

D R A F T

SUMMARY

Requires operators, employees and certain volunteers of preschool recorded programs and school-age recorded programs to be enrolled in Central Background Registry.

Authorizes Office of Child Care to conduct certain investigations of preschool recorded programs and school-age recorded programs.

Creates temporary exception to requirement that employees and certain volunteers of preschool recorded programs and school-age recorded programs must be enrolled in Central Background Registry.

Becomes operative on January 1, 2023.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to children; creating new provisions; amending ORS 329A.030,
3 329A.250, 329A.252, 329A.255, 329A.390, 419B.005 and 419B.035; repealing
4 ORS 329A.257; and declaring an emergency.

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

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

7 329A.030. (1) The Office of Child Care shall establish a Central Back-
8 ground Registry and may maintain information in the registry through elec-
9 tronic records systems.

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

14 (b) An individual who has been the subject of a founded or substantiated
15 report of child abuse shall apply to and **must** be enrolled in the Central

1 Background Registry prior to providing any of the types of care identified
2 in ORS 329A.250 (4)(b)(A), (G) or (H) if:

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

6 (B) The child abuse occurred on or after September 1, 2019, and involved
7 any child for whom the individual was providing child care, as defined in
8 ORS 329A.250 (4), or care identified in ORS 329A.250 (4)(b)(A), (C), (F), (G),
9 (H) or (I).

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

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

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

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

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

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

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

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

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

1 the registry;

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

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

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

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

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

14 (B) The individual is an exempt prohibited individual, as provided by ORS
15 329A.252.

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

19 (6)(a) The office may conditionally enroll an individual in the Central
20 Background Registry pending the results of a nationwide criminal records
21 check through the Federal Bureau of Investigation if the individual has
22 successfully completed the criminal records check and the child abuse and
23 neglect records check in this state and in the state of the individual's resi-
24 dence, if other than Oregon.

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

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

1 rollment shall be removed or suspended from the registry by the office.

2 (8)(a) A child care facility [*shall*], **preschool recorded program or**
3 **school-age recorded program** may not hire or employ an individual if the
4 individual is not enrolled in the Central Background Registry.

5 (b) Notwithstanding paragraph (a) of this subsection, a child care
6 facility, **preschool recorded program or school-age recorded program**
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*] **As used in** this section, "subject individual" means
14 a subject individual as defined by the Early Learning Council by rule, an
15 individual subject to subsection (2)(b) of this section or a person who applies
16 to be:

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

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

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

22 (d) An individual in a child care facility, **preschool recorded program**
23 **or school-age recorded program** who may have unsupervised contact with
24 children as identified by the office;

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

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

30 (g) A contractor, employee or volunteer of a metropolitan service district
31 organized under ORS chapter 268 who may have unsupervised contact with

1 children and who is required to be enrolled in the Central Background Reg-
2 istry by the metropolitan service district;

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

7 (i) The operator or an employee of an early learning program as defined
8 in rules adopted by the council[.]; **or**

9 **(j) The operator or an employee of a preschool recorded program**
10 **or a school-age recorded program.**

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

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

28 (c) Information provided to a private agency or organization about the
29 enrollment status of the persons described in subsection (10)(i) of this section
30 shall be subject to an agreement with the private agency or organization.
31 The agreement must provide for the recovery of administrative, including

1 direct and indirect, costs incurred by the office from participation in the
2 agreement. Any moneys collected under this paragraph shall be deposited in
3 the Child Care Fund established under ORS 329A.010.

4 **SECTION 2.** ORS 329A.252 is amended to read:

5 329A.252. (1) As used in this section, “exempt prohibited individual”
6 means:

7 (a) An individual whose **record**, certification or registration is suspended,
8 has been denied for cause or has been revoked for cause under ORS **329A.255**
9 **or** 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 for cause under ORS 329A.030.

13 (c) An individual whose **record**, certification, registration or enrollment
14 in the Central Background Registry is subject to an emergency order of
15 suspension under ORS 183.430 (2).

16 (d) An individual who voluntarily surrendered the individual’s **record**,
17 certification, registration or enrollment in the Central Background Registry
18 while under investigation by the Office of Child Care or at any time after
19 the Office of Child Care has given notice of an administrative proceeding
20 against the individual, [or] the individual’s child care facility, **the**
21 **individual’s preschool recorded program or the individual’s school-age**
22 **recorded program.**

23 (e) An individual to whom the Office of Child Care has issued a final
24 order to cease and desist:

25 (A) After a contested proceeding; or

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

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

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

31 (b) May not provide care to a child who is not related to the exempt

1 prohibited individual by blood or marriage within the fourth degree as de-
2 termined by civil law.

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

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

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

12 (b) Is required to report as a sex offender under ORS 163A.010, 163A.015,
13 163A.020 or 163A.025 or the laws of another jurisdiction.

