

## HOUSE AMENDMENTS TO HOUSE BILL 4065

By COMMITTEE ON EARLY CHILDHOOD AND FAMILY SUPPORTS

February 14

1 On page 1 of the printed bill, delete lines 5 through 25 and delete pages 2 through 11 and insert:

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

3 “329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may  
4 maintain information in the registry through electronic records systems.

5 “(2) A subject individual shall apply to and must be enrolled in the Central Background Registry  
6 as part of the individual’s application to operate a program or serve in a position described in sub-  
7 section (10) of this section.

8 “(3) Upon receiving an application for enrollment in the Central Background Registry, the office  
9 shall complete:

10 “(a) A criminal records check under ORS 181A.195;

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

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

15 “(d) A foster care certification check and an adult protective services check in accordance with  
16 rules adopted by the council.

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

18 “(A) Is determined to have no criminal, child abuse and neglect, negative adult protective ser-  
19 vices or negative foster home certification history, or to have dealt with the issues and provided  
20 adequate evidence of suitability for the registry;

21 “(B) Has paid the applicable fee established pursuant to ORS 329A.275; and

22 “(C) Has complied with the rules of the Early Learning Council adopted pursuant to this section.

23 “(b) Notwithstanding subsection (3) of this section and paragraph (a) of this subsection, the of-  
24 fice may enroll an individual in the registry if the Department of Human Services has completed a  
25 background check on the individual and the individual has received approval from the department  
26 for purposes of providing child care.

27 “(5)(a) Notwithstanding subsections (3) and (4) of this section, the office may not enroll an in-  
28 dividual in the Central Background Registry if:

29 “(A) The individual has a disqualifying condition as defined in rules adopted by the council[.];  
30 **or**

31 “(B) **The individual is an exempt prohibited individual, as defined in ORS 329A.252.**

32 “(b) **If an individual who has a disqualifying condition or who is an exempt prohibited**  
33 **individual is enrolled in the Central Background Registry, the office shall remove the indi-**  
34 **vidual from the registry.**

35 “(6)(a) The office may conditionally enroll an individual in the Central Background Registry

1 pending the results of a nationwide criminal records check through the Federal Bureau of Investi-  
2 gation 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 rules  
4 adopted by the council.

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

10 “(8)(a) A child care facility shall not hire or employ an individual if the individual is not en-  
11 rolled in the Central Background Registry.

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

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

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

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

20 “(b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to  
21 329.200;

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

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

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

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

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

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

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

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

44 “(b) Information provided to a private agency or organization facilitating the provision of respite  
45 services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney

1 under ORS 109.056 about the enrollment status of the persons described in subsection (10)(h) of this  
2 section shall be subject to an agreement with the private agency or organization. The agreement  
3 must provide for the recovery of administrative, including direct and indirect, costs incurred by the  
4 office from participation in the agreement. Any moneys collected under this paragraph shall be de-  
5 posited in the Child Care Fund established under ORS 329A.010.

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

12 “**SECTION 2.** ORS 329A.250 is amended to read:

13 “329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the context requires oth-  
14 erwise:

15 “(1) ‘Babysitter’ means a person who goes into the home of a child to give care during the  
16 temporary absence of the parent or legal guardian or custodian.

17 “(2) ‘Certification’ means the certification that is issued under ORS 329A.280 by the Office of  
18 Child Care to a family child care home, child care center or other child care facility.

19 “(3) ‘Child’ means a child under 13 years of age or a child under 18 years of age who has special  
20 needs or disabilities and requires a level of care that is above normal for the child’s age.

21 “(4) Subject to ORS 329A.440, ‘child care’ means the care, supervision and guidance on a regular  
22 basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part  
23 of the 24 hours of the day, in a place other than the child’s home, with or without compensation.  
24 ‘Child care’ does not include care provided:

25 “(a) In the home of the child;

26 “(b) By the child’s parent, guardian, or person acting in loco parentis;

27 “(c) By a person related to the child by blood or marriage within the fourth degree as deter-  
28 mined by civil law;

29 “(d) On an occasional basis by a person not ordinarily engaged in providing child care;

30 “(e) By providers of medical services;

31 “(f) By a babysitter;

32 “(g) By a person who cares for children from only one family other than the person’s own family;

33 “(h) By a person who cares for no more than three children other than the person’s own chil-  
34 dren; or

35 “(i) By a person who is a member of the child’s extended family, as determined by the office on  
36 a case-by-case basis.

