

Enrolled
Senate Bill 1547

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CHAPTER

AN ACT

Relating to children; creating new provisions; amending ORS 329A.030, 329A.250, 329A.252, 329A.255, 329A.390, 418.205, 418.322, 418.359, 418.992, 419B.005 and 419B.035; repealing ORS 329A.257; and declaring an emergency.

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

RECORDED PROGRAMS

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

329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may maintain information in the registry through electronic records systems.

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

(b) An individual who has been the subject of a founded or substantiated report of child abuse shall apply to and **must** be enrolled in the Central Background Registry prior to providing any of the types of care identified in ORS 329A.250 (4)(b)(A), (G) or (H) if:

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

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

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

(3)(a) Upon receiving an application for enrollment in the Central Background Registry, the office shall complete:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Notwithstanding paragraph (a) of this subsection, a child care facility, **preschool recorded program or school-age recorded program** may employ on a probationary basis an individual who is conditionally enrolled in the Central Background Registry.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Information provided to a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 about the enrollment status of the persons described in subsection (10)(h) of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

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

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

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

(a) An individual whose **record**, certification or registration is suspended, has been denied for cause or has been revoked for cause under ORS **329A.255 or 329A.350**.

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

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

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

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

(A) After a contested proceeding; or

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

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

(a) Is ineligible for enrollment in the Central Background Registry; and
(b) May not provide care to a child who is not related to the exempt prohibited individual by blood or marriage within the fourth degree as determined by civil law.

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

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

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

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

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

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

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

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

(3) The office shall issue a record to *[a person]* **the applicant** *[operating a preschool recorded program]* if the office determines that the applicant meets the requirements of ORS **329A.030 and 329A.250 to 329A.450** and the rules adopted pursuant to ORS **329A.030 and 329A.250 to 329A.450** and subsection (9) of this section.

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

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

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

(a) Name and address of the program;

(b) Name of operator; and

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

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

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

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

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

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

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

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

329A.390. (1) Whenever an authorized representative of the Office of Child Care is advised or has reason to believe that child care that is subject to regulation by the office is being provided without a certification, registration or record, the authorized representative may visit and conduct an investigation of the facility at any reasonable time to determine whether the facility is subject to the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

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

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

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

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

(6) A director or operator of a child care facility, a regulated subsidy facility, a preschool recorded program or a school-age recorded program shall permit an authorized representative of the Office of Child Care to inspect records of the facility or program and shall furnish promptly reports and information required by the office.

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

- (a) Take evidence;
- (b) Take the depositions of witnesses, including the person under investigation, in the manner prescribed by law for depositions in civil actions;
- (c) Compel the appearance of witnesses, including the person under investigation, in the manner prescribed by law for appearances in civil actions;
- (d) Require answers to interrogatories;
- (e) Compel the production of books, papers, accounts, documents or testimony that pertains to the matter under investigation;
- (f) Issue subpoenas; and
- (g) Inspect the premises of the facility under investigation.

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

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

- (a) The name of a child in the care of the child care facility or person or place providing child care, or the child's parent;
- (b) The name of a child care provider, a child care facility owner, operator or employee, or a person or place providing child care;
- (c) The name of the child care facility or person or place providing child care;
- (d) The phone number of the child care facility or person or place providing child care; or
- (e) The physical address of the child care facility or person or place providing child care.

(10) As used in this section:

(a)(A) "Serious complaint" has the meaning given that term by the Early Learning Council by rule.

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

(b) "Regulated subsidy facility" has the meaning given that term by the Early Learning Council by rule.

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

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

(1) "Babysitter" means a person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

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

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

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

(b) "Child care" does not include care provided:

(A) In the home of the child;

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

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

(D) On an occasional basis by a person not ordinarily engaged in providing child care;

(E) By providers of medical services;

(F) By a babysitter;

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

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

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

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

(a) Preschool recorded program.

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

(c) Facility providing care that is primarily group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.

(d) Facility operated by:

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

(B) A political subdivision of this state; or

(C) A governmental agency.

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

(f) Babysitters.

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

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

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

(6) "Family" has the meaning given that term in ORS 329.155.

