

HB 4065-1  
(LC 65)  
2/2/18 (RMH/ps)

Requested by HOUSE COMMITTEE ON EARLY CHILDHOOD AND FAMILY SUPPORTS

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4065**

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

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

4 “329A.030. (1) The Office of Child Care shall establish a Central Back-  
5 ground Registry and may maintain information in the registry through elec-  
6 tronic records systems.

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

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

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

13 “(b) A criminal records check of other registries or databases in accord-  
14 ance with rules adopted by the Early Learning Council;

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

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

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

21 “(A) Is determined to have no criminal, child abuse and neglect, negative

1 adult protective services or negative foster home certification history, or to  
2 have dealt with the issues and provided adequate evidence of suitability for  
3 the registry;

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

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

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

13 “(5)(a) Notwithstanding subsections (3) and (4) of this section, the office  
14 may not enroll an individual in the Central Background Registry if:

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

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

19 “(b) **If an individual who has a disqualifying condition or who is an**  
20 **exempt prohibited individual is enrolled in the Central Background**  
21 **Registry, the office shall remove the individual from the registry.**

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

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

28 “(7) An enrollment in the Central Background Registry may be renewed  
29 upon application to the office, payment of the fee established pursuant to  
30 ORS 329A.275 and compliance with rules adopted by the Early Learning

1 Council pursuant to this section. However, an individual who is determined  
2 to be ineligible for enrollment in the registry after the date of initial en-  
3 rollment shall be removed or suspended from the registry by the office.

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

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

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

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

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

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

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

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

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

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

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

1 istry by the metropolitan service district;

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

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

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

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

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

1 the Child Care Fund established under ORS 329A.010.

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

3 “329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the  
4 context requires otherwise:

5 “(1) ‘Babysitter’ means a person who goes into the home of a child to give  
6 care during the temporary absence of the parent or legal guardian or custo-  
7 dian.

8 “(2) ‘Certification’ means the certification that is issued under ORS  
9 329A.280 by the Office of Child Care to a family child care home, child care  
10 center or other child care facility.

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

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

19 “(a) In the home of the child;

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

21 “(c) By a person related to the child by blood or marriage within the  
22 fourth degree as determined by civil law;

23 “(d) On an occasional basis by a person not ordinarily engaged in pro-  
24 viding child care;

25 “(e) By providers of medical services;

26 “(f) By a babysitter;

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

29 “(h) By a person who cares for no more than three children other than  
30 the person’s own children; or

1       “(i) By a person who is a member of the child’s extended family, as de-  
2       termined by the office on a case-by-case basis.

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

7       “(a) Preschool recorded program.

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

10       “(c) Facility providing care that is primarily group athletic or social ac-  
11       tivities sponsored by or under the supervision of an organized club or hobby  
12       group.

13       “(d) Facility operated by:

14       “(A) A school district as defined in ORS 332.002;

15       “(B) A political subdivision of this state; or

16       “(C) A governmental agency.

17       “(e) Residential facility licensed under ORS 443.400 to 443.455.

18       “(f) Babysitters.

19       “(g) Facility operated as a parent cooperative for no more than four hours  
20       a day.

21       “(h) Facility providing care while the child’s parent remains on the  
22       premises and is engaged in an activity offered by the facility or in other  
23       nonwork activity.

24       “(i) Facility operated as a school-age recorded program.

25       “(6) ‘Family’ has the meaning given that term in ORS 329.145.

26       “(7) ‘Occasional’ means that care is provided for no more than 70 days in  
27       any calendar year.

28       “(8) ‘Parent cooperative’ means a child care program in which:

29       “(a) Care is provided by parents on a rotating basis;

30       “(b) Membership in the cooperative includes parents;

1 “(c) There are written policies and procedures; and

2 “(d) A board of directors that includes parents of the children cared for  
3 by the cooperative controls the policies and procedures of the program.

4 “(9) ‘Preschool recorded program’ means a facility providing care for  
5 preschool children that is primarily educational for four hours or less per  
6 day and where no child is present at the facility for more than four hours  
7 per day.

8 “(10) ‘Record’ means the record that is issued under ORS 329A.255 to a  
9 preschool recorded program or under ORS 329A.257 to a school-age recorded  
10 program.

11 “(11) ‘Registration’ means the registration that is issued under ORS  
12 329A.330 by the Office of Child Care to a family child care home where care  
13 is provided in the family living quarters of the provider’s home.