14 **SECTION 3.** ORS 329A.255 is amended to read:

15 329A.255. *[(1) A person operating a preschool recorded program may not*
16 *operate the program without performing criminal background checks for all*
17 *staff and volunteers and becoming recorded with the Office of Child Care as*
18 *provided in this section.]*

19 **(1) A person may not operate a preschool recorded program or a**
20 **school-age recorded program unless the program is recorded with the**
21 **Office of Child Care as provided in this section.**

22 (2) To obtain recording, the person **operating the program** must apply
23 to the office by submitting a completed record application form and a
24 nonrefundable fee as established by the office. The office shall determine and
25 apply the fee through rules adopted by the Early Learning Council under
26 ORS 329A.275. The office shall deposit fees received under this subsection
27 as provided in ORS 329A.310 (2).

28 (3) The office shall issue a record to [*a person*] **the applicant** [*operating*
29 *a preschool recorded program*] if the office determines that the applicant
30 meets the requirements of ORS **329A.030 and** 329A.250 to 329A.450 and the
31 rules adopted pursuant to ORS **329A.030 and** 329A.250 to 329A.450 and sub-

1 section (9) of this section.

2 (4) Unless the record is revoked as provided in subsection (8) of this sec-
3 tion, the record is valid for a period of two years from the date of issuance.

4 (5) A record authorizes operation of the [*preschool recorded*] program only
5 on the premises described in the record and only by the person named in the
6 record.

7 (6) The office shall create and maintain a database of [*preschool*
8 *recorded*] programs recorded under this section and shall update the database
9 annually. The database [*shall*] **must** include, but need not be limited to, the
10 following information:

11 (a) Name and address of the program;

12 (b) Name of operator; and

13 (c) Significant program information, as determined by the Early Learning
14 Council by rule.

15 (7) A [*preschool recorded*] program recorded under this section must post,
16 and provide parents with, a notice that the [*preschool recorded*] program is
17 not certified under ORS 329A.280 or registered under ORS 329A.330.

18 (8) An initial application or renewal application for recording of a [*pre-*
19 *school recorded*] program **under this section** may be denied, revoked or
20 suspended, if the office finds:

21 (a) That the program or its operation does not comply with ORS **329A.030**
22 **or** 329A.250 to 329A.450, with applicable rules and with any term or condi-
23 tion imposed under the record; or

24 (b) That investigation of the program or its records authorized by ORS
25 329A.390 has not been permitted.

26 (9) The Early Learning Council shall adopt any rules necessary to carry
27 out the provisions of this section.

28 (10) A person who violates any provision of this section or any term or
29 condition of a record is subject to a civil penalty not to exceed \$100.

30 **SECTION 4.** ORS 329A.390 is amended to read:

31 329A.390. (1) Whenever an authorized representative of the Office of Child

1 Care is advised or has reason to believe that child care that is subject to
2 regulation by the office is being provided without a certification, registration
3 or record, the authorized representative may visit and conduct an investi-
4 gation of the facility at any reasonable time to determine whether the facil-
5 ity is subject to the requirements of ORS 181A.200, 329A.030 and 329A.250 to
6 329A.450.

7 (2) At any reasonable time, an authorized representative of the Office of
8 Child Care may conduct an investigation of any certified or registered child
9 care facility **or program recorded under ORS 329A.255** to determine
10 whether the child care facility **or program** is in conformity with ORS
11 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pur-
12 suant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to
13 329A.450.

14 (3) An authorized representative of the Office of Child Care shall conduct
15 an investigation of any certified or registered child care facility, **of any**
16 **program recorded under ORS 329A.255** or of any other child care facility
17 that is subject to regulation by the office if the office receives a serious
18 complaint about the child care facility **or program**.

19 (4) Complaints, including but not limited to serious complaints, made by
20 individuals or entities regarding certified or registered child care facilities,
21 regulated subsidy facilities, preschool recorded programs or school-age re-
22 corded programs may be received and investigated by the Office of Child
23 Care. The name, address and other identifying information about the indi-
24 vidual or entity that made the complaint may not be disclosed.

25 (5) Any state agency that receives a complaint about a certified or regis-
26 tered child care facility, a regulated subsidy facility, a preschool recorded
27 program or a school-age recorded program shall notify the Office of Child
28 Care about the complaint and any subsequent action taken by the state
29 agency based on that complaint.

30 (6) A director or operator of a child care facility, a regulated subsidy fa-
31 cility, a preschool recorded program or a school-age recorded program shall

1 permit an authorized representative of the Office of Child Care to inspect
2 records of the facility or program and shall furnish promptly reports and
3 information required by the office.

4 (7) In conducting an investigation under this section, the office may:

5 (a) Take evidence;

6 (b) Take the depositions of witnesses, including the person under investi-
7 gation, in the manner prescribed by law for depositions in civil actions;

8 (c) Compel the appearance of witnesses, including the person under in-
9 vestigation, in the manner prescribed by law for appearances in civil actions;

10 (d) Require answers to interrogatories;

11 (e) Compel the production of books, papers, accounts, documents or tes-
12 timony that pertains to the matter under investigation;

13 (f) Issue subpoenas; and

14 (g) Inspect the premises of the facility under investigation.

15 (8) The Office of Child Care may share information regarding investi-
16 gations or inspections conducted under this section with other public entities
17 when the office determines that sharing the information would support the
18 health or safety of children in child care.