- (7) "Occasional" means that care is provided for no more than 70 days in any calendar year.
- (8) "Parent cooperative" means a child care program in which:
- (a) Care is provided by parents on a rotating basis;
 - (b) Membership in the cooperative includes parents;
 - (c) There are written policies and procedures; and
 - (d) A board of directors that includes parents of the children cared for by the cooperative controls the policies and procedures of the program.
- (9) "Preschool recorded program" means a facility providing care for preschool children that is primarily educational for four hours or less per day and where no child is present at the facility for more than four hours per day.
- (10) "Record" means the record that is issued under ORS 329A.255 to a preschool recorded program or [under ORS 329A.257 to] a school-age recorded program.
- (11) "Registration" means the registration that is issued under ORS 329A.330 by the Office of Child Care to a family child care home where care is provided in the family living quarters of the provider's home.
- (12) "School age" means of an age eligible to be enrolled in kindergarten or above on or before the first day of the current school year.
- (13) "School-age recorded program" means a program for school-age children:
- (a) That is not operated by a school district as defined in ORS 332.002;
 - (b) That is not required to be certified under ORS 329A.280 or registered under ORS 329A.330;
- and
- (c) In which youth development activities are provided to children during hours that school is not in session and does not take the place of a parent's care.
- (14) "Youth development activities" means care, supervision or guidance that is intended for enrichment, including but not limited to teaching skills or proficiency in physical, social or educational activities such as tutoring, music lessons, social activities, sports and recreational activities.

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

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

- (1) "Babysitter" means a person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.
- (2) "Certification" means the certification that is issued under ORS 329A.280 by the Office of Child Care to a family child care home, child care center or other child care facility.
- (3) "Child" means a child under 13 years of age or a child under 18 years of age who has special needs or disabilities and requires a level of care that is above normal for the child's age.
- (4)(a) "Child care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of the day, in a place other than the child's home, with or without compensation.
 - (b) "Child care" does not include care provided:
 - (A) In the home of the child;
 - (B) By the child's parent, guardian, or person acting in loco parentis;
 - (C) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;
 - (D) On an occasional basis by a person not ordinarily engaged in providing child care;
 - (E) By providers of medical services;
 - (F) By a babysitter;
 - (G) By a person who cares for children from only one family other than the person's own family;
 - (H) By a person who cares for no more than three children other than the person's own children; or
 - (I) By a person who is a member of the child's extended family, as determined by the office on a case-by-case basis.

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

(a) Preschool recorded program.

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

(c) Facility providing care that is primarily group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.

(d) Facility operated by:

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

(B) A political subdivision of this state; or

(C) A governmental agency.

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

(f) Babysitters.

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

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

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

(6) “Family” has the meaning given that term in ORS 329.145.

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

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

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

(b) Membership in the cooperative includes parents;

(c) There are written policies and procedures; and

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

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

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

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

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

(13) “School-age recorded program” means a program for school-age children:

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

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

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

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

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

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) “Abuse” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Is under 18 years of age; or

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

(3) "Higher education institution" means:

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

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

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

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

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

(5) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

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

(e) A county juvenile department.

(6) "Public or private official" means:

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

- (b) Dentist.
- (c) School employee, including an employee of a higher education institution.
- (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.
- (e) Employee of the Department of Human Services, Oregon Health Authority, Department of Early Learning and Care, Department of Education, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
- (f) Peace officer.
- (g) Psychologist.
- (h) Member of the clergy.
- (i) Regulated social worker.
- (j) Optometrist.
- (k) Chiropractor.
- (L) Certified provider of foster care, or an employee thereof.
- (m) Attorney.
- (n) Licensed professional counselor.
- (o) Licensed marriage and family therapist.
- (p) Firefighter or emergency medical services provider.
- (q) A court appointed special advocate, as defined in ORS 419A.004.
- (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- (s) An elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political subdivision in this state.
- (t) Physical, speech or occupational therapist.
- (u) Audiologist.
- (v) Speech-language pathologist.
- (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
- (x) Pharmacist.
- (y) An operator of a preschool recorded program under ORS 329A.255.
- (z) An operator of a school-age recorded program under ORS [329A.257] **329A.255**.
- (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
- (bb) An employee of a public or private organization providing child-related services or activities:
 - (A) Including but not limited to an employee of a:
 - (i) Youth group or center;
 - (ii) Scout group or camp;
 - (iii) Summer or day camp;
 - (iv) Survival camp; or
 - (v) Group, center or camp that is operated under the guidance, supervision or auspices of a religious, public or private educational system or a community service organization; and
 - (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that provides confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
- (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
- (dd) Personal support worker, as defined in ORS 410.600.
- (ee) Home care worker, as defined in ORS 410.600.

