

A-Engrossed
Senate Bill 1547

Ordered by the Senate February 14
Including Senate Amendments dated February 14

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Human Services, Mental Health and Recovery for Senator Sara Gelser Blouin)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

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.

Defines "secure transportation services" for purposes of child-caring agency licensing. Creates exceptions to licensing requirements for certain providers of secure transportation services to children. Requires certain unlicensed providers of secure transportation services to display disclosures in advertising, promotional materials and vehicles. Modifies definition of "child-caring agencies" that provide secure transportation services. Requires unlicensed secure nonemergency medical transportation services to comply with certain provisions of law applicable to child-caring agencies. Creates civil penalty.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to children; creating new provisions; amending ORS 329A.030, 329A.250, 329A.252, 329A.255,
3 329A.390, 418.205, 418.322, 418.359, 418.992, 419B.005 and 419B.035; repealing ORS 329A.257; and
4 declaring an emergency.

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

6
7 **RECORDED PROGRAMS**

8
9 **SECTION 1.** ORS 329A.030 is amended to read:

10 329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may
11 maintain information in the registry through electronic records systems.

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

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

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

20 (B) The child abuse occurred on or after September 1, 2019, and involved any child for whom

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the individual was providing child care, as defined in ORS 329A.250 (4), or care identified in ORS
2 329A.250 (4)(b)(A), (C), (F), (G), (H) or (I).

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

6 (3)(a) Upon receiving an application for enrollment in the Central Background Registry, the of-
7 fice shall complete:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to
15 329.200;

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

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

20 (e) A contractor or an employee of the contractor who provides early childhood special educa-
21 tion or early intervention services pursuant to ORS 343.455 to 343.534;

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

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

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

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

32 (j) **The operator or an employee of a preschool recorded program or a school-age re-**
33 **corded program.**

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

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

1 posited in the Child Care Fund established under ORS 329A.010.

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

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

9 329A.252. (1) As used in this section, “exempt prohibited individual” means:

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

12 (b) An individual whose enrollment in the Central Background Registry established by ORS
13 329A.030 is suspended, has been denied for cause or has been removed for cause under ORS
14 329A.030.

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

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

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

23 (A) After a contested proceeding; or

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

25 (2) For five years following the date on which an individual becomes an exempt prohibited in-
26 dividual, the exempt prohibited individual:

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

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

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

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

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

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

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

40 329A.255. *[(1) A person operating a preschool recorded program may not operate the program*
41 *without performing criminal background checks for all staff and volunteers and becoming recorded*
42 *with the Office of Child Care as provided in this section.]*

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

1 (2) To obtain recording, the person **operating the program** must apply to the office by sub-
2 mitting a completed record application form and a nonrefundable fee as established by the office.
3 The office shall determine and apply the fee through rules adopted by the Early Learning Council
4 under ORS 329A.275. The office shall deposit fees received under this subsection as provided in ORS
5 329A.310 (2).

6 (3) The office shall issue a record to [*a person*] **the applicant** [*operating a preschool recorded*
7 *program*] if the office determines that the applicant meets the requirements of ORS **329A.030 and**
8 **329A.250 to 329A.450** and the rules adopted pursuant to ORS **329A.030 and 329A.250 to 329A.450**
9 and subsection (9) of this section.

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

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

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

17 (a) Name and address of the program;

18 (b) Name of operator; and

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

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

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

25 (a) That the program or its operation does not comply with ORS **329A.030 or 329A.250 to**
26 **329A.450**, with applicable rules and with any term or condition imposed under the record; or

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

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

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

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

34 329A.390. (1) Whenever an authorized representative of the Office of Child Care is advised or
35 has reason to believe that child care that is subject to regulation by the office is being provided
36 without a certification, registration or record, the authorized representative may visit and conduct
37 an investigation of the facility at any reasonable time to determine whether the facility is subject
38 to the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

39 (2) At any reasonable time, an authorized representative of the Office of Child Care may conduct
40 an investigation of any certified or registered child care facility **or program recorded under ORS**
41 **329A.255** to determine whether the child care facility **or program** is in conformity with ORS
42 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195,
43 181A.200, 181A.215, 329A.030 and 329A.250 to 329A.450.