37 “(5) ‘Child care facility’ means any facility that provides child care to children, including a day  
38 nursery, nursery school, child care center, certified or registered family child care home or similar  
39 unit operating under any name, but not including any:

40 “(a) Preschool recorded program.

41 “(b) Facility providing care for school-age children that is primarily a single enrichment activity,  
42 for eight hours or less a week.

43 “(c) Facility providing care that is primarily group athletic or social activities sponsored by or  
44 under the supervision of an organized club or hobby group.

45 “(d) Facility operated by:

1 “(A) A school district as defined in ORS 332.002;  
2 “(B) A political subdivision of this state; or  
3 “(C) A governmental agency.  
4 “(e) Residential facility licensed under ORS 443.400 to 443.455.  
5 “(f) Babysitters.  
6 “(g) Facility operated as a parent cooperative for no more than four hours a day.  
7 “(h) Facility providing care while the child’s parent remains on the premises and is engaged in  
8 an activity offered by the facility or in other nonwork activity.  
9 “(i) Facility operated as a school-age recorded program.  
10 “(6) ‘Family’ has the meaning given that term in ORS 329.145.  
11 “(7) ‘Occasional’ means that care is provided for no more than 70 days in any calendar year.  
12 “(8) ‘Parent cooperative’ means a child care program in which:  
13 “(a) Care is provided by parents on a rotating basis;  
14 “(b) Membership in the cooperative includes parents;  
15 “(c) There are written policies and procedures; and  
16 “(d) A board of directors that includes parents of the children cared for by the cooperative  
17 controls the policies and procedures of the program.  
18 “(9) ‘Preschool recorded program’ means a facility providing care for preschool children that is  
19 primarily educational for four hours or less per day and where no child is present at the facility for  
20 more than four hours per day.  
21 “(10) ‘Record’ means the record that is issued under ORS 329A.255 to a preschool recorded  
22 program or under ORS 329A.257 to a school-age recorded program.  
23 “(11) ‘Registration’ means the registration that is issued under ORS 329A.330 by the Office of  
24 Child Care to a family child care home where care is provided in the family living quarters of the  
25 provider’s home.  
26 “(12) ‘School age’ means of an age eligible to be enrolled in [*the first grade*] **kindergarten** or  
27 above [*and, during the months of summer vacation from school, means of an age eligible to be enrolled*  
28 *in first grade or above in the next school year*] **on or before the first day of the current school**  
29 **year.**  
30 “(13) ‘School-age recorded program’ means a program for school-age children:  
31 “(a) That is not operated by a school district as defined in ORS 332.002;  
32 “(b) That is not required to be certified under ORS 329A.280 or registered under ORS 329A.330;  
33 and  
34 “(c) In which youth development activities are provided to children during hours that school is  
35 not in session and does not take the place of a parent’s care.  
36 “(14) ‘Youth development activities’ means care, supervision or guidance that is intended for  
37 enrichment, including but not limited to teaching skills or proficiency in physical, social or educa-  
38 tional activities such as tutoring, music lessons, social activities, sports and recreational activities.  
39 “**SECTION 3.** ORS 329A.252 is amended to read:  
40 “329A.252. [*(1) Notwithstanding ORS 329A.250 (4), care provided to children other than the chil-*  
41 *dren of the person providing the care by a person whose enrollment in the Central Background Reg-*  
42 *istry established by ORS 329A.030 has been denied for cause, has been revoked or is under suspension,*  
43 *or whose certification or registration has been denied for cause, has been revoked or is under suspen-*  
44 *sion, or who has voluntarily surrendered the person’s certification or registration while under investi-*  
45 *gation by the Office of Child Care, is ‘child care’ for purposes of ORS 329A.030 and 329A.250 to*

1 329A.450.]

2 “[(2) Notwithstanding ORS 329A.250 (5), a facility providing care for four hours or less per day  
3 that is primarily educational to preschool children that is operated by a person whose enrollment in the  
4 Central Background Registry established by ORS 329A.030 has been denied for cause, has been re-  
5 voked or is under suspension, or whose certification or registration has been denied for cause, has been  
6 revoked or is under suspension, or who has voluntarily surrendered the person’s certification or reg-  
7 istration while under investigation by the Office of Child Care, is a ‘child care facility’ for purposes  
8 of ORS 329A.030 and 329A.250 to 329A.450.]