19 (9) The Office of Child Care shall make a reasonable attempt to identify
20 any child care facility or person or place providing child care about which
21 the office receives a complaint, including but not limited to a serious com-
22 plaint, if the complaint includes, but is not limited to, any of the following
23 information:

24 (a) The name of a child in the care of the child care facility or person
25 or place providing child care, or the child's parent;

26 (b) The name of a child care provider, a child care facility owner, opera-
27 tor or employee, or a person or place providing child care;

28 (c) The name of the child care facility or person or place providing child
29 care;

30 (d) The phone number of the child care facility or person or place pro-
31 viding child care; or

1 (e) The physical address of the child care facility or person or place pro-
2 viding child care.

3 (10) As used in this section:

4 (a)(A) “Serious complaint” has the meaning given that term by the Early
5 Learning Council by rule.

6 (B) “Serious complaint” includes notifications or reports of alleged child
7 abuse received by the Office of Child Care.

8 (b) “Regulated subsidy facility” has the meaning given that term by the
9 Early Learning Council by rule.

10 **SECTION 5.** ORS 329A.250, as amended by section 40, chapter 631,
11 Oregon Laws 2021, is amended to read:

12 329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the
13 context requires otherwise:

14 (1) “Babysitter” means a person who goes into the home of a child to give
15 care during the temporary absence of the parent or legal guardian or custo-
16 dian.

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

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

23 (4)(a) “Child care” means the care, supervision and guidance on a regular
24 basis of a child, unaccompanied by a parent, guardian or custodian, provided
25 to a child during a part of the 24 hours of the day, in a place other than the
26 child’s home, with or without compensation.

27 (b) “Child care” does not include care provided:

28 (A) In the home of the child;

29 (B) By the child’s parent, guardian, or person acting in loco parentis;

30 (C) By a person related to the child by blood or marriage within the
31 fourth degree as determined by civil law;

1 (D) On an occasional basis by a person not ordinarily engaged in provid-
2 ing child care;

3 (E) By providers of medical services;

4 (F) By a babysitter;

5 (G) By a person who cares for children from only one family other than
6 the person's own family;

7 (H) By a person who cares for no more than three children other than the
8 person's own children; or

9 (I) By a person who is a member of the child's extended family, as deter-
10 mined by the office on a case-by-case basis.

11 (5) "Child care facility" means any facility that provides child care to
12 children, including a day nursery, nursery school, child care center, certified
13 or registered family child care home or similar unit operating under any
14 name, but not including any:

15 (a) Preschool recorded program.

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

18 (c) Facility providing care that is primarily group athletic or social ac-
19 tivities sponsored by or under the supervision of an organized club or hobby
20 group.

21 (d) Facility operated by:

22 (A) A school district as defined in ORS 332.002;

23 (B) A political subdivision of this state; or

24 (C) A governmental agency.

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

26 (f) Babysitters.

27 (g) Facility operated as a parent cooperative for no more than four hours
28 a day.

29 (h) Facility providing care while the child's parent remains on the prem-
30 ises and is engaged in an activity offered by the facility or in other nonwork
31 activity.

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

2 (6) “Family” has the meaning given that term in ORS 329.155.

3 (7) “Occasional” means that care is provided for no more than 70 days in
4 any calendar year.

5 (8) “Parent cooperative” means a child care program in which:

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

7 (b) Membership in the cooperative includes parents;

8 (c) There are written policies and procedures; and

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

11 (9) “Preschool recorded program” means a facility providing care for
12 preschool children that is primarily educational for four hours or less per
13 day and where no child is present at the facility for more than four hours
14 per day.

15 (10) “Record” means the record that is issued under ORS 329A.255 to a
16 preschool recorded program or [*under ORS 329A.257 to*] a school-age re-
17 corded program.

18 (11) “Registration” means the registration that is issued under ORS
19 329A.330 by the Office of Child Care to a family child care home where care
20 is provided in the family living quarters of the provider’s home.

21 (12) “School age” means of an age eligible to be enrolled in kindergarten
22 or above on or before the first day of the current school year.

23 (13) “School-age recorded program” means a program for school-age chil-
24 dren:

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

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

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

31 (14) “Youth development activities” means care, supervision or guidance

1 that is intended for enrichment, including but not limited to teaching skills
2 or proficiency in physical, social or educational activities such as tutoring,
3 music lessons, social activities, sports and recreational activities.

4 **SECTION 6.** ORS 329A.250 is amended to read:

5 329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the
6 context requires otherwise:

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

10 (2) “Certification” means the certification that is issued under ORS
11 329A.280 by the Office of Child Care to a family child care home, child care
12 center or other child care facility.

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

16 (4)(a) “Child care” means the care, supervision and guidance on a regular
17 basis of a child, unaccompanied by a parent, guardian or custodian, provided
18 to a child during a part of the 24 hours of the day, in a place other than the
19 child’s home, with or without compensation.