44 (3) An authorized representative of the Office of Child Care shall conduct an investigation of
45 any certified or registered child care facility, **of any program recorded under ORS 329A.255** or

1 of any other child care facility that is subject to regulation by the office if the office receives a
2 serious complaint about the child care facility **or program**.

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

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

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

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

17 (a) Take evidence;

18 (b) Take the depositions of witnesses, including the person under investigation, in the manner
19 prescribed by law for depositions in civil actions;

20 (c) Compel the appearance of witnesses, including the person under investigation, in the manner
21 prescribed by law for appearances in civil actions;

22 (d) Require answers to interrogatories;

23 (e) Compel the production of books, papers, accounts, documents or testimony that pertains to
24 the matter under investigation;

25 (f) Issue subpoenas; and

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

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

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

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

36 (b) The name of a child care provider, a child care facility owner, operator or employee, or a
37 person or place providing child care;

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

39 (d) The phone number of the child care facility or person or place providing child care; or

40 (e) The physical address of the child care facility or person or place providing child care.

41 (10) As used in this section:

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

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

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

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

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

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

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

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

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

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

17 (A) In the home of the child;

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

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

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

22 (E) By providers of medical services;

23 (F) By a babysitter;

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

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

26 or

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

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

32 (a) Preschool recorded program.

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

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

37 (d) Facility operated by:

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

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

40 (C) A governmental agency.

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

42 (f) Babysitters.

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

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

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

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

6 (b) Membership in the cooperative includes parents;

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

8 (d) A board of directors that includes parents of the children cared for by the cooperative con-
9 trols the policies and procedures of the program.

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

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

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

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

20 (13) "School-age recorded program" means a program for school-age children:

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

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

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

26 (14) "Youth development activities" means care, supervision or guidance that is intended for
27 enrichment, including but not limited to teaching skills or proficiency in physical, social or educa-
28 tional activities such as tutoring, music lessons, social activities, sports and recreational activities.

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

30 329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the context requires oth-
31 erwise:

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

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

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

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

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

42 (A) In the home of the child;

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

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

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

2 (E) By providers of medical services;

3 (F) By a babysitter;

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

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

6 or

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

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

12 (a) Preschool recorded program.

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

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

17 (d) Facility operated by:

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

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

20 (C) A governmental agency.

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

22 (f) Babysitters.

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

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

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

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

28 (7) "Occasional" means that care is provided for no more than 70 days in 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;

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

33 (d) A board of directors that includes parents of the children cared for by the cooperative con-
34 trols the policies and procedures of the program.

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

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

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

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

45 (13) "School-age recorded program" means a program for school-age children:

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

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

3 and

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

6 (14) "Youth development activities" means care, supervision or guidance that is intended for
7 enrichment, including but not limited to teaching skills or proficiency in physical, social or educa-
8 tional activities such as tutoring, music lessons, social activities, sports and recreational activities.

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

11 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (2) "Child" means an unmarried person who:
2 (a) Is under 18 years of age; or
3 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
4 agency as that term is defined in ORS 418.205.
- 5 (3) "Higher education institution" means:
6 (a) A community college as defined in ORS 341.005;
7 (b) A public university listed in ORS 352.002;
8 (c) The Oregon Health and Science University; and
9 (d) A private institution of higher education located in Oregon.
- 10 (4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged
11 to have experienced abuse.
12 (b) "Investigation" does not include screening activities conducted upon the receipt of a report.
- 13 (5) "Law enforcement agency" means:
14 (a) A city or municipal police department.
15 (b) A county sheriff's office.
16 (c) The Oregon State Police.
17 (d) A police department established by a university under ORS 352.121 or 353.125.
18 (e) A county juvenile department.
- 19 (6) "Public or private official" means:
20 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
21 including any intern or resident.
22 (b) Dentist.
23 (c) School employee, including an employee of a higher education institution.
24 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
25 or employee of an in-home health service.
26 (e) Employee of the Department of Human Services, Oregon Health Authority, Department of
27 Early Learning and Care, Department of Education, Youth Development Division, Office of Child
28 Care, the Oregon Youth Authority, a local health department, a community mental health program,
29 a community developmental disabilities program, a county juvenile department, a child-caring
30 agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
- 31 (f) Peace officer.
32 (g) Psychologist.
33 (h) Member of the clergy.
34 (i) Regulated social worker.
35 (j) Optometrist.
36 (k) Chiropractor.
37 (L) Certified provider of foster care, or an employee thereof.
38 (m) Attorney.
39 (n) Licensed professional counselor.
40 (o) Licensed marriage and family therapist.
41 (p) Firefighter or emergency medical services provider.
42 (q) A court appointed special advocate, as defined in ORS 419A.004.
43 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
44 (s) An elected official of a branch of government of this state or a state agency, board, com-
45 mission or department of a branch of government of this state or of a city, county or other political