14 “(12) ‘School age’ means of an age eligible to be enrolled in [*the first*  
15 *grade*] **kindergarten** or above [*and, during the months of summer vacation*  
16 *from school, means of an age eligible to be enrolled in first grade or above in*  
17 *the next school year*] **on or before the first day of the current school**  
18 **year.**

19 “(13) ‘School-age recorded program’ means a program for school-age chil-  
20 dren:

21 “(a) That is not operated by a school district as defined in ORS 332.002;

22 “(b) That is not required to be certified under ORS 329A.280 or registered  
23 under ORS 329A.330; and

24 “(c) In which youth development activities are provided to children during  
25 hours that school is not in session and does not take the place of a parent’s  
26 care.

27 “(14) ‘Youth development activities’ means care, supervision or guidance  
28 that is intended for enrichment, including but not limited to teaching skills  
29 or proficiency in physical, social or educational activities such as tutoring,  
30 music lessons, social activities, sports and recreational activities.

1       **“SECTION 3.** ORS 329A.252 is amended to read:

2       *“329A.252. [(1) Notwithstanding ORS 329A.250 (4), care provided to chil-*  
3 *dren other than the children of the person providing the care by a person*  
4 *whose enrollment in the Central Background Registry established by ORS*  
5 *329A.030 has been denied for cause, has been revoked or is under suspension,*  
6 *or whose certification or registration has been denied for cause, has been re-*  
7 *voked or is under suspension, or who has voluntarily surrendered the person’s*  
8 *certification or registration while under investigation by the Office of Child*  
9 *Care, is ‘child care’ for purposes of ORS 329A.030 and 329A.250 to*  
10 *329A.450.]*

11       *“[(2) Notwithstanding ORS 329A.250 (5), a facility providing care for four*  
12 *hours or less per day that is primarily educational to preschool children that*  
13 *is operated by a person whose enrollment in the Central Background Registry*  
14 *established by ORS 329A.030 has been denied for cause, has been revoked or*  
15 *is under suspension, or whose certification or registration has been denied for*  
16 *cause, has been revoked or is under suspension, or who has voluntarily sur-*  
17 *rendered the person’s certification or registration while under investigation by*  
18 *the Office of Child Care, is a ‘child care facility’ for purposes of ORS 329A.030*  
19 *and 329A.250 to 329A.450.]*

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

21       **“(a) An individual whose certification or registration has been de-**  
22 **nied for cause or revoked under ORS 329A.350.**

23       **“(b) An individual whose enrollment in the Central Background**  
24 **Registry established by ORS 329A.030 has been denied for cause or re-**  
25 **moved under ORS 329A.030.**

26       **“(c) An individual who voluntarily surrendered the individual’s**  
27 **certification, registration or enrollment in the Central Background**  
28 **Registry while under investigation by the Office of Child Care or at**  
29 **any time after the Office of Child Care has given notice of an admin-**  
30 **istrative proceeding against the individual or the individual’s child**



1 **care facility.**

2 **“(2) For five years following the date on which an individual be-**  
3 **comes an exempt prohibited individual, the exempt prohibited indi-**  
4 **vidual:**

5 **“(a) Is ineligible for enrollment in the Central Background Registry;**  
6 **and**

7 **“(b) May not provide care to a child who is not related to the ex-**  
8 **empt prohibited individual by blood or marriage within the fourth de-**  
9 **gree as determined by civil law.**

10 **“(3) After the five-year period described in subsection (2) of this**  
11 **section, an individual ceases to be an exempt prohibited individual if**  
12 **the individual enrolls in the Central Background Registry.**

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

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

16 **“329A.263. (1) As used in this section:**

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

19 **“[(b) ‘Child care facility’ has the meaning given that term in ORS 329A.250**  
20 **(5).]**

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

23 **“(2) Every certified child care facility and registered child care facility**  
24 **shall:**

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

30 **“(b) Provide training to all employees of the child care facility about the**

1 responsibilities of the employees to implement the plan required by this  
2 section.