20 (b) “Child care” does not include care provided:

21 (A) In the home of the child;

22 (B) By the child’s parent, guardian, or person acting in loco parentis;

23 (C) By a person related to the child by blood or marriage within the
24 fourth degree as determined by civil law;

25 (D) On an occasional basis by a person not ordinarily engaged in provid-
26 ing child care;

27 (E) By providers of medical services;

28 (F) By a babysitter;

29 (G) By a person who cares for children from only one family other than
30 the person’s own family;

31 (H) By a person who cares for no more than three children other than the

1 person's own children; or

2 (I) By a person who is a member of the child's extended family, as deter-
3 mined by the office on a case-by-case basis.

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

8 (a) Preschool recorded program.

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

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

14 (d) Facility operated by:

15 (A) A school district as defined in ORS 332.002;

16 (B) A political subdivision of this state; or

17 (C) A governmental agency.

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

19 (f) Babysitters.

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

22 (h) Facility providing care while the child's parent remains on the prem-
23 ises and is engaged in an activity offered by the facility or in other nonwork
24 activity.

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

26 (6) "Family" has the meaning given that term in ORS 329.145.

27 (7) "Occasional" means that care is provided for no more than 70 days in
28 any calendar year.

29 (8) "Parent cooperative" means a child care program in which:

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

31 (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 re-
10 corded 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 kindergarten
15 or above on or before the first day of the current school year.

16 (13) “School-age recorded program” means a program for school-age chil-
17 dren:

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

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

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

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

28 **SECTION 7.** ORS 419B.005, as amended by section 58, chapter 631,
29 Oregon Laws 2021, is amended to read:

30 419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
31 quires otherwise:

1 (1)(a) "Abuse" means:

2 (A) Any assault, as defined in ORS chapter 163, of a child and any phys-
3 ical injury to a child which has been caused by other than accidental means,
4 including any injury which appears to be at variance with the explanation
5 given of the injury.

6 (B) Any mental injury to a child, which shall include only observable and
7 substantial impairment of the child's mental or psychological ability to
8 function caused by cruelty to the child, with due regard to the culture of the
9 child.

10 (C) Rape of a child, which includes but is not limited to rape, sodomy,
11 unlawful sexual penetration and incest, as those acts are described in ORS
12 chapter 163.

13 (D) Sexual abuse, as described in ORS chapter 163.

14 (E) Sexual exploitation, including but not limited to:

15 (i) Contributing to the sexual delinquency of a minor, as defined in ORS
16 chapter 163, and any other conduct which allows, employs, authorizes, per-
17 mits, induces or encourages a child to engage in the performing for people
18 to observe or the photographing, filming, tape recording or other exhibition
19 which, in whole or in part, depicts sexual conduct or contact, as defined in
20 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving
21 a child or rape of a child, but not including any conduct which is part of
22 any investigation conducted pursuant to ORS 419B.020 or which is designed
23 to serve educational or other legitimate purposes; and

24 (ii) Allowing, permitting, encouraging or hiring a child to engage in
25 prostitution as described in ORS 167.007 or a commercial sex act as defined
26 in ORS 163.266, to purchase sex with a minor as described in ORS 163.413
27 or to engage in commercial sexual solicitation as described in ORS 167.008.

28 (F) Negligent treatment or maltreatment of a child, including but not
29 limited to the failure to provide adequate food, clothing, shelter or medical
30 care that is likely to endanger the health or welfare of the child.

31 (G) Threatened harm to a child, which means subjecting a child to a

1 substantial risk of harm to the child’s health or welfare.

2 (H) Buying or selling a person under 18 years of age as described in ORS
3 163.537.

4 (I) Permitting a person under 18 years of age to enter or remain in or
5 upon premises where methamphetamines are being manufactured.

6 (J) Unlawful exposure to a controlled substance, as defined in ORS
7 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
8 fined in ORS 475C.009, that subjects a child to a substantial risk of harm to
9 the child’s health or safety.

10 (b) “Abuse” does not include reasonable discipline unless the discipline
11 results in one of the conditions described in paragraph (a) of this subsection.

12 (2) “Child” means an unmarried person who:

13 (a) Is under 18 years of age; or

14 (b) Is under 21 years of age and residing in or receiving care or services
15 at a child-caring agency as that term is defined in ORS 418.205.

16 (3) “Higher education institution” means:

17 (a) A community college as defined in ORS 341.005;

18 (b) A public university listed in ORS 352.002;

19 (c) The Oregon Health and Science University; and

20 (d) A private institution of higher education located in Oregon.

21 (4)(a) “Investigation” means a detailed inquiry into or assessment of the
22 safety of a child alleged to have experienced abuse.

23 (b) “Investigation” does not include screening activities conducted upon
24 the receipt of a report.

25 (5) “Law enforcement agency” means:

26 (a) A city or municipal police department.

27 (b) A county sheriff’s office.

28 (c) The Oregon State Police.

29 (d) A police department established by a university under ORS 352.121 or
30 353.125.

31 (e) A county juvenile department.

1 (6) "Public or private official" means:

2 (a) Physician or physician assistant licensed under ORS chapter 677 or
3 naturopathic physician, including any intern or resident.

4 (b) Dentist.

5 (c) School employee, including an employee of a higher education insti-
6 tution.

7 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's
8 aide, home health aide or employee of an in-home health service.