9 “(1) As used in this section, ‘exempt prohibited individual’ means:

10 “(a) An individual whose certification or registration has been denied for cause or re-  
11 voked under ORS 329A.350.

12 “(b) An individual whose enrollment in the Central Background Registry established by  
13 ORS 329A.030 has been denied for cause or removed under ORS 329A.030.

14 “(c) An individual who voluntarily surrendered the individual’s certification, registration  
15 or enrollment in the Central Background Registry while under investigation by the Office  
16 of Child Care or at any time after the Office of Child Care has given notice of an adminis-  
17 trative proceeding against the individual or the individual’s child care facility.

18 “(2) For five years following the date on which an individual becomes an exempt prohib-  
19 ited individual, the exempt prohibited individual:

20 “(a) Is ineligible for enrollment in the Central Background Registry; and

21 “(b) May not provide care to a child who is not related to the exempt prohibited individual  
22 by blood or marriage within the fourth degree as determined by civil law.

23 “(3) After the five-year period described in subsection (2) of this section, an individual  
24 ceases to be an exempt prohibited individual if the individual enrolls in the Central Back-  
25 ground Registry.

26 “**SECTION 4.** ORS 329A.263 and sections 6 to 8 of this 2018 Act are added to and made a  
27 part of ORS 329A.250 to 329A.450.

28 “**SECTION 5.** ORS 329A.263 is amended to read:

29 “329A.263. (1) As used in this section:

30 “(a) ‘Certified child care facility’ means a child care facility that has been certified under ORS  
31 329A.280 by the Office of Child Care.

32 “[*(b) ‘Child care facility’ has the meaning given that term in ORS 329A.250 (5).*]

33 “[*(c)*] (b) ‘Registered child care facility’ means a child care facility that has been registered  
34 under ORS 329A.330 by the Office of Child Care.

35 “(2) Every certified child care facility and registered child care facility shall:

36 “(a) Adopt a plan to provide for the safety of children who are receiving child care at a child  
37 care facility in the event of an emergency that requires immediate action by the staff of the facility  
38 due to conditions of imminent danger that pose a threat to the life, health or safety of children who  
39 are receiving child care at the facility; and

40 “(b) Provide training to all employees of the child care facility about the responsibilities of the  
41 employees to implement the plan required by this section.

42 “(3) The Early Learning Council shall adopt by rule the requirements for the plan and training  
43 required by this section. The rules adopted shall include, but are not limited to, procedures for the  
44 evacuation of the children who are receiving child care at the child care facility to a place of safety  
45 when the conditions of imminent danger require relocation of those children.

1       **“SECTION 6. The Office of Child Care is not deprived of jurisdiction to proceed with an**  
2 **investigation of or an action or disciplinary proceeding against an individual or a child care**  
3 **facility by the:**

4       **“(1) Lapsing, suspension, revocation or voluntary surrender of a certification or regis-**  
5 **tration; or**

6       **“(2) Lapsing, suspension, removal or voluntary surrender of an individual’s enrollment**  
7 **in the Central Background Registry established by ORS 329A.030.**

8       **“SECTION 7. (1) If the Office of Child Care has reason to believe that an individual or a**  
9 **child care facility has engaged, is engaging or is about to engage in a violation of ORS**  
10 **181A.200 or 329A.030 and 329A.250 to 329A.450 or the rules promulgated pursuant to ORS**  
11 **181A.195, 181A.200, 181A.215 or 329A.030 and 329A.250 to 329A.450, the office may, subject to**  
12 **ORS chapter 183, issue an order directing the individual or facility to cease and desist from**  
13 **the violation or threatened violation.**

14       **“(2) A cease and desist order issued under subsection (1) of this section shall include:**

15       **“(a) A statement of the facts constituting the violation;**

16       **“(b) A requirement that the individual or child care facility named in the order cease and**  
17 **desist from the violation;**

18       **“(c) The effective date of the order; and**

19       **“(d) A notice to the individual or facility named in the order of the right to a contested**  
20 **case hearing under ORS chapter 183.**

21       **“(3) A cease and desist order issued under subsection (1) of this section becomes effective**  
22 **21 days after service of the order unless the individual or child care facility named in the**  
23 **order requests a hearing on the order.**

24       **“(4)(a) If an individual or a child care facility makes a timely demand for a hearing on**  
25 **the order, the office shall hold a hearing as provided by ORS chapter 183.**

26       **“(b) After the hearing, the office shall enter a final order vacating, modifying or affirm-**  
27 **ing the order.**

