

Requested by SENATE COMMITTEE ON HUMAN SERVICES

**PROPOSED AMENDMENTS TO  
SENATE BILL 490**

1 On page 1 of the printed bill, line 2, delete “329A.252” and insert  
2 “329A.030, 329A.252 and 329A.992”.

3 Delete lines 5 through 28 and delete page 2 and insert:

4 **“SECTION 1.** ORS 329A.252, as amended by section 3, chapter 115,  
5 Oregon Laws 2018, is amended to read:

6 “329A.252. (1) As used in this section, ‘exempt prohibited individual’  
7 means:

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

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

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

18 **“(d) An individual who has operated a child care facility in violation**  
19 **of ORS 329A.030 and 329A.250 to 329A.450.**

20 **“(e) An individual whose certification or registration has been re-**  
21 **voked for cause or denied for cause:**

1       **“(A) By default for failing to request a hearing in response to a**  
2 **notice issued under ORS 183.415 to revoke for cause or deny for cause**  
3 **the individual’s certification or registration;**

4       **“(B) By final order issued following a contested case proceeding; or**

5       **“(C) By a cease and desist order issued in accordance with section**  
6 **7, chapter 115, Oregon Laws 2018.**

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

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

10       “(b) May not provide care to a child who is not related to the exempt  
11 prohibited individual by blood or marriage within the fourth degree as de-  
12 termined by civil law.

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

16       **“(4) Notwithstanding the five-year period described in subsection (2)**  
17 **of this section, an individual shall be permanently considered an ex-**  
18 **empt prohibited individual and shall be permanently subject to the**  
19 **prohibitions described in subsection (2) of this section if the individual:**

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

23       **“(b) Is required to report as a sex offender under ORS 163A.010,**  
24 **163A.015, 163A.020 or 163A.025 or the laws of another jurisdiction.**

25       **“SECTION 2.** ORS 329A.030, as amended by section 1, chapter 115,  
26 Oregon Laws 2018, is amended to read:

27       “329A.030. (1) The Office of Child Care shall establish a Central Back-  
28 ground Registry and may maintain information in the registry through elec-  
29 tronic records systems.

30       “(2)(a) A subject individual shall apply to and must be enrolled in the

1 Central Background Registry as part of the individual’s application to oper-  
2 ate a program or serve in a position described in subsection (10) of this  
3 section.

4 **“(b) An individual who has been the subject of a founded or sub-**  
5 **stantiated report of child abuse shall apply to and be enrolled in the**  
6 **Central Background Registry prior to providing any of the types of**  
7 **care identified in ORS 329A.250 (4)(a), (c), (f), (g), (h) or (i) if:**

8 **“(A) The child abuse involved a child who died or suffered serious**  
9 **physical injury, as defined in ORS 161.015; or**

10 **“(B) The child abuse involved any child for whom the individual**  
11 **was providing child care, as defined in ORS 329A.250 (4), or care iden-**  
12 **tified in ORS 329A.250 (4)(a), (c), (f), (g), (h) or (i).**

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

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

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

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

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

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

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

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

30 **“(C) Has complied with the rules of the Early Learning Council adopted**

1 pursuant to this section.

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

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

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

11 “(B) The individual is an exempt prohibited individual, as [*defined in*]  
12 **provided by ORS 329A.252.**

13 “(b) If an individual [*who has a disqualifying condition or who is an ex-*  
14 *empt prohibited individual*] **prohibited from enrolling in the registry as**  
15 **provided by this subsection** is enrolled in the [*Central Background*] regis-  
16 try, the office shall remove the individual from the registry.

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

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

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

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

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

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

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

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

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

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

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

18 “(e) A contractor or an employee of the contractor who provides early  
19 childhood special education or early intervention services pursuant to ORS  
20 343.455 to 343.534;

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

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

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

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

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

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

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

27 **“SECTION 3.** ORS 329A.992, as amended by section 13, chapter 115,  
28 Oregon Laws 2018, is amended to read:

29 “329A.992. (1) In addition to any other provision of law or rule adopted  
30 pursuant to ORS 329A.260 for enforcement of the provisions of ORS chapter

1 329A, the Office of Child Care may:

2 “(a) Suspend or revoke a certification or registration issued under ORS  
3 329A.030 and 329A.250 to 329A.450, or impose a civil penalty in the manner  
4 provided in ORS 183.745, for violation of:

5 “[a] (A) Any of the provisions of ORS 329A.030 and 329A.250 to  
6 329A.450;

7 “[b] (B) The terms and conditions of a certification or registration is-  
8 sued under ORS 329A.030 and 329A.250 to 329A.450; or

9 “[c] (C) Any rule of the Early Learning Council adopted under ORS  
10 329A.030 and 329A.250 to 329A.450.

11 “(b) **Impose a civil penalty in the manner provided in ORS 183.745**  
12 **and file for injunctive relief in a circuit court for the provision of child**  
13 **care, or for having a child in an individual’s care, in violation of ORS**  
14 **329A.030 (2).**

15 “(2) The Early Learning Council may adopt by rule a schedule establish-  
16 ing the civil penalties that may be imposed under this section.

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

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

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

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

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

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

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

27 “(5) Each day that a child care facility is operating in violation of any  
28 of the provisions described in subsection (1) of this section is a separate vi-  
29 olation.

30 “(6) The office may revoke a child care facility’s certification or regis-

1 tration or deny a child care facility’s renewal application for a certification  
2 or registration if the facility fails to pay a civil penalty after the order im-  
3 posing the penalty becomes final.

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

7 “(8) All moneys received under this section shall be paid into the State  
8 Treasury and credited to the General Fund.

9 **“SECTION 4. This 2019 Act being necessary for the immediate**  
10 **preservation of the public peace, health and safety, an emergency is**  
11 **declared to exist, and this 2019 Act takes effect on its passage.”.**

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