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

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

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

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

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

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Is under 18 years of age; or

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

(3) "Higher education institution" means:

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

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

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

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

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

(5) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

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

(e) A county juvenile department.

(6) "Public or private official" means:

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

(b) Dentist.

(c) School employee, including an employee of a higher education institution.

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

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

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Regulated social worker.

(j) Optometrist.

(k) Chiropractor.

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

(m) Attorney.

(n) Licensed professional counselor.

(o) Licensed marriage and family therapist.

(p) Firefighter or emergency medical services provider.

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

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

(s) An elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political subdivision in this state.

(t) Physical, speech or occupational therapist.

(u) Audiologist.

(v) Speech-language pathologist.

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

(x) Pharmacist.

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

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

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

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

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

(i) Youth group or center;

- (ii) Scout group or camp;
- (iii) Summer or day camp;
- (iv) Survival camp; or
- (v) Group, center or camp that is operated under the guidance, supervision or auspices of a religious, public or private educational system or a community service organization; and
- (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that provides confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
- (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
- (dd) Personal support worker, as defined in ORS 410.600.
- (ee) Home care worker, as defined in ORS 410.600.
- (ff) Animal control officer, as defined in ORS 609.500.
- (gg) Member of a school district board, an education service district board or a public charter school governing body.
- (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized written service plan of a child with a developmental disability.
- (ii) Referral agent, as defined in ORS 418.351.

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

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

- (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;
- (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse practitioner or coming before the physician, physician assistant or nurse practitioner for examination, care or treatment;
- (c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;
- (d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and adjudicated youths under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;
- (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;
- (f) The Office of Child Care for certifying, registering or otherwise regulating child care facilities;
- (g) The Office of Children's Advocate;
- (h) The Teacher Standards and Practices Commission for investigations conducted under ORS 339.390 or 342.176 involving any child or any student;
- (i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.311 to 192.478;
- (j) The Office of Child Care for purposes of ORS 329A.030 [(10)(g), (h) and (i)] **(10)(g) to (j)**;
- (k) With respect to a report of abuse occurring at a school or in an educational setting that involves a child with a disability, Disability Rights Oregon;

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

(m) An education provider for the purpose of making determinations under ORS 339.388.

(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

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

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

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

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections, to the Oregon Youth Authority or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to the Oregon Youth Authority, law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

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

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

(A) A law enforcement agency, a community corrections agency, the Department of Corrections, the Oregon Youth Authority and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized

treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

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

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

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

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

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

SECTION 10. ORS 329A.257 is repealed.

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

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

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

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

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

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

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

(4) A recorded program may not continue to employ or allow an individual to volunteer in the recorded program as provided in subsections (2) or (3) of this section if:

(a) The individual fails to submit a complete application for enrollment in the Central Background Registry on or before June 30, 2023; or

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

SECTION 12. The Office of Child Care may accept and process applications for enrollment in the Central Background Registry in accordance with ORS 329A.030, as amended by section 1 of this 2022 Act, that are submitted by current or prospective operators, employees or volunteers of recorded programs and that are received by the office before, on or after the operative date specified in section 19 of this 2022 Act.

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

SECURE TRANSPORTATION SERVICES PROVIDERS

SECTION 14. (1) As used in this section:

(a) "Certified foster home" means a foster home certified by the Department of Human Services and subject to ORS 418.625 to 418.645.

(b) "Child-caring agency" has the meaning given that term under ORS 418.205.

