

## SENATE AMENDMENTS TO SENATE BILL 917

By COMMITTEE ON HUMAN SERVICES

April 22

1 On page 1 of the printed bill, line 2, after “providers” insert a period and delete the rest of the  
2 line and line 3.

3 Delete lines 6 through 28 and delete pages 2 through 7 and insert:

4 **“SECTION 2. (1) A long term care facility may not interfere with the good faith disclo-**  
5 **sure of information by an employee or a volunteer concerning the abuse or mistreatment**  
6 **of a resident in the long term care facility, violations of licensing or certification require-**  
7 **ments, criminal activity at the facility, violations of state or federal laws or any practice that**  
8 **threatens the health and safety of a resident of the facility to:**

9 **“(a) The Long Term Care Ombudsman, the Department of Human Services, a law**  
10 **enforcement agency or other entity with legal or regulatory authority over the long term**  
11 **care facility; or**

12 **“(b) A family member, guardian, friend or other person who is acting on behalf of the**  
13 **resident.**

14 **“(2) Unless performed with the intent to comply with state or federal law, including but**  
15 **not limited to protecting residents’ rights or carrying out a facility’s policies and procedures**  
16 **that are consistent with state and federal law, it is interference with the disclosure of in-**  
17 **formation as described in subsection (1) of this section if a long term care facility:**

18 **“(a) Asks or requires the employee or volunteer to sign a nondisclosure or similar**  
19 **agreement prohibiting the employee or volunteer from disclosing the information;**

20 **“(b) Trains an employee or volunteer not to disclose the information; or**

21 **“(c) Takes actions or communicates to the employee or volunteer that the employee or**  
22 **volunteer may not disclose the information.**

23 **“(3) The department may revoke or suspend the license of a long term care facility that**  
24 **is found to have violated subsection (1) of this section.**

25 **“(4) The department shall adopt rules to carry out the provisions of this section.**

26 **“(5) This section does not authorize the disclosure of protected health information, as**  
27 **defined in ORS 192.556, other than as is permitted by the federal Health Insurance Portability**  
28 **and Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to**  
29 **192.581 or by other state or federal laws limiting the disclosure of health information.**

30 **“SECTION 3. Section 4 of this 2019 Act is added to and made a part of ORS 443.400 to**  
31 **443.455.**

32 **“SECTION 4. (1) A residential facility may not interfere with the good faith disclosure**  
33 **of information by an employee or volunteer concerning the abuse or mistreatment of a res-**  
34 **ident in the residential facility, violations of licensing or certification requirements, criminal**  
35 **activity at the facility, violations of state or federal laws or any practice that threatens the**

1 health and safety of a resident of the facility to:

2 “(a) The Long Term Care Ombudsman, the Residential Facilities Ombudsman, the De-  
3 partment of Human Services, a law enforcement agency or other entity with legal or regu-  
4 latory authority over the residential facility; or

5 “(b) A family member, guardian, friend or other person who is acting on behalf of the  
6 resident.

7 “(2) A residential facility interferes with the disclosure of the information described in  
8 subsection (1) of this section by:

9 “(a) Asking or requiring the employee or volunteer to sign a nondisclosure or similar  
10 agreement prohibiting the employee or volunteer from disclosing the information;

11 “(b) Training an employee or volunteer not to disclose the information; or

12 “(c) Taking actions or communicating to the employee or volunteer that the employee  
13 or volunteer may not disclose the information.

14 “(3) The licensing agency may revoke or suspend the license of a residential facility that  
15 is found to have violated subsection (1) of this section.

16 “(4) The department shall adopt rules to carry out the provisions of this section.

17 “(5) This section does not authorize the disclosure of:

18 “(a) Protected health information, as defined in ORS 192.556, other than as is permitted  
19 by the federal Health Insurance Portability and Accountability Act privacy regulations, 45  
20 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or by other state or federal laws limiting the  
21 disclosure of health information; or

22 “(b) Information protected under ORS 419A.255 and 419A.257.

23 “SECTION 5. Section 6 of this 2019 Act is added to and made a part of ORS 443.705 to  
24 443.825.

