, the
10 Department of Corrections and the State Board of Parole and Post-Prison
11 Supervision may disclose records made available to them under subsection
12 (5) of this section to each other, to law enforcement, community corrections,
13 corrections and parole agencies of other states and to authorized treatment
14 providers for the purpose of managing and supervising offenders in custody
15 or on probation, parole, post-prison supervision or other form of conditional
16 or supervised release.

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

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

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

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

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

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

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