9 (e) Employee of the Department of Human Services, Oregon Health Au-
10 thority, Department of Early Learning and Care, Department of Education,
11 Youth Development Division, Office of Child Care, the Oregon Youth Au-
12 thority, a local health department, a community mental health program, a
13 community developmental disabilities program, a county juvenile department,
14 a child-caring agency as that term is defined in ORS 418.205 or an alcohol
15 and drug treatment program.

16 (f) Peace officer.

17 (g) Psychologist.

18 (h) Member of the clergy.

19 (i) Regulated social worker.

20 (j) Optometrist.

21 (k) Chiropractor.

22 (L) Certified provider of foster care, or an employee thereof.

23 (m) Attorney.

24 (n) Licensed professional counselor.

25 (o) Licensed marriage and family therapist.

26 (p) Firefighter or emergency medical services provider.

27 (q) A court appointed special advocate, as defined in ORS 419A.004.

28 (r) A child care provider registered or certified under ORS 329A.030 and
29 329A.250 to 329A.450.

30 (s) An elected official of a branch of government of this state or a state
31 agency, board, commission or department of a branch of government of this

1 state or of a city, county or other political subdivision in this state.

2 (t) Physical, speech or occupational therapist.

3 (u) Audiologist.

4 (v) Speech-language pathologist.

5 (w) Employee of the Teacher Standards and Practices Commission directly
6 involved in investigations or discipline by the commission.

7 (x) Pharmacist.

8 (y) An operator of a preschool recorded program under ORS 329A.255.

9 (z) An operator of a school-age recorded program under ORS [329A.257]
10 **329A.255.**

11 (aa) Employee of a private agency or organization facilitating the pro-
12 vision of respite services, as defined in ORS 418.205, for parents pursuant to
13 a properly executed power of attorney under ORS 109.056.

14 (bb) An employee of a public or private organization providing child-
15 related services or activities:

16 (A) Including but not limited to an employee of a:

17 (i) Youth group or center;

18 (ii) Scout group or camp;

19 (iii) Summer or day camp;

20 (iv) Survival camp; or

21 (v) Group, center or camp that is operated under the guidance, super-
22 vision or auspices of a religious, public or private educational system or a
23 community service organization; and

24 (B) Excluding an employee of a qualified victim services program as de-
25 fined in ORS 147.600 that provides confidential, direct services to victims of
26 domestic violence, sexual assault, stalking or human trafficking.

27 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional
28 or professional athlete, if compensated and if the athlete is a child.

29 (dd) Personal support worker, as defined in ORS 410.600.

30 (ee) Home care worker, as defined in ORS 410.600.

31 (ff) Animal control officer, as defined in ORS 609.500.

1 (gg) Member of a school district board, an education service district board
2 or a public charter school governing body.

3 (hh) An individual who is paid by a public body, in accordance with ORS
4 430.215, to provide a service identified in an individualized written service
5 plan of a child with a developmental disability.

6 (ii) Referral agent, as defined in ORS 418.351.

7 **SECTION 8.** ORS 419B.005 is amended to read:

8 419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
9 quires otherwise:

10 (1)(a) “Abuse” means:

11 (A) Any assault, as defined in ORS chapter 163, of a child and any phys-
12 ical injury to a child which has been caused by other than accidental means,
13 including any injury which appears to be at variance with the explanation
14 given of the injury.

15 (B) Any mental injury to a child, which shall include only observable and
16 substantial impairment of the child’s mental or psychological ability to
17 function caused by cruelty to the child, with due regard to the culture of the
18 child.

19 (C) Rape of a child, which includes but is not limited to rape, sodomy,
20 unlawful sexual penetration and incest, as those acts are described in ORS
21 chapter 163.

22 (D) Sexual abuse, as described in ORS chapter 163.

23 (E) Sexual exploitation, including but not limited to:

24 (i) Contributing to the sexual delinquency of a minor, as defined in ORS
25 chapter 163, and any other conduct which allows, employs, authorizes, per-
26 mits, induces or encourages a child to engage in the performing for people
27 to observe or the photographing, filming, tape recording or other exhibition
28 which, in whole or in part, depicts sexual conduct or contact, as defined in
29 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving
30 a child or rape of a child, but not including any conduct which is part of
31 any investigation conducted pursuant to ORS 419B.020 or which is designed

1 to serve educational or other legitimate purposes; and

2 (ii) Allowing, permitting, encouraging or hiring a child to engage in
3 prostitution as described in ORS 167.007 or a commercial sex act as defined
4 in ORS 163.266, to purchase sex with a minor as described in ORS 163.413
5 or to engage in commercial sexual solicitation as described in ORS 167.008.

6 (F) Negligent treatment or maltreatment of a child, including but not
7 limited to the failure to provide adequate food, clothing, shelter or medical
8 care that is likely to endanger the health or welfare of the child.

9 (G) Threatened harm to a child, which means subjecting a child to a
10 substantial risk of harm to the child's health or welfare.

11 (H) Buying or selling a person under 18 years of age as described in ORS
12 163.537.

13 (I) Permitting a person under 18 years of age to enter or remain in or
14 upon premises where methamphetamines are being manufactured.