25 “SECTION 6. (1) An adult foster home may not interfere with the good faith disclosure  
26 of information by an employee or volunteer concerning the abuse or mistreatment of a res-  
27 ident in the adult foster home, violations of licensing or certification requirements, criminal  
28 activity at the adult foster home, violations of state or federal laws or any practice that  
29 threatens the health and safety of a resident in the adult foster home to:

30 “(a) The Long Term Care Ombudsman, the Residential Facilities Ombudsman, the De-  
31 partment of Human Services, a law enforcement agency or other entity with legal or regu-  
32 latory authority over the adult foster home; or

33 “(b) A family member, guardian, friend or other person who is acting on behalf of the  
34 resident.

35 “(2) An adult foster home interferes with the disclosure of the information described in  
36 subsection (1) of this section by:

37 “(a) Asking or requiring the employee or volunteer to sign a nondisclosure or similar  
38 agreement prohibiting the employee or volunteer from disclosing the information;

39 “(b) Training an employee or volunteer not to disclose the information; or

40 “(c) Taking actions or communicating to the employee or volunteer that the employee  
41 or volunteer may not disclose the information.

42 “(3) The licensing agency may revoke or suspend the license of an adult foster home that  
43 is found to have violated subsection (1) of this section.

44 “(4) The licensing agency shall adopt rules to carry out the provisions of this section.

45 “(5) This section does not authorize the disclosure of protected health information, as

1 defined in ORS 192.556, other than as is permitted by the federal Health Insurance Portability  
2 and Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to  
3 192.581 or by other state or federal laws limiting the disclosure of health information.

4 **“SECTION 7.** Section 8 of this 2019 Act is added to and made a part of ORS 329A.250 to  
5 329A.450.

6 **“SECTION 8.** (1) A child care facility may not interfere with the good faith disclosure of  
7 information by an employee or volunteer concerning the abuse or mistreatment of a child in  
8 the child care facility, violations of licensing or certification requirements, criminal activity  
9 at the facility, violations of state or federal laws or any practice that threatens the health  
10 and safety of a child in the child care facility to:

11 **“(a)** The Office of Child Care, a law enforcement agency or other entity with legal or  
12 regulatory authority over the child care facility; or

13 **“(b)** The child’s parent, legal guardian or personal representative as defined in ORS  
14 192.556.

15 **“(2)** A child care facility interferes with the disclosure of the information described in  
16 subsection (1) of this section by:

17 **“(a)** Asking or requiring the employee or volunteer to sign a nondisclosure or similar  
18 agreement prohibiting the employee or volunteer from disclosing the information;

19 **“(b)** Training an employee or volunteer not to disclose the information; or

20 **“(c)** Taking actions or communicating to the employee or volunteer that the employee  
21 or volunteer may not disclose the information.

22 **“(3)** The office may revoke or suspend the certification of a child care facility that is  
23 found to have violated subsection (1) of this section.

24 **“(4)** The disclosure of information to a child’s parent, legal guardian or personal repre-  
25 sentative under subsection (1) of this section does not relieve the employee or volunteer of  
26 any obligation to report the abuse of a child.

27 **“(5)** This section does not authorize the disclosure of protected health information, as  
28 defined in ORS 192.556, other than as is permitted by the federal Health Insurance Portability  
29 and Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to  
30 192.581 or by other state or federal laws limiting the disclosure of health information.

31 **“SECTION 9.** Notwithstanding ORS 329A.992, the Office of Child Care shall impose a civil  
32 penalty, as provided in ORS 183.745, for the violation of section 8 of this 2019 Act. The civil  
33 penalty is \$500 for each violation.

34 **“SECTION 10.** Section 11 of this 2019 Act is added to and made a part of ORS 418.205 to  
35 418.327.

36 **“SECTION 11.** (1) A child-caring agency may not interfere with the good faith disclosure  
37 of information by an employee or volunteer concerning the abuse or mistreatment of a child  
38 in the care of the child-caring agency, violations of licensing or certification requirements,  
39 criminal activity at the child-caring agency, violations of state or federal laws or any practice  
40 that threatens the health and safety of a child in the care of the child-caring agency to:

41 **“(a)** The Department of Human Services, a law enforcement agency or other entity with  
42 legal or regulatory authority over the child-caring agency; or

43 **“(b)** A family member, guardian or other person who is acting on behalf of the child.

44 **“(2)** A child-caring agency interferes with the disclosure of the information described in  
45 subsection (1) of this section by:

1       “(a) Asking or requiring the employee or volunteer to sign a nondisclosure or similar  
2 agreement prohibiting the employee or volunteer from disclosing the information;

3       “(b) Training an employee or volunteer not to disclose the information; or

4       “(c) Taking actions or communicating to the employee or volunteer that the employee  
5 or volunteer may not disclose the information.