(c) "Developmental disabilities residential facility" means a residential facility or foster home for children who are 17 years of age or younger and receiving developmental disability services that is subject to ORS 443.400 to 443.455, 443.830 and 443.835.

(d) "Secure escort" means escort services for a child who poses a risk of elopement or where restraint or seclusion may be utilized if the child poses a risk of injury to self or others, and as further defined by the department by rule.

(e) "Secure nonemergency medical transportation provider" means a private organization or person that provides nonemergency medical secure transportation services subject to rules adopted by the Oregon Health Authority.

(f) "Secure transportation" means the transport of a child in a vehicle specifically equipped to prevent a passenger from exiting, eloping or interfering with the operator of the vehicle, and as further defined by the department by rule.

(g) "Secure transportation services" means the secure transportation or secure escort of children.

(2) The department shall adopt rules consistent with this section for the issuance, under ORS 418.215 and 418.240, of licenses to provide secure transportation services to providers that are child-caring agencies solely as the result of providing secure transportation services as described in ORS 418.205 (2)(a)(B) and for the issuance of supplemental licenses to child-caring agencies described in ORS 418.205 (2)(a)(A) that also provide secure transportation services as described in ORS 418.205 (2)(a)(B).

(3)(a) The following secure transportation services providers are exempt from the requirements under ORS 418.215 and 418.240 to obtain from the department a license or a supplemental license to provide secure transportation services:

(A) A secure nonemergency medical transportation provider.

(B) A child-caring agency that is licensed, certified or otherwise authorized by the department to provide or engage in the provision of care or services to children if:

(i) The agency is not primarily engaged in the provision of secure transportation services;

(ii) The child being transported or escorted resides in or is otherwise receiving services from the agency; and

(iii) The transportation or escort is provided consistent with the rules adopted by the department under this section.

(C) An ambulance service, as defined in ORS 682.025, that is transporting a child in an ambulance for the purpose of obtaining medical care for the child.

(D) A developmental disabilities residential facility if:

(i) The facility is not primarily engaged in the provision of secure transportation services;

(ii) The child being transported or escorted resides in or is otherwise receiving services from the facility; and

(iii) The transportation or escort is provided consistent with the rules adopted by the department under this section.

(b) The licensing exemptions under paragraph (a)(B) and (D) of this subsection do not apply if the child-caring agency or developmental disabilities residential facility is transporting the child for the purposes of placing the child in a facility that is not licensed by the department or in a hospital that is not licensed by the authority.

(4)(a) A secure transportation services provider, including a provider that is described in subsection (3) of this section, must display the disclosure described in ORS 418.359 (2) in a conspicuous location in any advertisements or promotional materials for its secure transportation services and in each vehicle it uses to provide its secure transportation services if:

(A) The provider is not licensed by the department under ORS 418.215 or 418.240 to provide secure transportation services; and

(B) The provider holds itself out as being an Oregon provider of secure transportation services, including by registering in this state the vehicles it uses in the provision of its secure transportation services or representing or otherwise indicating in advertisements or promotional materials that the provider is based in this state, maintains a mailing address in this state or is licensed, certified or otherwise authorized by the department or the authority to provide secure transportation services or similar services in this state.

(b) The disclosure under paragraph (a) of this subsection must also indicate that the secure transportation services provider is not licensed by the department under ORS 418.215 or 418.240 to provide secure transportation services and, if applicable, the reason for the provider's licensing exemption under subsection (3) of this section.

(c) If a provider that is required to make a disclosure under this subsection is authorized by the authority to provide secure transportation services, the provider's disclosure under this subsection may, consistent with rules adopted by the authority, also include a statement that the provider is authorized by the authority to provide secure transportation services.

(5) The department and the authority may adopt rules for the provision of secure transportation services consistent with this section and ORS 418.205 to 418.327, 418.359 and 418.519 to 418.532.

SECTION 15. ORS 418.205 is amended to read:

418.205. As used in ORS 418.205 to 418.327, 418.330, 418.470, 418.475, 418.950 to 418.970 and 418.992 to 418.998, unless the context requires otherwise:

(1) "Child" means an unmarried person under 21 years of age who resides in or receives care or services from a child-caring agency.

