

# DRAFT

## SUMMARY

Directs Department of Human Services to submit documents necessary to finalize certain pending adoptions on or before June 30, 2020.

Directs department to report to Legislative Assembly regarding adoption of rule for purposes of federal Family First Prevention Services Act.

Modifies definition of “exempt prohibited individual” for purposes of Central Background Registry. Modifies availability of conditional enrollment in Central Background Registry.

Declares that person may not be disqualified from service as child welfare service provider based on certain traits. Declares that child, ward or youth may not be prohibited from, disciplined for or retaliated against for publicly or privately speaking about child’s, ward’s or youth’s experience receiving child welfare services.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to children; creating new provisions; amending ORS 329A.030 and 329A.252; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

## PENDING ADOPTIONS

**SECTION 1. (1) No later than June 30, 2020, the Department of Human Services shall make reasonable efforts to submit to the court all documents necessary to finalize all pending adoption proceedings that, on or before January 1, 2020, meet the following criteria:**

**(a) Parental rights have been terminated;**

**(b) The adoptive parent or parents have been designated by the de-**

partment;

(c) The requirements of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) have been met, if applicable;

(d) The child has not raised objections to the adoption; and

(e) There are no pending objections in the proceeding.

(2) No later than September 1, 2020, the department shall submit a report to the interim committees of the Legislative Assembly related to foster children describing:

(a) The number of adoptions finalized under subsection (1) of this section;

(b) The resources the department requires to ensure timely finalization of adoptions moving forward and any other barriers to timely, appropriate permanency actions; and

(c) The number of adoptions identified in subsection (1) of this section that remain pending and the barriers that prevented their finalization.

## CANDIDATES FOR FOSTER CARE

**SECTION 2.** (1) No later than September 1, 2020, the Department of Human Services shall submit a report to the interim committees of the Legislative Assembly related to foster children regarding the status of the department's adoption of a rule defining "candidate for foster care" that meets the funding requirements of the federal Family First Prevention Services Act (P.L. 115-123).

(2) In developing the rule described in subsection (1) of this section, the department shall, at a minimum:

(a) Consider a definition that allows families to access needed services prior to children entering foster care;

(b) Allows collaboration with court systems, including specialty

1 **court systems; and**

2 **(c) Includes opportunities to improve alternatives to removal for**  
3 **populations at risk of disproportionate removal.**

4  
5 **CENTRAL BACKGROUND REGISTRY**  
6

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

8 329A.030. (1) The Office of Child Care shall establish a Central Back-  
9 ground Registry and may maintain information in the registry through elec-  
10 tronic records systems.

11 (2)(a) A subject individual shall apply to and must be enrolled in the  
12 Central Background Registry as part of the individual's application to oper-  
13 ate a program or serve in a position described in subsection (10) of this  
14 section.

15 (b) An individual who has been the subject of a founded or substantiated  
16 report of child abuse shall apply to and be enrolled in the Central Back-  
17 ground Registry prior to providing any of the types of care identified in ORS  
18 329A.250 (4)(a), (g) or (h) if:

19 (A) The child abuse occurred on or after January 1, 2017, and involved a  
20 child who died or suffered serious physical injury, as defined in ORS 161.015;  
21 or

22 (B) The child abuse occurred on or after September 1, 2019, and involved  
23 any child for whom the individual was providing child care, as defined in  
24 ORS 329A.250 (4), or care identified in ORS 329A.250 (4)(a), (c), (f), (g), (h)  
25 or (i).

26 (c) Notwithstanding paragraph (a) of this subsection, an individual de-  
27 scribed in paragraph (b)(B) of this subsection is not required to enroll in the  
28 Central Background Registry if more than seven years has elapsed since the  
29 date of the child abuse determination.

30 (3)(a) Upon receiving an application for enrollment in the Central Back-  
31 ground Registry, the office shall complete:

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

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

(C) A child abuse and neglect records check in accordance with rules adopted by the council; and

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

(b) In addition to the information that the office is required to check under paragraph (a) of this subsection, the office may consider any other information obtained by the office that the office, by rule, determines is relevant to enrollment in the Central Background Registry.

