

Senate Bill 1547

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 **as introduced**.

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

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

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

Becomes operative on January 1, 2023.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

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

6 329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may
7 maintain information in the registry through electronic records systems.

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

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

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

16 (B) The child abuse occurred on or after September 1, 2019, and involved any child for whom
17 the individual was providing child care, as defined in ORS 329A.250 (4), or care identified in ORS
18 329A.250 (4)(b)(A), (C), (F), (G), (H) or (I).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (10) [*For purposes of*] **As used in** this section, "subject individual" means a subject individual

1 as defined by the Early Learning Council by rule, an individual subject to subsection (2)(b) of this
2 section or a person who applies to be:

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

4 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to
5 329.200;

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

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

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

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

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

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

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

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

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

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

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

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

44 329A.252. (1) As used in this section, "exempt prohibited individual" means:

45 (a) An individual whose **record**, certification or registration is suspended, has been denied for

1 cause or has been revoked for cause under ORS **329A.255** or 329A.350.

2 (b) An individual whose enrollment in the Central Background Registry established by ORS
3 329A.030 is suspended, has been denied for cause or has been removed for cause under ORS
4 329A.030.

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

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

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

13 (A) After a contested proceeding; or

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

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

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

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

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

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

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

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

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

30 329A.255. [(1) A person operating a preschool recorded program may not operate the program
31 without performing criminal background checks for all staff and volunteers and becoming recorded
32 with the Office of Child Care as provided in this section.]

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

36 (2) To obtain recording, the person **operating the program** must apply to the office by sub-
37 mitting a completed record application form and a nonrefundable fee as established by the office.
38 The office shall determine and apply the fee through rules adopted by the Early Learning Council
39 under ORS 329A.275. The office shall deposit fees received under this subsection as provided in ORS
40 329A.310 (2).

41 (3) The office shall issue a record to [a person] **the applicant** [operating a preschool recorded
42 program] if the office determines that the applicant meets the requirements of ORS **329A.030** and
43 329A.250 to 329A.450 and the rules adopted pursuant to ORS **329A.030** and 329A.250 to 329A.450
44 and subsection (9) of this section.

45 (4) Unless the record is revoked as provided in subsection (8) of this section, the record is valid

1 for a period of two years from the date of issuance.

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

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

7 (a) Name and address of the program;

8 (b) Name of operator; and

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

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

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

15 (a) That the program or its operation does not comply with ORS **329A.030 or** 329A.250 to
16 329A.450, with applicable rules and with any term or condition imposed under the record; or

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

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

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

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

24 329A.390. (1) Whenever an authorized representative of the Office of Child Care is advised or
25 has reason to believe that child care that is subject to regulation by the office is being provided
26 without a certification, registration or record, the authorized representative may visit and conduct
27 an investigation of the facility at any reasonable time to determine whether the facility is subject
28 to the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

29 (2) At any reasonable time, an authorized representative of the Office of Child Care may conduct
30 an investigation of any certified or registered child care facility **or program recorded under ORS**
31 **329A.255** to determine whether the child care facility **or program** is in conformity with ORS
32 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195,
33 181A.200, 181A.215, 329A.030 and 329A.250 to 329A.450.

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

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

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

1 agency based on that complaint.

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

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

7 (a) Take evidence;

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

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

12 (d) Require answers to interrogatories;

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

15 (f) Issue subpoenas; and

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

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

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

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

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

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

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

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

31 (10) As used in this section:

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

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

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

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

40 329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the context requires oth-
41 erwise:

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

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

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

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

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

7 (A) In the home of the child;

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

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

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

12 (E) By providers of medical services;

13 (F) By a babysitter;

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

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

16 or

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

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

22 (a) Preschool recorded program.

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

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

27 (d) Facility operated by:

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

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

30 (C) A governmental agency.

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

32 (f) Babysitters.

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

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

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

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

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

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

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

41 (b) Membership in the cooperative includes parents;

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

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

45 (9) "Preschool recorded program" means a facility providing care for preschool children that is

1 primarily educational for four hours or less per day and where no child is present at the facility for
 2 more than four hours per day.

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

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

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

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

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

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

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

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

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

20 329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the context requires oth-
 21 erwise:

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

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

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

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

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

32 (A) In the home of the child;

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

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

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

37 (E) By providers of medical services;

38 (F) By a babysitter;

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

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

41 or

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

44 (5) "Child care facility" means any facility that provides child care to children, including a day
 45 nursery, nursery school, child care center, certified or registered family child care home or similar

1 unit operating under any name, but not including any:

2 (a) Preschool recorded program.