6       “(3) The department may revoke or suspend the license, certification or authorization  
7 of a child-caring agency that is found to have violated subsection (1) of this section.

8       “(4) The department shall adopt rules to carry out the provisions of this section.

9       “(5) This section does not authorize the disclosure of:

10       “(a) Protected health information, as defined in ORS 192.556, other than as is permitted  
11 by the federal Health Insurance Portability and Accountability Act privacy regulations, 45  
12 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or by other state or federal laws limiting the  
13 disclosure of health information; or

14       “(b) Information protected under ORS 419A.255 and 419A.257.

15       “SECTION 12. Section 13 of this 2019 Act is added to and made a part of ORS 418.625 to  
16 418.645.

17       “SECTION 13. (1) A foster home may not interfere with the good faith disclosure of in-  
18 formation by an employee or volunteer concerning the abuse or mistreatment of a child in  
19 the care of the foster home, violations of licensing or certification requirements, criminal  
20 activity at the foster home, violations of state or federal laws or any practice that threatens  
21 the health and safety of a child in the care of the foster home to:

22       “(a) The Department of Human Services, a law enforcement agency or other entity with  
23 legal or regulatory authority over the foster home; or

24       “(b) A family member, guardian or other person who is acting on behalf of the child.

25       “(2) A foster home interferes with the disclosure of the information described in sub-  
26 section (1) of this section by:

27       “(a) Asking or requiring the employee or volunteer to sign a nondisclosure or similar  
28 agreement prohibiting the employee or volunteer from disclosing the information;

29       “(b) Training an employee or volunteer not to disclose the information; or

30       “(c) Taking actions or communicating to the employee or volunteer that the employee  
31 or volunteer may not disclose the information.

32       “(3) The department may revoke or suspend the certificate of approval of a foster home  
33 that is found to have violated subsection (1) of this section.

34       “(4) The department shall adopt rules to carry out the provisions of this section.

35       “(5) This section does not authorize the disclosure of:

36       “(a) Protected health information, as defined in ORS 192.556, other than as is permitted  
37 by the federal Health Insurance Portability and Accountability Act privacy regulations, 45  
38 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or by other state or federal laws limiting the  
39 disclosure of health information; or

40       “(b) Information protected under ORS 419A.255 and 419A.257.

41       “SECTION 14. In addition to any other liability or penalty provided by law, the Director  
42 of Human Services shall impose a civil penalty on a foster home, as defined in ORS 418.625,  
43 that violates section 13 of this 2019 Act. A civil penalty under this section is \$500 for each  
44 violation and shall be imposed as provided in ORS 183.745.

45       “SECTION 15. Section 16 of this 2019 Act is added to and made a part of ORS 420.855 to

1 420.885.

2 **“SECTION 16.** (1) A youth care center may not interfere with the good faith disclosure  
3 of information by an employee or a volunteer concerning the abuse or mistreatment of a  
4 youth in the care of the center, violations of licensing or certification requirements, criminal  
5 activity at the youth care center, violations of state or federal laws or any practice that  
6 threatens the health and safety of a youth in the care of the center to:

7 **“(a)** The Oregon Youth Authority, a law enforcement agency or other entity with legal  
8 or regulatory authority over the care center; or

9 **“(b)** A family member, guardian or other person who is acting on behalf of the youth.

10 **“(2)** A care center interferes with the disclosure of the information described in sub-  
11 section (1) of this section by:

12 **“(a)** Asking or requiring the employee or volunteer to sign a nondisclosure or similar  
13 agreement prohibiting the employee or volunteer from disclosing the information;

14 **“(b)** Training an employee or volunteer not to disclose the information; or

15 **“(c)** Taking actions or communicating to the employee or volunteer that the employee  
16 or volunteer may not disclose the information.

17 **“(3)** The authority may revoke or suspend the approval of a care center that is found to  
18 have violated subsection (1) of this section.

19 **“(4)** This section does not authorize the disclosure of:

20 **“(a)** Protected health information, as defined in ORS 192.556, other than as is permitted  
21 by the federal Health Insurance Portability and Accountability Act privacy regulations, 45  
22 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or by other state or federal laws limiting the  
23 disclosure of health information; or

24 **“(b)** Information protected under ORS 419A.255 and 419A.257.