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

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

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

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

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

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

(A) The individual has a disqualifying condition as defined in rules adopted by the council; or

(B) The individual is an exempt prohibited individual, as provided by ORS 329A.252.

(b) If an individual prohibited from enrolling in the registry as provided by this subsection is enrolled in the registry, the office shall remove the individual from the registry.

(6)(a) The office may conditionally enroll an individual in the Central Background Registry pending the results of a nationwide criminal records check through the Federal Bureau of Investigation if the individual has *[met other requirements of the office for enrollment in the registry]* **successfully completed the criminal records check and the child abuse and neglect records check in this state and in the state of the individual's residence, if other than Oregon.**

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

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

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

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

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

(10) For purposes of this section, "subject individual" means a subject individual as defined by the Early Learning Council by rule, an individual subject to subsection (2)(b) of this section or a person who applies to be:

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

1 (b) The operator or an employee of an Oregon prekindergarten program  
2 under ORS 329.170 to 329.200;

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

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

7 (e) A contractor or an employee of the contractor who provides early  
8 childhood special education or early intervention services pursuant to ORS  
9 343.455 to 343.534;

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

12 (g) A contractor, employee or volunteer of a metropolitan service district  
13 organized under ORS chapter 268 who may have unsupervised contact with  
14 children and who is required to be enrolled in the Central Background Reg-  
15 istry by the metropolitan service district;

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

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

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

30 (b) Information provided to a private agency or organization facilitating  
31 the provision of respite services, as defined in ORS 418.205, for parents pur-

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

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

15 **SECTION 4.** ORS 329A.252 is amended to read:

16 329A.252. (1) As used in this section, “exempt prohibited individual”  
17 means:

18 (a) An individual whose certification or registration is suspended, has  
19 been denied for cause or has been revoked **for cause** under ORS 329A.350.

20 (b) An individual whose enrollment in the Central Background Registry  
21 established by ORS 329A.030 is suspended, has been denied for cause or has  
22 been removed **for cause** under ORS 329A.030.

23 (c) An individual whose certification, registration or enrollment in the  
24 Central Background Registry is subject to an emergency order of suspension  
25 under ORS 183.430 (2).

26 (d) An individual who voluntarily surrendered the individual’s certifica-  
27 tion, registration or enrollment in the Central Background Registry while  
28 under investigation by the Office of Child Care or at any time after the Of-  
29 fice of Child Care has given notice of an administrative proceeding against  
30 the individual or the individual’s child care facility.

31 (e) An individual to whom the Office of Child Care has issued a final

order to cease and desist:

(A) After a contested proceeding; or

(B) That has become effective because the individual did not request a hearing.

(2) For five years following the date on which an individual becomes an exempt prohibited individual, the exempt prohibited individual:

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

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

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

(4) Notwithstanding the five-year period described in subsection (2) of this section, an individual shall be permanently considered an exempt prohibited individual and shall be permanently subject to the prohibitions described in subsection (2) of this section if the individual:

(a) Has been convicted of, in any state, a crime in which a child suffered serious physical injury, as defined in ORS 161.015, or death; or

(b) Is required to report as a sex offender under ORS 163A.010, 163A.015, 163A.020 or 163A.025 or the laws of another jurisdiction.

## **NONDISCRIMINATION AND NON-RETALIATION IN CHILD WELFARE**

**SECTION 5. Nondiscrimination.** (1) It is the policy of this state that an individual may not be disqualified from providing child welfare services to a child or ward:

(a) For the sole reason that the individual received child welfare services as a child or youth;

(b) For the sole reason that the individual is a person with a disa-



bility; or

(c) On the basis of race, religion, national origin, sex, age, marital status, sexual orientation, gender expression or disability.

(2) Subsection (1) of this section applies to any person providing child welfare services to a child or ward, including but not limited to foster parents, proctor foster parents, adoptive parents, relative caregivers, safety providers and direct service providers.

**SECTION 6. Non-retaliation.** It is the policy of this state that a child, ward or youth may not be prohibited from, disciplined for or retaliated against for publicly or privately speaking about the child, ward or youth's experience receiving child welfare services.

## MISCELLANEOUS

**SECTION 7. Captions.** The unit and section captions used in this 2020 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2020 Act.

**SECTION 8. Emergency.** This 2020 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect on its passage.