1 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 involved in investi-
6 gations 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] **329A.255**.

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

13 (bb) An employee of a public or private organization providing child-related services or activ-
14 ities:

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

16 (i) Youth group or center;

17 (ii) Scout group or camp;

18 (iii) Summer or day camp;

19 (iv) Survival camp; or

20 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-
21 ligious, public or private educational system or a community service organization; and

22 (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that
23 provides confidential, direct services to victims of domestic violence, sexual assault, stalking or hu-
24 man trafficking.

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

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

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

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

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

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

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

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

36 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (3) "Higher education institution" means:

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

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

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

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

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

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

38 (5) "Law enforcement agency" means:

39 (a) A city or municipal police department.

40 (b) A county sheriff's office.

41 (c) The Oregon State Police.

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

43 (e) A county juvenile department.

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

45 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,

- 1 including any intern or resident.
- 2 (b) Dentist.
- 3 (c) School employee, including an employee of a higher education institution.
- 4 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
5 or employee of an in-home health service.
- 6 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
7 Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon
8 Youth Authority, a local health department, a community mental health program, a community de-
9 velopmental disabilities program, a county juvenile department, a child-caring agency as that term
10 is defined in ORS 418.205 or an alcohol and drug treatment program.
- 11 (f) Peace officer.
- 12 (g) Psychologist.
- 13 (h) Member of the clergy.
- 14 (i) Regulated social worker.
- 15 (j) Optometrist.
- 16 (k) Chiropractor.
- 17 (L) Certified provider of foster care, or an employee thereof.
- 18 (m) Attorney.
- 19 (n) Licensed professional counselor.
- 20 (o) Licensed marriage and family therapist.
- 21 (p) Firefighter or emergency medical services provider.
- 22 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 23 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 24 (s) An elected official of a branch of government of this state or a state agency, board, com-
25 mission or department of a branch of government of this state or of a city, county or other political
26 subdivision in this state.
- 27 (t) Physical, speech or occupational therapist.
- 28 (u) Audiologist.
- 29 (v) Speech-language pathologist.
- 30 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
31 gations or discipline by the commission.
- 32 (x) Pharmacist.
- 33 (y) An operator of a preschool recorded program under ORS 329A.255.
- 34 (z) An operator of a school-age recorded program under ORS [329A.257] **329A.255**.
- 35 (aa) Employee of a private agency or organization facilitating the provision of respite services,
36 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
37 109.056.
- 38 (bb) An employee of a public or private organization providing child-related services or activ-
39 ities:
- 40 (A) Including but not limited to an employee of a:
- 41 (i) Youth group or center;
- 42 (ii) Scout group or camp;
- 43 (iii) Summer or day camp;
- 44 (iv) Survival camp; or
- 45 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-

1 religious, public or private educational system or a community service organization; and

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

5 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
6 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 or a public charter
11 school governing body.

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

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

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

16 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and
17 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records
18 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
19 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
20 ment of Human Services shall make the records available to:

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

23 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-
24 tioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant
25 or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse
26 practitioner or coming before the physician, physician assistant or nurse practitioner for examina-
27 tion, care or treatment;

28 (c) Attorneys of record for the child or child's parent or guardian in any juvenile court pro-
29 ceeding;

30 (d) Citizen review boards established by the Judicial Department for the purpose of periodically
31 reviewing the status of children, youths and adjudicated youths under the jurisdiction of the juvenile
32 court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to
33 participants in case reviews;

34 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged
35 that a child has been subjected to child abuse or neglect;

36 (f) The Office of Child Care for certifying, registering or otherwise regulating child care facili-
37 ties;

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

39 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
40 339.390 or 342.176 involving any child or any student;

41 (i) Any person, upon request to the Department of Human Services, if the reports or records
42 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-
43 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be
44 disclosed in accordance with ORS 192.311 to 192.478;

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

1 (k) With respect to a report of abuse occurring at a school or in an educational setting that
2 involves a child with a disability, Disability Rights Oregon;

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

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

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

12 (b) If the Department of Human Services does not have a report or record of abuse regarding
13 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
14 161.015, the department may disclose that information.