15 (J) Unlawful exposure to a controlled substance, as defined in ORS
16 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
17 fined in ORS 475C.009, that subjects a child to a substantial risk of harm to
18 the child's health or safety.

19 (b) "Abuse" does not include reasonable discipline unless the discipline
20 results in one of the conditions described in paragraph (a) of this subsection.

21 (2) "Child" means an unmarried person who:

22 (a) Is under 18 years of age; or

23 (b) Is under 21 years of age and residing in or receiving care or services
24 at a child-caring agency as that term is defined in ORS 418.205.

25 (3) "Higher education institution" means:

26 (a) A community college as defined in ORS 341.005;

27 (b) A public university listed in ORS 352.002;

28 (c) The Oregon Health and Science University; and

29 (d) A private institution of higher education located in Oregon.

30 (4)(a) "Investigation" means a detailed inquiry into or assessment of the
31 safety of a child alleged to have experienced abuse.

1 (b) "Investigation" does not include screening activities conducted upon
2 the receipt of a report.

3 (5) "Law enforcement agency" means:

4 (a) A city or municipal police department.

5 (b) A county sheriff's office.

6 (c) The Oregon State Police.

7 (d) A police department established by a university under ORS 352.121 or
8 353.125.

9 (e) A county juvenile department.

10 (6) "Public or private official" means:

11 (a) Physician or physician assistant licensed under ORS chapter 677 or
12 naturopathic physician, including any intern or resident.

13 (b) Dentist.

14 (c) School employee, including an employee of a higher education insti-
15 tution.

16 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's
17 aide, home health aide or employee of an in-home health service.

18 (e) Employee of the Department of Human Services, Oregon Health Au-
19 thority, Early Learning Division, Department of Education, Youth Develop-
20 ment Division, Office of Child Care, the Oregon Youth Authority, a local
21 health department, a community mental health program, a community de-
22 velopmental disabilities program, a county juvenile department, a child-
23 caring agency as that term is defined in ORS 418.205 or an alcohol and drug
24 treatment program.

25 (f) Peace officer.

26 (g) Psychologist.

27 (h) Member of the clergy.

28 (i) Regulated social worker.

29 (j) Optometrist.

30 (k) Chiropractor.

31 (L) Certified provider of foster care, or an employee thereof.

- 1 (m) Attorney.
- 2 (n) Licensed professional counselor.
- 3 (o) Licensed marriage and family therapist.
- 4 (p) Firefighter or emergency medical services provider.
- 5 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 6 (r) A child care provider registered or certified under ORS 329A.030 and
7 329A.250 to 329A.450.
- 8 (s) An elected official of a branch of government of this state or a state
9 agency, board, commission or department of a branch of government of this
10 state or of a city, county or other political subdivision in this state.
- 11 (t) Physical, speech or occupational therapist.
- 12 (u) Audiologist.
- 13 (v) Speech-language pathologist.
- 14 (w) Employee of the Teacher Standards and Practices Commission directly
15 involved in investigations or discipline by the commission.
- 16 (x) Pharmacist.
- 17 (y) An operator of a preschool recorded program under ORS 329A.255.
- 18 (z) An operator of a school-age recorded program under ORS [329A.257]
19 **329A.255.**
- 20 (aa) Employee of a private agency or organization facilitating the pro-
21 vision of respite services, as defined in ORS 418.205, for parents pursuant to
22 a properly executed power of attorney under ORS 109.056.
- 23 (bb) An employee of a public or private organization providing child-
24 related services or activities:
 - 25 (A) Including but not limited to an employee of a:
 - 26 (i) Youth group or center;
 - 27 (ii) Scout group or camp;
 - 28 (iii) Summer or day camp;
 - 29 (iv) Survival camp; or
 - 30 (v) Group, center or camp that is operated under the guidance, super-
31 vision or auspices of a religious, public or private educational system or a

1 community service organization; and

2 (B) Excluding an employee of a qualified victim services program as de-
3 fined in ORS 147.600 that provides confidential, direct services to victims of
4 domestic violence, sexual assault, stalking or human trafficking.

5 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional
6 or professional athlete, if compensated and if the athlete is a child.

7 (dd) Personal support worker, as defined in ORS 410.600.

8 (ee) Home care worker, as defined in ORS 410.600.

9 (ff) Animal control officer, as defined in ORS 609.500.

10 (gg) Member of a school district board, an education service district board
11 or a public charter school governing body.

12 (hh) An individual who is paid by a public body, in accordance with ORS
13 430.215, to provide a service identified in an individualized written service
14 plan of a child with a developmental disability.

15 (ii) Referral agent, as defined in ORS 418.351.