28       **“(5) An individual or a child care facility is entitled to judicial review of an order by the**  
29 **office under ORS chapter 183 if the individual or facility made a timely demand for a hearing.**

30       **“(6) A judgment of a reviewing court under ORS chapter 183 does not bar the office from**  
31 **vacating or modifying an order involved in the proceeding for review, or entering a new or-**  
32 **der, for a proper cause that was not decided by the reviewing court.**

33       **“SECTION 8. (1) The Office of Child Care may develop a progressive enforcement system**  
34 **for the rules promulgated pursuant to ORS 329A.030 and 329A.250 to 329A.450.**

35       **“(2) The enforcement system developed under this section may establish:**

36       **“(a) A set of progressively higher enforcement actions that the office may take in re-**  
37 **sponse to an individual’s or a child care facility’s violation of the rules described in sub-**  
38 **section (1) of this section; and**

39       **“(b) Standards for monitoring the compliance of individuals and child care facilities with**  
40 **the rules described in subsection (1) of this section.**

41       **“SECTION 9. ORS 329A.300 is amended to read:**

42       **“329A.300. (1) Upon receipt of an application for a certification, accompanied by the required**  
43 **fee, the Office of Child Care shall issue a certification if the office finds that the child care facility**  
44 **and its operations are in compliance with the requirements of ORS 181A.200, 329A.030 and 329A.250**  
45 **to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and**

1 329A.250 to 329A.450.

2 “(2) The Office of Child Care may issue a temporary certification, subject to reasonable terms  
3 and conditions, for a period not longer than 180 days to a child care facility that does not comply  
4 with the requirements and rules if the office finds that the health and safety of any child will not  
5 be endangered thereby. Not more than one temporary certification shall be issued for the same child  
6 care facility in any 12-month period.

7 “(3) **If the Office of Child Care determines that it is necessary to protect the health and**  
8 **safety of the children for whom a child care facility is to provide care, the office may impose**  
9 **a condition on the facility’s certification that is reasonably designed to protect the health**  
10 **and safety of children. The office may impose a condition during the application process for**  
11 **an initial certification, during the application process for a renewal of a certification or at**  
12 **any time after the issuance of a certification.**

13 “[3] (4) The Office of Child Care shall serve as the state agency authorized, upon request, to  
14 certify compliance with applicable federal child care standards or requirements by any facility pro-  
15 viding child care in the state.

16 “**SECTION 10.** ORS 329A.330 is amended to read:

17 “329A.330. (1) A provider operating a family child care home where care is provided in the  
18 family living quarters of the provider’s home that is not subject to the certification requirements  
19 of ORS 329A.280 may not operate a child care facility without registering with the Office of Child  
20 Care.

21 “(2) A child care facility holding a registration may care for a maximum of 10 children, including  
22 the provider’s own children. Of the 10 children:

23 “(a) No more than six may be younger than school age; and

24 “(b) No more than two may be 24 months of age or younger.

25 “(3)(a) To obtain a registration, a provider must apply to the Office of Child Care by submitting  
26 a completed application work sheet and a nonrefundable fee. The fee shall vary according to the  
27 number of children for which the facility is requesting to be registered, and shall be determined and  
28 applied through rules adopted by the Early Learning Council under ORS 329A.275. The fee shall be  
29 deposited as provided in ORS 329A.310 (2). The office may waive any or all of the fee if the office  
30 determines that imposition of the fee would impose a hardship on the provider.

31 “(b) Upon receipt of an initial or renewal application satisfactory to the office, the office shall  
32 conduct an on-site review of the child care facility under this section. The on-site review shall be  
33 conducted within 30 days of the receipt of a satisfactory application.

34 “(4) The office shall issue a registration to a provider operating a family child care home if:

35 “(a) The provider has completed a child care overview class administered by the office;

36 “(b) The provider has completed two hours of training on child abuse and neglect issues;

37 “(c) The provider is currently certified in infant and child first aid and cardiopulmonary resus-  
38 citation;

39 “(d) The provider is certified as a food handler under ORS 624.570; and

40 “(e) The office determines that the application meets the requirements of ORS 181A.200,  
41 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200,  
42 181A.215, 329A.030 and 329A.250 to 329A.450, and receives a satisfactory records check, including  
43 criminal records and protective services records.