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

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

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

43 (6)(a) Any record made available to a law enforcement agency or community corrections agency
44 in this state, to the Department of Corrections, the Oregon Youth Authority or the State Board of
45 Parole and Post-Prison Supervision or to a physician, physician assistant or nurse practitioner in

1 this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the
2 agency, department, board, physician, physician assistant or nurse practitioner. Any record or report
3 disclosed by the Department of Human Services to other persons or entities pursuant to subsections
4 (1) and (3) of this section shall be kept confidential.

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

6 (A) A law enforcement agency, a community corrections agency, the Department of Corrections,
7 the Oregon Youth Authority and the State Board of Parole and Post-Prison Supervision may disclose
8 records made available to them under subsection (5) of this section to each other, to law enforce-
9 ment, community corrections, corrections and parole agencies of other states and to authorized
10 treatment providers for the purpose of managing and supervising offenders in custody or on pro-
11 bation, parole, post-prison supervision or other form of conditional or supervised release.

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

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

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

23 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS
24 181A.010.

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

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

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

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

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

35 **(b) The recorded program completed a criminal background check for the individual be-**
36 **fore January 1, 2023.**

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

41 **(a) The individual was volunteering in the recorded program on and before January 1,**
42 **2023; and**

43 **(b) The recorded program completed a criminal background check for the individual be-**
44 **fore January 1, 2023.**

45 **(4) A recorded program may not continue to employ or allow an individual to volunteer**

1 in the recorded program as provided in subsections (2) or (3) of this section if:

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

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

6 **SECTION 12.** The Office of Child Care may accept and process applications for enrollment
7 in the Central Background Registry in accordance with ORS 329A.030, as amended by section
8 1 of this 2022 Act, that are submitted by current or prospective operators, employees or
9 volunteers of recorded programs and that are received by the office before, on or after the
10 operative date specified in section 19 of this 2022 Act.

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

12
13 **SECURE TRANSPORTATION SERVICES PROVIDERS**

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

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

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

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

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

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

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

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

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

39 (3)(a) The following secure transportation services providers are exempt from the re-
40 quirements under ORS 418.215 and 418.240 to obtain from the department a license or a
41 supplemental license to provide secure transportation services:

42 (A) A secure nonemergency medical transportation provider.

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

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

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

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

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

7 (D) A developmental disabilities residential facility if:

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

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

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

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

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

22 (A) The provider is not licensed by the department under ORS 418.215 or 418.240 to pro-
23 vide secure transportation services; and

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

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

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

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

41 **SECTION 15.** ORS 418.205 is amended to read:

42 418.205. As used in ORS 418.205 to 418.327, 418.330, 418.470, 418.475, 418.950 to 418.970 and
43 418.992 to 418.998, unless the context requires otherwise:

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

1 (2)(a) “Child-caring agency” **means**:

2 (A) [*Means*] Any private school, private agency, private organization or county program pro-
3 viding:

4 (i) Day treatment for children with emotional disturbances;

5 (ii) Adoption placement services;

6 (iii) Residential care, including but not limited to foster care or residential treatment for chil-
7 dren;

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

10 (v) Outdoor youth programs; or

11 (vi) Other similar care or services for children.

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

17 [*B*] **(b) “Child-caring agency”** includes the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 children:

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

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

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

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

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

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

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

14 (A) Operated by a governmental entity;

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

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

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

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

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

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

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

25 (10) “Proctor foster home” means a foster home certified by a child-caring agency under ORS
26 418.248 that is not subject to ORS 418.625 to 418.645.

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

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

33 [(13) “Secure transportation services provider” means a private organization or person that pro-
34 vides secure transportation or secure escort services for children to or from a school, agency, organ-
35 ization or program described in subsection (2)(a)(A) of this section, if the school, agency, organization
36 or program is located in this state or in any other state.]