16 **SECTION 9.** ORS 419B.035 is amended to read:

17 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170,
18 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and ac-
19 cessibility for public inspection of public records and public documents, re-
20 ports and records compiled under the provisions of ORS 419B.010 to 419B.050
21 are confidential and may not be disclosed except as provided in this section.
22 The Department of Human Services shall make the records available to:

23 (a) Any law enforcement agency or a child abuse registry in any other
24 state for the purpose of subsequent investigation of child abuse;

25 (b) Any physician, physician assistant licensed under ORS 677.505 to
26 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, at the
27 request of the physician, physician assistant or nurse practitioner, regarding
28 any child brought to the physician, physician assistant or nurse practitioner
29 or coming before the physician, physician assistant or nurse practitioner for
30 examination, care or treatment;

31 (c) Attorneys of record for the child or child's parent or guardian in any

1 juvenile court proceeding;

2 (d) Citizen review boards established by the Judicial Department for the
3 purpose of periodically reviewing the status of children, youths and adjudi-
4 cated youths under the jurisdiction of the juvenile court under ORS 419B.100
5 and 419C.005. Citizen review boards may make such records available to
6 participants in case reviews;

7 (e) A court appointed special advocate in any juvenile court proceeding
8 in which it is alleged that a child has been subjected to child abuse or neg-
9 lect;

10 (f) The Office of Child Care for certifying, registering or otherwise regu-
11 lating child care facilities;

12 (g) The Office of Children's Advocate;

13 (h) The Teacher Standards and Practices Commission for investigations
14 conducted under ORS 339.390 or 342.176 involving any child or any student;

15 (i) Any person, upon request to the Department of Human Services, if the
16 reports or records requested regard an incident in which a child, as the re-
17 sult of abuse, died or suffered serious physical injury as defined in ORS
18 161.015. Reports or records disclosed under this paragraph must be disclosed
19 in accordance with ORS 192.311 to 192.478;

20 (j) The Office of Child Care for purposes of ORS 329A.030 [(10)(g), (h) and
21 (i)] **(10)(g) to (j)**;

22 (k) With respect to a report of abuse occurring at a school or in an edu-
23 cational setting that involves a child with a disability, Disability Rights
24 Oregon;

25 (L) The Department of Education for purposes of investigations conducted
26 under ORS 339.391; and

27 (m) An education provider for the purpose of making determinations un-
28 der ORS 339.388.

29 (2)(a) When disclosing reports and records pursuant to subsection (1)(i)
30 of this section, the Department of Human Services may exempt from disclo-
31 sure the names, addresses and other identifying information about other

1 children, witnesses, victims or other persons named in the report or record
2 if the department determines, in written findings, that the safety or well-
3 being of a person named in the report or record may be jeopardized by dis-
4 closure of the names, addresses or other identifying information, and if that
5 concern outweighs the public's interest in the disclosure of that information.

6 (b) If the Department of Human Services does not have a report or record
7 of abuse regarding a child who, as the result of abuse, died or suffered seri-
8 ous physical injury as defined in ORS 161.015, the department may disclose
9 that information.

10 (3) The Department of Human Services may make reports and records
11 compiled under the provisions of ORS 419B.010 to 419B.050 available to any
12 person, administrative hearings officer, court, agency, organization or other
13 entity when the department determines that such disclosure is necessary to
14 administer its child welfare services and is in the best interests of the af-
15 fected child, or that such disclosure is necessary to investigate, prevent or
16 treat child abuse and neglect, to protect children from abuse and neglect or
17 for research when the Director of Human Services gives prior written ap-
18 proval. The Department of Human Services shall adopt rules setting forth the
19 procedures by which it will make the disclosures authorized under this sub-
20 section or subsection (1) or (2) of this section. The name, address and other
21 identifying information about the person who made the report may not be
22 disclosed pursuant to this subsection and subsection (1) of this section.

23 (4) A law enforcement agency may make reports and records compiled
24 under the provisions of ORS 419B.010 to 419B.050 available to other law
25 enforcement agencies, district attorneys, city attorneys with criminal
26 prosecutorial functions and the Attorney General when the law enforcement
27 agency determines that disclosure is necessary for the investigation or
28 enforcement of laws relating to child abuse and neglect or necessary to de-
29 termine a claim for crime victim compensation under ORS 147.005 to 147.367.

30 (5) A law enforcement agency, upon completing an investigation and
31 closing the file in a specific case relating to child abuse or neglect, shall

1 make reports and records in the case available upon request to any law
2 enforcement agency or community corrections agency in this state, to the
3 Department of Corrections, to the Oregon Youth Authority or to the State
4 Board of Parole and Post-Prison Supervision for the purpose of managing and
5 supervising offenders in custody or on probation, parole, post-prison super-
6 vision or other form of conditional or supervised release. A law enforcement
7 agency may make reports and records compiled under the provisions of ORS
8 419B.010 to 419B.050 available to the Oregon Youth Authority, law enforce-
9 ment, community corrections, corrections or parole agencies in an open case
10 when the law enforcement agency determines that the disclosure will not
11 interfere with an ongoing investigation in the case. The name, address and
12 other identifying information about the person who made the report may not
13 be disclosed under this subsection or subsection (6)(b) of this section.

14 (6)(a) Any record made available to a law enforcement agency or com-
15 munity corrections agency in this state, to the Department of Corrections,
16 the Oregon Youth Authority or the State Board of Parole and Post-Prison
17 Supervision or to a physician, physician assistant or nurse practitioner in
18 this state, as authorized by subsections (1) to (5) of this section, shall be kept
19 confidential by the agency, department, board, physician, physician assistant
20 or nurse practitioner. Any record or report disclosed by the Department of
21 Human Services to other persons or entities pursuant to subsections (1) and
22 (3) of this section shall be kept confidential.