44 “(5) Unless the registration is revoked as provided in ORS 329A.350, the registration is valid for  
45 a period of two years from the date of issuance. The office may **not** renew a registration of a pro-

1 vider operating a family child care home [if] **unless** the provider:

2 “(a) Is currently certified in infant and child first aid and cardiopulmonary resuscitation;

3 “(b) Has completed a minimum of eight hours of training related to child care during the most  
4 recent registration period; and

5 “(c) Is certified as a food handler under ORS 624.570.

6 “(6) A registration authorizes operation of the facility only on the premises described in the  
7 registration and only by the person named in the registration.

8 “(7) The Early Learning Council shall adopt rules:

9 “(a) Creating the application work sheet required under subsection (3) of this section;

10 “(b) Defining full-time and part-time care;

11 “(c) Establishing under what circumstances the adult to child ratio requirements may be tem-  
12 porarily waived; and

13 “(d) Establishing health and safety procedures and standards on:

14 “(A) The number and type of toilets and sinks available to children;

15 “(B) Availability of steps or blocks for use by children;

16 “(C) Room temperature;

17 “(D) Lighting of rooms occupied by children;

18 “(E) Glass panels on doors;

19 “(F) Condition of floors;

20 “(G) Availability of emergency telephone numbers; and

21 “(H) Smoking.

22 “(8) The office shall adopt the application work sheet required by subsection (3) of this section.

23 The work sheet must include, but need not be limited to, the following:

24 “(a) The number and ages of the children to be cared for at the facility; and

25 “(b) The health and safety procedures in place and followed at the facility.

26 “**(9) If the Office of Child Care determines that it is necessary to protect the health and**  
27 **safety of the children for whom a child care facility is to provide care, the office may impose**  
28 **a condition on the facility’s registration that is reasonably designed to protect the health and**  
29 **safety of children. The office may impose a condition during the application process for an**  
30 **initial registration, during the application process for a renewal of a registration or at any**  
31 **time after the issuance of a registration.**

32 “[9] **(10)** The office, upon good cause shown, may waive one or more of the registration re-  
33 quirements. The office may waive a requirement only if appropriate conditions or safeguards are  
34 imposed to protect the welfare of the children and the consumer interests of the parents of the  
35 children. The office may not waive the on-site review requirement for applicants applying for an  
36 initial registration or renewal of a registration.

37 “[10] **(11)** The Early Learning Council, by rule, shall develop a list of recommended standards  
38 consistent with standards established by professional organizations regarding child care programs  
39 for child care facilities. Compliance with the standards is not required for a registration, but the  
40 office shall encourage voluntary compliance and shall provide technical assistance to a child care  
41 facility attempting to comply with the standards. The child care facility shall distribute the list of  
42 recommended minimum standards to the parents of all children cared for at the facility.

43 “[11] **(12)** In adopting rules relating to registration, **(12)** the Early Learning Council shall consult  
44 with the appropriate legislative committee in developing the rules to be adopted. If the rules are  
45 being adopted during a period when the Legislative Assembly is not in session, the Early Learning



1 Council shall consult with the appropriate interim legislative committee.

2 **“SECTION 11.** ORS 329A.360 is amended to read:

3 “329A.360. (1) Upon deciding to deny, revoke, suspend, **impose a condition on** or not [to] renew  
4 a certification or registration, the Office of Child Care shall give notice and opportunity for hearing  
5 as provided in ORS chapter 183.

6 “(2) The Office of Child Care shall make the final decision and notice thereof shall be sent by  
7 certified mail to the address of the child care facility as shown on the records of the office. The  
8 decision of the office is reviewable by the Court of Appeals in the manner provided in ORS 183.480  
9 for the review of orders in contested cases.

10 **“SECTION 12.** ORS 329A.370 is amended to read:

11 “329A.370. (1) Without the necessity of prior administrative proceedings or hearing and entry  
12 of an order or at any time during such proceedings if they have been commenced, the Office of Child  
13 Care, **the Attorney General or the prosecuting attorney of any county** may institute pro-  
14 ceedings to enjoin the operation of any child care facility operating in violation of ORS 181A.200,  
15 329A.030 and 329A.250 to 329A.450 or the rules promulgated pursuant to ORS 181A.195, 181A.200,  
16 181A.215, 329A.030 and 329A.250 to 329A.450.