(2)(a) "Child-caring agency" means:

(A) [Means] Any private school, private agency, private organization or county program providing:

(i) Day treatment for children with emotional disturbances;

(ii) Adoption placement services;

(iii) Residential care, including but not limited to foster care or residential treatment for children;

(iv) Residential care in combination with academic education and therapeutic care, including but not limited to treatment for emotional, behavioral or mental health disturbances;

(v) Outdoor youth programs; or

(vi) Other similar care or services for children.

(B) Any private organization or person that provides secure transportation services as defined in section 14 of this 2022 Act during any segment of a child's trip to or from a child-caring agency, certified foster home as defined in section 14 of this 2022 Act or developmental disabilities residential facility as defined in section 14 of this 2022 Act, if the route of the child's trip begins or ends in this state.

[(B)] (b) "Child-caring agency" includes the following:

[(i)] (A) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645;

[(ii)] (B) An independent residence facility as described in ORS 418.475 that meets the standards established by the Department of Human Services by rule to be considered a child-caring agency;

[(iii)] (C) A private residential boarding school;

[(iv)] (D) A child-caring facility as defined in ORS 418.950; and

[(v)] *A secure transportation services provider that transports or provides escort services for children on the highways of this state along a route that begins or ends in this state to or from a school, agency, organization or program described in subparagraph (A) of this paragraph, if the school, agency, organization or program is located in this state or in any other state.]*

(E) A secure nonemergency medical transportation provider, as defined in section 14 of this 2022 Act.

[(b)] (c) “Child-caring agency” does not include:

(A) Residential facilities or foster care homes certified or licensed by the Department of Human Services under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services;

(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this subparagraph, “respite services” means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the purpose of providing a parent in crisis with relief from the demands of ongoing care of the parent’s child;

(C) A youth job development organization as defined in ORS 344.415;

(D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645;

(E) A foster home subject to ORS 418.625 to 418.645;

(F) A facility that exclusively serves individuals 18 years of age and older; or

(G) A facility that primarily serves both adults and children but requires that any child must be accompanied at all times by at least one custodial parent or guardian.

(3) “Child-caring facility” has the meaning given that term in ORS 418.950.

(4)(a) “County program” means any county operated program that provides care or services to children:

(A) In the custody of the Department of Human Services or the Oregon Youth Authority; or

(B) Under a contract with the Oregon Health Authority.

(b) “County program” does not include any local juvenile detention facility that receives state services provided and coordinated by the Department of Corrections under ORS 169.070.

(5) “Governmental agency” means an executive, legislative or judicial agency, department, board, commission, authority, institution or instrumentality of this state or of a county, municipality or other political subdivision of this state.

(6) “Independent residence facility” means a facility as described in ORS 418.475.

(7)(a) “Outdoor youth program” means a program that provides, in an outdoor living setting, services to children who have behavioral problems, mental health problems or problems with abuse of alcohol or drugs.

(b) “Outdoor youth program” does not include any program, facility or activity:

(A) Operated by a governmental entity;

(B) Operated or affiliated with the Oregon Youth Corps;

(C) Licensed by the Department of Human Services under other authority of the department; or

(D) Operated by a youth job development organization as defined in ORS 344.415.

(8) “Private” means not owned, operated or administered by any governmental agency or unit.

(9) “Private residential boarding school” means either of the following as the context requires:

(a) A child-caring agency that is a private school that provides residential care in combination with academic education and therapeutic care, including but not limited to treatment for emotional, behavioral or mental health disturbances; or

(b) A private school providing residential care that is primarily engaged in educational work under ORS 418.327.

(10) “Proctor foster home” means a foster home certified by a child-caring agency under ORS 418.248 that is not subject to ORS 418.625 to 418.645.

(11) “Provider of care or services for children” means a person, entity or organization that provides care or services to children, regardless of whether the child is in the custody of the Department of Human Services, and that does not otherwise meet the definition of, or requirements for, a child-caring agency. “Provider of care or services for children” includes a proctor foster home certified by a child-caring agency under ORS 418.248.

(12) “Qualified residential treatment program” means a program described in ORS 418.323.