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

8 **“SECTION 6. The Office of Child Care is not deprived of jurisdiction  
9 to proceed with an investigation of or an action or disciplinary pro-  
10 ceeding against an individual or a child care facility by the:**

11 **“(1) Lapsing, suspension, revocation or voluntary surrender of a  
12 certification or registration; or**

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

16 **“SECTION 7. (1) If the Office of Child Care has reason to believe  
17 that an individual or a child care facility has engaged, is engaging or  
18 is about to engage in a violation of ORS 181A.200 or 329A.030 and  
19 329A.250 to 329A.450 or the rules promulgated pursuant to ORS  
20 181A.195, 181A.200, 181A.215 or 329A.030 and 329A.250 to 329A.450, the  
21 office may, subject to ORS chapter 183, issue an order directing the  
22 individual or facility to cease and desist from the violation or threat-  
23 ened violation.**

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

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

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

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

30 **“(d) A notice to the individual or facility named in the order of the**

1 **right to a contested case hearing under ORS chapter 183.**

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

6 **“(4)(a) If an individual or a child care facility makes a timely de-**  
7 **mand for a hearing on the order, the office shall hold a hearing as**  
8 **provided by ORS chapter 183.**

9 **“(b) After the hearing, the office shall enter a final order vacating,**  
10 **modifying or affirming the order.**

11 **“(5) An individual or a child care facility is entitled to judicial re-**  
12 **view of an order by the office under ORS chapter 183 if the individual**  
13 **or facility made a timely demand for a hearing.**

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

18 **“SECTION 8. (1) The Office of Child Care may develop a progressive**  
19 **enforcement system for the rules promulgated pursuant to ORS**  
20 **329A.030 and 329A.250 to 329A.450.**

21 **“(2) The enforcement system developed under this section may es-**  
22 **tablish:**

23 **“(a) A set of progressively higher enforcement actions that the of-**  
24 **fice may take in response to an individual’s or a child care facility’s**  
25 **violation of the rules described in subsection (1) of this section; and**

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

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

30 **“329A.300. (1) Upon receipt of an application for a certification, accom-**

1 panied by the required fee, the Office of Child Care shall issue a certification  
2 if the office finds that the child care facility and its operations are in com-  
3 pliance with the requirements of ORS 181A.200, 329A.030 and 329A.250 to  
4 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200,  
5 181A.215, 329A.030 and 329A.250 to 329A.450.

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

12 **“(3) If the Office of Child Care determines that it is necessary to**  
13 **protect the health and safety of the children for whom a child care**  
14 **facility is to provide care, the office may impose a condition on the**  
15 **facility’s certification that is reasonably designed to protect the health**  
16 **and safety of children. The office may impose a condition during the**  
17 **application process for an initial certification, during the application**  
18 **process for a renewal of a certification or at any time after the issu-**  
19 **ance of a certification.**

20 “[3] (4) The Office of Child Care shall serve as the state agency au-  
21 thorized, upon request, to certify compliance with applicable federal child  
22 care standards or requirements by any facility providing child care in the  
23 state.

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

25 “329A.330. (1) A provider operating a family child care home where care  
26 is provided in the family living quarters of the provider’s home that is not  
27 subject to the certification requirements of ORS 329A.280 may not operate  
28 a child care facility without registering with the Office of Child Care.

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

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

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

3       “(3)(a) To obtain a registration, a provider must apply to the Office of  
4 Child Care by submitting a completed application work sheet and a  
5 nonrefundable fee. The fee shall vary according to the number of children for  
6 which the facility is requesting to be registered, and shall be determined and  
7 applied through rules adopted by the Early Learning Council under ORS  
8 329A.275. The fee shall be deposited as provided in ORS 329A.310 (2). The  
9 office may waive any or all of the fee if the office determines that imposition  
10 of the fee would impose a hardship on the provider.

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

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

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

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

21       “(c) The provider is currently certified in infant and child first aid and  
22 cardiopulmonary resuscitation;

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

24       “(e) The office determines that the application meets the requirements of  
25 ORS 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated  
26 pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to  
27 329A.450, and receives a satisfactory records check, including criminal re-  
28 cords and protective services records.

29       “(5) Unless the registration is revoked as provided in ORS 329A.350, the  
30 registration is valid for a period of two years from the date of issuance. The

1 office may **not** renew a registration of a provider operating a family child  
2 care home [if] **unless** the provider:

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

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

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

8 “(6) A registration authorizes operation of the facility only on the prem-  
9 ises described in the registration and only by the person named in the reg-  
10 istration.