17 **“(2) An injunction may be issued under this section without proof that a person has  
18 sustained actual damage as a result of a child care facility’s actions.**

19 **“SECTION 13.** ORS 329A.992 is amended to read:

20 “329A.992. (1) In addition to any other provision of law or rule adopted pursuant to ORS  
21 329A.260 for enforcement of the provisions of ORS chapter 329A, the Office of Child Care may sus-  
22 pend or revoke a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450,  
23 or impose a civil penalty in the manner provided in ORS 183.745, for violation of:

24 “(a) Any of the provisions of ORS 329A.030 and 329A.250 to 329A.450;

25 “(b) The terms and conditions of a certification or registration issued under ORS 329A.030 and  
26 329A.250 to 329A.450; or

27 “(c) Any rule of the Early Learning Council adopted under ORS 329A.030 and 329A.250 to  
28 329A.450.

29 “(2) The Early Learning Council [shall] **may** adopt by rule a schedule establishing the civil  
30 penalties that may be imposed under this section. [*The schedule must provide for categories of vio-*  
31 *lations for which a penalty may be imposed, including ‘nonserious’ and ‘serious’ to be defined by the*  
32 *council by rule under ORS 329A.260.*]

33 “[*(3) The office must issue a written warning for a nonserious or serious violation before assessing*  
34 *a civil penalty under this section. The written warning must prescribe a reasonable time in which to*  
35 *correct a violation.*]

36 “[*(4) The office may not impose a civil penalty of more than \$100 for a first violation.*]

37 “[*(5) The office may not impose a civil penalty for a subsequent violation that exceeds the penalty*  
38 *imposed for the previous violation by more than \$100. Penalties imposed under this subsection may not*  
39 *exceed \$500 per violation, or \$1,000 total for multiple violations per quarter.*]

40 “[*(6) Notwithstanding any other provision of this section, the maximum civil penalty that may be*  
41 *imposed.*]

42 “[*(a) For violation of ORS 329A.330 by a registered family child care home provider is \$100.*]

43 “[*(b) For violation of ORS 329A.280 by an operator of a child care facility that is not a child care*  
44 *center is \$200.*]

45 “[*(c) For violation of ORS 329A.280 by an operator of a child care facility that is a child care*

1 center is \$500.]

2 “(3) Except as provided in subsection (4) of this section, penalties imposed under this  
3 section may not exceed:

4 “(a) \$750 per violation for a registered family child care home.

5 “(b) \$1,200 per violation for a certified family child care home.

6 “(c) \$2,500 per violation for a certified child care center that is not a family child care  
7 home.

8 “(4) The office may impose a civil penalty of not more than \$1,500 for a child care facility  
9 that provides child care without a valid:

10 “(a) Certification, in violation of ORS 329A.280; or

11 “(b) Registration, in violation of ORS 329A.330.

12 “(5) Each day that a child care facility is operating in violation of any of the provisions  
13 described in subsection (1) of this section is a separate violation.

14 “(6) The office may revoke a child care facility’s certification or registration or deny a  
15 child care facility’s renewal application for a certification or registration if the facility fails  
16 to pay a civil penalty after the order imposing the penalty becomes final.

17 “(7) A civil penalty imposed under this section may be remitted or reduced upon such terms and  
18 conditions as the office considers proper and consistent with the public health and safety.

19 “(8) All moneys received under this section shall be deposited in the Child Care Fund estab-  
20 lished under ORS 329A.010 and may be used for the administration of ORS 181A.200, 329A.030 and  
21 329A.250 to 329A.450.

22 “**SECTION 14.** The Early Learning Council shall adopt rules, policies and standards to  
23 promote information sharing between the Office of Child Care and the Department of Human  
24 Services.

25 “**SECTION 15.** The amendments to ORS 329A.030, 329A.250, 329A.252, 329A.300, 329A.330  
26 and 329A.360 by sections 1, 2, 3, 9, 10 and 11 of this 2018 Act become operative on September  
27 30, 2018.

28 “**SECTION 16.** The Office of Child Care and the Early Learning Council may take any  
29 action before the operative date specified in section 15 of this 2018 Act that is necessary for  
30 the office or the council to exercise, on and after the operative date specified in section 15  
31 of this 2018 Act, all of the duties, functions and powers conferred on the office and the  
32 council by the amendments to ORS 329A.030, 329A.250, 329A.252, 329A.300, 329A.330 and  
33 329A.360 by sections 1, 2, 3, 9, 10 and 11 of this 2018 Act.

34 “**SECTION 17.** This 2018 Act being necessary for the immediate preservation of the public  
35 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect  
36 on its passage.”

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