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

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

7 (d) Facility operated by:

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

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

10 (C) A governmental agency.

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

12 (f) Babysitters.

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

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

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

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

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

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

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

21 (b) Membership in the cooperative includes parents;

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

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

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

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

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

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

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

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

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

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

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

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

- 1 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:
- 2 (1)(a) "Abuse" means:
- 3 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
4 which has been caused by other than accidental means, including any injury which appears to be
5 at variance with the explanation given of the injury.
- 6 (B) Any mental injury to a child, which shall include only observable and substantial impairment
7 of the child's mental or psychological ability to function caused by cruelty to the child, with due
8 regard to the culture of the child.
- 9 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
10 tration and incest, as those acts are described in ORS chapter 163.
- 11 (D) Sexual abuse, as described in ORS chapter 163.
- 12 (E) Sexual exploitation, including but not limited to:
- 13 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
14 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
15 in the performing for people to observe or the photographing, filming, tape recording or other ex-
16 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
17 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
18 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
19 which is designed to serve educational or other legitimate purposes; and
- 20 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in
21 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as
22 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.
- 23 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to
24 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
25 welfare of the child.
- 26 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
27 to the child's health or welfare.
- 28 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.
- 29 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where
30 methamphetamines are being manufactured.
- 31 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful
32 manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a sub-
33 stantial risk of harm to the child's health or safety.
- 34 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
35 conditions described in paragraph (a) of this subsection.
- 36 (2) "Child" means an unmarried person who:
- 37 (a) Is under 18 years of age; or
- 38 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
39 agency as that term is defined in ORS 418.205.
- 40 (3) "Higher education institution" means:
- 41 (a) A community college as defined in ORS 341.005;
- 42 (b) A public university listed in ORS 352.002;
- 43 (c) The Oregon Health and Science University; and
- 44 (d) A private institution of higher education located in Oregon.
- 45 (4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged

- 1 to have experienced abuse.
- 2 (b) “Investigation” does not include screening activities conducted upon the receipt of a report.
- 3 (5) “Law enforcement agency” means:
- 4 (a) A city or municipal police department.
- 5 (b) A county sheriff’s office.
- 6 (c) The Oregon State Police.
- 7 (d) A police department established by a university under ORS 352.121 or 353.125.
- 8 (e) A county juvenile department.
- 9 (6) “Public or private official” means:
- 10 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
- 11 including any intern or resident.
- 12 (b) Dentist.
- 13 (c) School employee, including an employee of a higher education institution.
- 14 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide
- 15 or employee of an in-home health service.
- 16 (e) Employee of the Department of Human Services, Oregon Health Authority, Department of
- 17 Early Learning and Care, Department of Education, Youth Development Division, Office of Child
- 18 Care, the Oregon Youth Authority, a local health department, a community mental health program,
- 19 a community developmental disabilities program, a county juvenile department, a child-caring
- 20 agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
- 21 (f) Peace officer.
- 22 (g) Psychologist.
- 23 (h) Member of the clergy.
- 24 (i) Regulated social worker.
- 25 (j) Optometrist.
- 26 (k) Chiropractor.
- 27 (L) Certified provider of foster care, or an employee thereof.
- 28 (m) Attorney.
- 29 (n) Licensed professional counselor.
- 30 (o) Licensed marriage and family therapist.
- 31 (p) Firefighter or emergency medical services provider.
- 32 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 33 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 34 (s) An elected official of a branch of government of this state or a state agency, board, com-
- 35 mission or department of a branch of government of this state or of a city, county or other political
- 36 subdivision in this state.
- 37 (t) Physical, speech or occupational therapist.
- 38 (u) Audiologist.
- 39 (v) Speech-language pathologist.
- 40 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 41 gations or discipline by the commission.
- 42 (x) Pharmacist.
- 43 (y) An operator of a preschool recorded program under ORS 329A.255.
- 44 (z) An operator of a school-age recorded program under ORS [329A.257] **329A.255**.
- 45 (aa) Employee of a private agency or organization facilitating the provision of respite services,

1 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
 2 109.056.

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

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

6 (i) Youth group or center;

7 (ii) Scout group or camp;

8 (iii) Summer or day camp;

9 (iv) Survival camp; or

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

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

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

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

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

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

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

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

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

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

26 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

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

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

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

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

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

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

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

45 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in

1 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as
 2 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

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

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

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

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

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

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

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

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

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

20 (3) "Higher education institution" means:

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

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

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

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

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

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

28 (5) "Law enforcement agency" means:

29 (a) A city or municipal police department.

30 (b) A county sheriff's office.

31 (c) The Oregon State Police.