37 [(14)] (13) “Shelter-care home” has the meaning given that term in ORS 418.470.

38 **SECTION 16.** ORS 418.359 is amended to read:

39 418.359. (1) A person or organization that makes a referral or recommendation related to the
40 use of a secure transportation services provider to transport a child to a [school, agency, organiza-
41 tion or program described in ORS 418.205 (2)(a)(A)] **child-caring agency, certified foster home or**
42 **developmental disabilities residential facility** must provide the written [referral] disclosure de-
43 scribed in subsection (2) of this section if the child to be [transferred] **transported** is a resident of
44 this state or if the [school, agency, organization or program] **child-caring agency, certified foster**
45 **home or developmental disabilities residential facility** to which the secure transportation ser-

1 vices provider will deliver the child is located in this state.

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

3
4
5 **Except as specifically exempted under section 14 of this 2022 Act, [ORS 418.215 requires]**
6 a secure transportation services provider that transports children to or from a [school, agency, or-
7 ganization or program] **child-caring agency, certified foster home or developmental disabilities**
8 **residential facility** along **any portion of** a route that begins or ends in Oregon **is required** to be
9 licensed by the Department of Human Services **under ORS 418.215 or 418.240.**

10
11
12 [(3) As used in this section, “child” and “secure transportation services provider” have the
13 meanings given those terms in ORS 418.205.]

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

17 **SECTION 17.** ORS 418.992 is amended to read:

18 418.992. (1) In addition to any other liability or penalty provided by law, the Director of Human
19 Services may impose a civil penalty:

20 (a) On a child-caring agency that is subject to ORS 418.205 to 418.327, 418.470, 418.475 or
21 418.950 to 418.970 for any of the following:

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

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

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

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

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

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

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

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

42 (a) Not to exceed 45 days after first notice of a violation; or

43 (b) In cases where the violation requires more than 45 days to correct, such time as is specified
44 in a plan of correction found acceptable by the director.

45 (5) A civil penalty imposed under this section may be remitted or reduced upon such terms and

1 conditions as the director considers proper and consistent with the public health and safety.

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

4 **SECTION 18.** ORS 418.322 is amended to read:

5 418.322. (1) As used in this section:

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

8 (b) “Sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, pa-
9 tronizing or soliciting of a person under 18 years of age for the purpose of a commercial sex act,
10 as defined in ORS 163.266, or the recruitment, harboring, transportation, provision or obtaining of
11 a person over 18 years of age using force, fraud or coercion for the purpose of a commercial sex
12 act, as defined in ORS 163.266.

13 (2) The Department of Human Services may place a child or ward in a congregate care resi-
14 dential setting only if the setting is:

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

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

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

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

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

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

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

28 (A) Is a residential care facility;

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

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

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

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

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

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

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

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

1 ity.

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

4 (a) For more than 60 consecutive days or 90 cumulative days in a 12-month period; or

5 (b) If the residential care facility or shelter-care home also serves youths or adjudicated youths
6 served by the county juvenile department or adjudicated youths committed to the custody of the
7 Oregon Youth Authority by the court.

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

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

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

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

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

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

23
24 **MISCELLANEOUS**

25
26 **SECTION 19.** (1) Section 11 of this 2022 Act, the amendments to ORS 329A.030, 329A.250,
27 329A.252, 329A.255, 329A.390, 419B.005 and 419B.035 by sections 1 to 9 of this 2022 Act and the
28 repeal of ORS 329A.257 by section 10 of this 2022 Act become operative on January 1, 2023.

29 (2) The Office of Child Care and the Early Learning Council may take any action before
30 the operative date specified in subsection (1) of this section that is necessary for the office
31 or council to exercise, on and after the operative date specified in subsection (1) of this
32 section, all of the duties, functions and powers conferred on the office or the council by
33 section 11 of this 2022 Act, the amendments to ORS 329A.030, 329A.250, 329A.252, 329A.255,
34 329A.390, 419B.005 and 419B.035 by sections 1 to 9 of this 2022 Act and the repeal of ORS
35 329A.257 by section 10 of this 2022 Act.

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

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