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

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

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

15 “(c) Establishing under what circumstances the adult to child ratio re-  
16 quirements may be temporarily waived; and

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

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

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

20 “(C) Room temperature;

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

22 “(E) Glass panels on doors;

23 “(F) Condition of floors;

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

25 “(H) Smoking.

26 “(8) The office shall adopt the application work sheet required by sub-  
27 section (3) of this section. The work sheet must include, but need not be  
28 limited to, the following:

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

30 and

1 “(b) The health and safety procedures in place and followed at the facil-  
2 ity.

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

11 “[9] (10) The office, upon good cause shown, may waive one or more of  
12 the registration requirements. The office may waive a requirement only if  
13 appropriate conditions or safeguards are imposed to protect the welfare of  
14 the children and the consumer interests of the parents of the children. The  
15 office may not waive the on-site review requirement for applicants applying  
16 for an initial registration or renewal of a registration.

17 “[10] (11) The Early Learning Council, by rule, shall develop a list of  
18 recommended standards consistent with standards established by professional  
19 organizations regarding child care programs for child care facilities. Com-  
20 pliance with the standards is not required for a registration, but the office  
21 shall encourage voluntary compliance and shall provide technical assistance  
22 to a child care facility attempting to comply with the standards. The child  
23 care facility shall distribute the list of recommended minimum standards to  
24 the parents of all children cared for at the facility.

25 “[11] (12) In adopting rules relating to registration, the Early Learning  
26 Council shall consult with the appropriate legislative committee in develop-  
27 ing the rules to be adopted. If the rules are being adopted during a period  
28 when the Legislative Assembly is not in session, the Early Learning Council  
29 shall consult with the appropriate interim legislative committee.

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

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

5 “(2) The Office of Child Care shall make the final decision and notice  
6 thereof shall be sent by certified mail to the address of the child care facility  
7 as shown on the records of the office. The decision of the office is review-  
8 able by the Court of Appeals in the manner provided in ORS 183.480 for the  
9 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  
12 or hearing and entry of an order or at any time during such proceedings if  
13 they have been commenced, the Office of Child Care, **the Attorney General**  
14 **or the prosecuting attorney of any county** may institute proceedings to  
15 enjoin the operation of any child care facility operating in violation of ORS  
16 181A.200, 329A.030 and 329A.250 to 329A.450 or the rules promulgated pur-  
17 suant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to  
18 329A.450.

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

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

23 “329A.992. (1) In addition to any other provision of law or rule adopted  
24 pursuant to ORS 329A.260 for enforcement of the provisions of ORS chapter  
25 329A, the Office of Child Care may suspend or revoke a certification or  
26 registration issued under ORS 329A.030 and 329A.250 to 329A.450, or impose  
27 a civil penalty in the manner provided in ORS 183.745, for violation of:

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

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



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

3 “(2) The Early Learning Council [*shall*] **may** adopt by rule a schedule  
4 establishing the civil penalties that may be imposed under this section. [*The*  
5 *schedule must provide for categories of violations for which a penalty may be*  
6 *imposed, including ‘nonserious’ and ‘serious’ to be defined by the council by*  
7 *rule under ORS 329A.260.*]

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

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

13 “[*(5) The office may not impose a civil penalty for a subsequent violation*  
14 *that exceeds the penalty imposed for the previous violation by more than \$100.*  
15 *Penalties imposed under this subsection may not exceed \$500 per violation, or*  
16 *\$1,000 total for multiple violations per quarter.*]

17 “[*(6) Notwithstanding any other provision of this section, the maximum*  
18 *civil penalty that may be imposed:*]

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

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

23 “[*(c) For violation of ORS 329A.280 by an operator of a child care facility*  
24 *that is a child care center is \$500.*]

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

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

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

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

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

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

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

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

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

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

15       **“(8) All moneys received under this section shall be deposited in the Child**  
16 **Care Fund established under ORS 329A.010 and may be used for the admin-**  
17 **istration of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.**

18       **“SECTION 14. The Early Learning Council shall adopt rules, poli-**  
19 **cies and standards to promote information sharing between the Office**  
20 **of Child Care and the Department of Human Services.**

21       **“SECTION 15. The amendments to ORS 329A.030, 329A.250, 329A.252,**  
22 **329A.300, 329A.330 and 329A.360 by sections 1, 2, 3, 9, 10 and 11 of this**  
23 **2018 Act become operative on September 30, 2018.**

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

1 **11 of this 2018 Act.**

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

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