[(13)] “Secure transportation services provider” means a private organization or person that provides secure transportation or secure escort services for children to or from a school, agency, organ-

ization or program described in subsection (2)(a)(A) of this section, if the school, agency, organization or program is located in this state or in any other state.]

[(14)] (13) “Shelter-care home” has the meaning given that term in ORS 418.470.

SECTION 16. ORS 418.359 is amended to read:

418.359. (1) A person or organization that makes a referral or recommendation related to the use of a secure transportation services provider to transport a child to a [school, agency, organization or program described in ORS 418.205 (2)(a)(A)] **child-caring agency, certified foster home or developmental disabilities residential facility** must provide the written [referral] disclosure described in subsection (2) of this section if the child to be [transferred] **transported** is a resident of this state or if the [school, agency, organization or program] **child-caring agency, certified foster home or developmental disabilities residential facility** to which the secure transportation services provider will deliver the child is located in this state.

(2) The [referral] disclosure under this section must state:

Except as specifically exempted under section 14 of this 2022 Act, [ORS 418.215 requires] a secure transportation services provider that transports children to or from a [school, agency, organization or program] child-caring agency, certified foster home or developmental disabilities residential facility along any portion of a route that begins or ends in Oregon is required to be licensed by the Department of Human Services under ORS 418.215 or 418.240.

[(3) As used in this section, “child” and “secure transportation services provider” have the meanings given those terms in ORS 418.205.]

(3) As used in this section, “certified foster home,” “child-caring agency,” “developmental disabilities residential facility” and “secure transportation services” have the meanings given those terms in section 14 of this 2022 Act.

SECTION 17. ORS 418.992 is amended to read:

418.992. (1) In addition to any other liability or penalty provided by law, the Director of Human Services may impose a civil penalty:

(a) On a child-caring agency that is subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 for any of the following:

[(a)] (A) Violation of any of the terms or conditions of a license, certificate or other authorization issued under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.

[(b)] (B) Violation of any rule adopted by, or general order of, the Department of Human Services that pertains to a child-caring agency.

[(c)] (C) Violation of any final order of the director that pertains specifically to the child-caring agency.

[(d)] (D) Violation of the requirement to have a license, certificate or other authorization under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.

(b) On a secure transportation services provider, as defined in section 14 of this 2022 Act, that violates the disclosure requirement described in section 14 of this 2022 Act.

(2) The director shall impose a civil penalty not to exceed \$500, unless otherwise required by law, on any child-caring agency for falsifying records, reports, documents or financial statements or for causing another person to do so.

(3) The director shall impose a civil penalty of not less than \$250 nor more than \$500, unless otherwise required by law, on a child-caring facility that assumes care or custody of, or provides care or services to, a child knowing that the child’s care needs exceed the license, certificate or authorization classification of the child-caring agency if the assumption of care or custody, or provision of care or services, places that child’s health, safety or welfare at risk.

(4) Unless the health, safety or welfare of a child is at risk, the director in every case shall prescribe a reasonable time for elimination of a violation:

(a) Not to exceed 45 days after first notice of a violation; or
(b) In cases where the violation requires more than 45 days to correct, such time as is specified in a plan of correction found acceptable by the director.

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

(6) The department shall adopt rules establishing objective criteria for the imposition and amount of civil penalties under ORS 418.992 to 418.998.

SECTION 18. ORS 418.322 is amended to read:

418.322. (1) As used in this section:

(a) "Congregate care residential setting" means any setting that cares for more than one child or ward and is not a setting described in ORS 418.205 [(2)(b)(A)] (2)(c)(A), (D), (E) or (F) or (10).

(b) "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person under 18 years of age for the purpose of a commercial sex act, as defined in ORS 163.266, or the recruitment, harboring, transportation, provision or obtaining of a person over 18 years of age using force, fraud or coercion for the purpose of a commercial sex act, as defined in ORS 163.266.

(2) The Department of Human Services may place a child or ward in a congregate care residential setting only if the setting is:

(a) A child-caring agency, as defined in ORS 418.205, a hospital, as defined in ORS 442.015, or a rural hospital, as defined in ORS 442.470; and

(b) A qualified residential treatment program described in ORS 418.323.