25 **“SECTION 17.** (1) In addition to any other liability or penalty provided by law, the Di-  
26 rector of the Oregon Youth Authority shall impose a civil penalty, as provided in ORS  
27 183.745, on a youth care center, as defined in ORS 420.855, that violates section 16 of this 2019  
28 Act.

29 **“(2)** A civil penalty under subsection (1) of this section is \$500 for each violation.

30 **“SECTION 18.** Section 19 of this 2019 Act is added to and made a part of ORS 420.888 to  
31 420.892.

32 **“SECTION 19.** (1) A youth offender foster home may not interfere with the good faith  
33 disclosure of information concerning the abuse or mistreatment of a youth in the care of the  
34 youth offender foster home, violations of licensing or certification requirements, criminal  
35 activity at the youth offender foster home, violations of state or federal laws or any practice  
36 that threatens the health and safety of a youth offender in the care of the youth offender  
37 foster home to:

38 **“(a)** The Oregon Youth Authority, a law enforcement agency or other entity with legal  
39 or regulatory authority over the youth offender foster home; or

40 **“(b)** A family member, guardian or other person who is acting on behalf of the youth.

41 **“(2)** A youth offender foster home interferes with the disclosure of the information de-  
42 scribed in subsection (1) of this section by:

43 **“(a)** Asking or requiring the employee or volunteer to sign a nondisclosure or similar  
44 agreement prohibiting the employee or volunteer from disclosing the information;

45 **“(b)** Training an employee or volunteer not to disclose the information; or

1           “(c) Taking actions or communicating to the employee or volunteer that the employee  
2 or volunteer may not disclose the information.

3           “(3) The authority may revoke or suspend the certificate of approval of a youth offender  
4 foster home that is found to have violated subsection (1) of this section.

5           “(4) This section does not authorize the disclosure of:

6           “(a) Protected health information, as defined in ORS 192.556, other than as is permitted  
7 by the federal Health Insurance Portability and Accountability Act privacy regulations, 45  
8 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or by other state or federal laws limiting the  
9 disclosure of health information; or

10           “(b) Information protected under ORS 419A.255 and 419A.257.

11           “SECTION 20. (1) In addition to any other liability or penalty provided by law, the Di-  
12 rector of the Oregon Youth Authority shall impose a civil penalty, as provided in ORS  
13 183.745, on a youth offender foster home, as defined in ORS 420.888, that violates section 19  
14 of this 2019 Act.

15           “(2) A civil penalty under subsection (1) of this section is \$500 for each violation.

16           “SECTION 21. (1) As used in this section, ‘employer’ means:

17           “(a) An adult foster home as defined in ORS 443.705;

18           “(b) A child care provider as defined in ORS 329A.700;

19           “(c) A child-caring agency as defined in ORS 418.205;

20           “(d) A child-caring facility as defined in ORS 418.950;

21           “(e) Community-based structured housing as defined in ORS 443.480;

22           “(f) A facility as defined in ORS 430.735;

23           “(g) A foster home as defined in ORS 418.625;

24           “(h) A long term care facility as defined in ORS 442.015;

25           “(i) A residential facility as defined in ORS 443.400;

26           “(j) A youth care center as defined in ORS 420.855;

27           “(k) A youth offender foster home as defined in ORS 420.888; or

28           “(L) Any other entity that is licensed, certified or registered by a public body, as defined  
29 in ORS 174.109, to provide care to children, youth, individuals with disabilities or older adults.

30           “(2) It is an unlawful employment practice under ORS chapter 659A for an employer to  
31 violate section 2, 4, 6, 8, 11, 13, 16 or 19 of this 2019 Act or to interfere with an employee’s  
32 good faith disclosure of information concerning the abuse or mistreatment of an individual  
33 cared for by the employer, violations of licensing or certification requirements, criminal ac-  
34 tivity occurring at the workplace, violations of state or federal laws or any practice that  
35 threatens the health and safety of the individual cared for by the employer to regulatory  
36 agencies, law enforcement authorities or persons who are acting on behalf of the individual.

37           “(3) An employee or a volunteer may file a civil action under ORS 659A.885, alleging vio-  
38 lation of this section.

39           “SECTION 22. Sections 2, 4, 6, 8, 11, 13, 16 and 19 of this 2019 Act apply to statements  
40 or conduct occurring on or after the effective date of this 2019 Act.”.