23 (b) Notwithstanding paragraph (a) of this subsection:

24 (A) A law enforcement agency, a community corrections agency, the De-
25 partment of Corrections, the Oregon Youth Authority and the State Board
26 of Parole and Post-Prison Supervision may disclose records made available
27 to them under subsection (5) of this section to each other, to law enforce-
28 ment, community corrections, corrections and parole agencies of other states
29 and to authorized treatment providers for the purpose of managing and
30 supervising offenders in custody or on probation, parole, post-prison super-
31 vision or other form of conditional or supervised release.

1 (B) The Department of Corrections and the Oregon Youth Authority may
2 disclose records made available to them under subsection (5) of this section
3 regarding a person in the custody of the Department of Corrections or the
4 Oregon Youth Authority to each other, to the court, to the district attorney
5 and to the person's attorney for the purpose of the person's hearing under
6 ORS 420A.200 to 420A.206.

7 (C) A person may disclose records made available to the person under
8 subsection (1)(i) of this section if the records are disclosed for the purpose
9 of advancing the public interest.

10 (7) Except as provided by ORS 339.389, an officer or employee of the De-
11 partment of Human Services or of a law enforcement agency or any person
12 or entity to whom disclosure is made pursuant to subsections (1) to (6) of this
13 section may not release any information not authorized by subsections (1) to
14 (6) of this section.

15 (8) As used in this section, "law enforcement agency" has the meaning
16 given that term in ORS 181A.010.

17 (9) A person who violates subsection (6)(a) or (7) of this section commits
18 a Class A violation.

19 **SECTION 10. ORS 329A.257 is repealed.**

20 **SECTION 11. (1) As used in this section and section 12 of this 2022**
21 **Act, "recorded program" means a preschool recorded program or a**
22 **school-age recorded program, as those terms are defined in ORS**
23 **329A.250.**

24 **(2) Notwithstanding ORS 329A.030 and subject to subsection (4) of**
25 **this section, a recorded program may continue to employ an individual**
26 **who is not enrolled in the Central Background Registry on January**
27 **1, 2023, if:**

28 **(a) The individual was employed by the recorded program on and**
29 **before January 1, 2023; and**

30 **(b) The recorded program completed a criminal background check**
31 **for the individual before January 1, 2023.**

1 **(3) Notwithstanding ORS 329A.030 and subject to subsection (4) of**
2 **this section, a recorded program may continue to allow an individual**
3 **who may have unsupervised contact with children to volunteer in the**
4 **recorded program even though the individual is not enrolled in the**
5 **Central Background Registry on January 1, 2023, if:**

6 **(a) The individual was volunteering in the recorded program on and**
7 **before January 1, 2023; and**

8 **(b) The recorded program completed a criminal background check**
9 **for the individual before January 1, 2023.**

10 **(4) A recorded program may not continue to employ or allow an**
11 **individual to volunteer in the recorded program as provided in sub-**
12 **sections (2) or (3) of this section if:**

13 **(a) The individual fails to submit a complete application for enroll-**
14 **ment in the Central Background Registry on or before June 30, 2023;**
15 **or**

16 **(b) The Office of Child Care issues a notice of intent to deny the**
17 **individual's application for enrollment in the Central Background**
18 **Registry.**

19 **SECTION 12.** **The Office of Child Care may accept and process ap-**
20 **plications for enrollment in the Central Background Registry in ac-**
21 **cordance with ORS 329A.030, as amended by section 1 of this 2022 Act,**
22 **that are submitted by current or prospective operators, employees or**
23 **volunteers of recorded programs and that are received by the office**
24 **before, on or after the operative date specified in section 13 of this 2022**
25 **Act.**

26 **SECTION 13.** **Sections 11 and 12 of this 2022 Act are repealed on**
27 **January 2, 2025.**

28 **SECTION 14.** **(1) Section 11 of this 2022 Act, the amendments to ORS**
29 **329A.030, 329A.250, 329A.252, 329A.255, 329A.390, 419B.005 and 419B.035**
30 **by sections 1 to 9 of this 2022 Act and the repeal of ORS 329A.257 by**
31 **section 10 of this 2022 Act become operative on January 1, 2023.**

1 **(2) The Office of Child Care and the Early Learning Council may**
2 **take any action before the operative date specified in subsection (1)**
3 **of this section that is necessary for the office or council to exercise,**
4 **on and after the operative date specified in subsection (1) of this sec-**
5 **tion, all of the duties, functions and powers conferred on the office**
6 **or the council by section 11 of this 2022 Act, the amendments to ORS**
7 **329A.030, 329A.250, 329A.252, 329A.255, 329A.390, 419B.005 and 419B.035**
8 **by sections 1 to 9 of this 2022 Act and the repeal of ORS 329A.257 by**
9 **section 10 of this 2022 Act.**

10 **SECTION 14.** **This 2022 Act being necessary for the immediate**
11 **preservation of the public peace, health and safety, an emergency is**
12 **declared to exist, and this 2022 Act takes effect on its passage.**

13