(3) Notwithstanding subsection (2) of this section, the department may place a child or ward in a child-caring agency that is not a qualified residential treatment program if:

(a) The child-caring agency is providing prenatal, postpartum or parenting supports to the child or ward.

(b) The child or ward is placed in an independent residence facility described in ORS 418.475 that is licensed by the department as a child-caring agency.

(c) The child or ward is, or is at risk of becoming, a victim of sex trafficking and the child-caring agency is providing high-quality residential care and supportive services to the child or ward.

(d) The Oregon Health Authority has approved the placement as medically necessary and the child-caring agency:

(A) Is a residential care facility;

(B) Is licensed by the authority and maintains site-specific accreditation from a nationally recognized organization to provide psychiatric treatment to children; and

(C) Has an active provider agreement with the Oregon Medicaid program.

(e) The child-caring agency is an adolescent residential drug and alcohol treatment program licensed or certified by the State of Oregon to provide residential care, and the court has approved, or approval is pending for, the placement in the child-caring agency of each child or ward over whom the department retains jurisdiction.

(f) The placement with the child-caring agency is for the purpose of placing the child or ward in a proctor foster home.

(g) The child-caring agency is a residential care facility licensed by the department that provides short-term assessment and stabilization services.

(h) The child-caring agency is a shelter-care home, as defined in ORS 418.470, that provides short-term assessment and stabilization services.

(i) The child-caring agency is a homeless, runaway or transitional living shelter licensed by the department that provides short-term assessment and stabilization services.

(j) The ward is 18 years of age or older and the child-caring agency is a residential treatment facility or a residential home licensed or certified by the department or the Oregon Health Authority.

(4) The department may not place a child or ward in a residential care facility or shelter-care home described in subsection (3)(g) or (h) of this section:

(a) For more than 60 consecutive days or 90 cumulative days in a 12-month period; or
(b) If the residential care facility or shelter-care home also serves youths or adjudicated youths served by the county juvenile department or adjudicated youths committed to the custody of the Oregon Youth Authority by the court.

(5) The department may not place a child or ward in a homeless, runaway or transitional living shelter described in subsection (3)(i) of this section for more than 60 consecutive or 90 cumulative days in any 12-month period.

(6) Calculations of the number of days a child or ward is placed in a shelter-care home under subsection (3)(h) of this section or a homeless, runaway or transitional living shelter under subsection (3)(i) of this section exclude the days the child or ward is in the shelter-care home or shelter if the child or ward:

(a) Accessed the shelter-care home or shelter without the support or direction of the department; and

(b) Is homeless or a runaway, as defined by the department by rule.

(7)(a) Nothing in this section prohibits the Oregon Youth Authority from placing an adjudicated youth committed to its custody in a placement that is not a qualified residential treatment program.

(b) Nothing in this section prohibits the Oregon Youth Authority or a county juvenile department from placing an adjudicated youth or a youth served by the Oregon Youth Authority or the county juvenile department in shelter care or detention under ORS chapter 419C.

APPROPRIATION

SECTION 18a. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Education by section 1 (1), chapter 603, Oregon Laws 2021, for the biennium ending June 30, 2023, for operations, is increased by \$1,224,860 to implement the provisions of sections 11 and 12 of this 2022 Act and the amendments to ORS 329A.030, 329A.250, 329A.252, 329A.255, 329A.390, 419B.005 and 419B.035 by sections 1 to 9 of this 2022 Act.

MISCELLANEOUS

SECTION 19. (1) Section 11 of this 2022 Act, the amendments to ORS 329A.030, 329A.250, 329A.252, 329A.255, 329A.390, 419B.005 and 419B.035 by sections 1 to 9 of this 2022 Act and the repeal of ORS 329A.257 by section 10 of this 2022 Act become operative on January 1, 2023.

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

SECTION 20. The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.

SECTION 21. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

Passed by Senate March 1, 2022

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House March 4, 2022

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Dan Rayfield, Speaker of House

Received by Governor:

.....M,....., 2022

Approved:

.....M,....., 2022

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2022

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Shemia Fagan, Secretary of State