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

33 (e) A county juvenile department.

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

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

37 (b) Dentist.

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

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

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

- 1 (f) Peace officer.
- 2 (g) Psychologist.
- 3 (h) Member of the clergy.
- 4 (i) Regulated social worker.
- 5 (j) Optometrist.
- 6 (k) Chiropractor.
- 7 (L) Certified provider of foster care, or an employee thereof.
- 8 (m) Attorney.
- 9 (n) Licensed professional counselor.
- 10 (o) Licensed marriage and family therapist.
- 11 (p) Firefighter or emergency medical services provider.
- 12 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 13 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 14 (s) An elected official of a branch of government of this state or a state agency, board, com-
15 mission or department of a branch of government of this state or of a city, county or other political
16 subdivision in this state.
- 17 (t) Physical, speech or occupational therapist.
- 18 (u) Audiologist.
- 19 (v) Speech-language pathologist.
- 20 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
21 gations or discipline by the commission.
- 22 (x) Pharmacist.
- 23 (y) An operator of a preschool recorded program under ORS 329A.255.
- 24 (z) An operator of a school-age recorded program under ORS [329A.257] **329A.255**.
- 25 (aa) Employee of a private agency or organization facilitating the provision of respite services,
26 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
27 109.056.
- 28 (bb) An employee of a public or private organization providing child-related services or activ-
29 ities:
 - 30 (A) Including but not limited to an employee of a:
 - 31 (i) Youth group or center;
 - 32 (ii) Scout group or camp;
 - 33 (iii) Summer or day camp;
 - 34 (iv) Survival camp; or
 - 35 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-
36 ligious, public or private educational system or a community service organization; and
 - 37 (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that
38 provides confidential, direct services to victims of domestic violence, sexual assault, stalking or hu-
39 man trafficking.
- 40 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
41 if compensated and if the athlete is a child.
- 42 (dd) Personal support worker, as defined in ORS 410.600.
- 43 (ee) Home care worker, as defined in ORS 410.600.
- 44 (ff) Animal control officer, as defined in ORS 609.500.
- 45 (gg) Member of a school district board, an education service district board or a public charter

1 school governing body.

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

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

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

6 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and
7 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records
8 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
9 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
10 ment of Human Services shall make the records available to:

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

13 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-
14 tioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant
15 or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse
16 practitioner or coming before the physician, physician assistant or nurse practitioner for examina-
17 tion, care or treatment;

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

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

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

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

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

29 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
30 339.390 or 342.176 involving any child or any student;

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

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

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

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

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

41 (2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the De-
42 partment of Human Services may exempt from disclosure the names, addresses and other identifying
43 information about other children, witnesses, victims or other persons named in the report or record
44 if the department determines, in written findings, that the safety or well-being of a person named in
45 the report or record may be jeopardized by disclosure of the names, addresses or other identifying

1 information, and if that concern outweighs the public's interest in the disclosure of that information.

2 (b) If the Department of Human Services does not have a report or record of abuse regarding
3 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
4 161.015, the department may disclose that information.

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

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

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

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

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

41 (A) A law enforcement agency, a community corrections agency, the Department of Corrections,
42 the Oregon Youth Authority and the State Board of Parole and Post-Prison Supervision may disclose
43 records made available to them under subsection (5) of this section to each other, to law enforce-
44 ment, community corrections, corrections and parole agencies of other states and to authorized
45 treatment providers for the purpose of managing and supervising offenders in custody or on pro-

1 bation, parole, post-prison supervision or other form of conditional or supervised release.

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

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

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

13 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS
14 181A.010.

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

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

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

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

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

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

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

31 (a) **The individual was volunteering in the recorded program on and before January 1,**
32 **2023; and**

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

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

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

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

41 **SECTION 12.** **The Office of Child Care may accept and process applications for enrollment**
42 **in the Central Background Registry in accordance with ORS 329A.030, as amended by section**
43 **1 of this 2022 Act, that are submitted by current or prospective operators, employees or**
44 **volunteers of recorded programs and that are received by the office before, on or after the**
45 **operative date specified in section 14 of this 2022 Act.**

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

2 **SECTION 14.** (1) Section 11 of this 2022 Act, the amendments to ORS 329A.030, 329A.250,
3 329A.252, 329A.255, 329A.390, 419B.005 and 419B.035 by sections 1 to 9 of this 2022 Act and the
4 repeal of ORS 329A.257 by section 10 of this 2022 Act become operative on January 1, 2023.

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

12 **SECTION 15.** This 2022 Act being necessary for the immediate preservation of the public
13 peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect
14 on its passage.

15
