

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO
SENATE BILL 917**

1 On page 1 of the printed bill, after “providers” insert a period and delete
2 the rest of the line and line 3.

3 Delete lines 6 through 28 and delete pages 2 through 7 and insert:

4 **“SECTION 2. (1) A long term care facility may not interfere with**
5 **the good faith disclosure of information by an employee or a volunteer**
6 **concerning the abuse or mistreatment of a resident in the long term**
7 **care facility, violations of licensing or certification requirements,**
8 **criminal activity at the facility, violations of state or federal laws or**
9 **any practice that threatens the health and safety of a resident of the**
10 **facility to:**

11 **“(a) The Long Term Care Ombudsman, the Department of Human**
12 **Services, a law enforcement agency or other entity with legal or reg-**
13 **ulatory authority over the long term care facility; or**

14 **“(b) A family member, guardian, friend or other person who is**
15 **acting on behalf of the resident.**

16 **“(2) Unless performed with the intent to comply with state or fed-**
17 **eral law, including but not limited to protecting residents’ rights or**
18 **carrying out a facility’s policies and procedures that are consistent**
19 **with state and federal law, it is interference with the disclosure of**
20 **information as described in subsection (1) of this section if a long term**
21 **care facility:**

1 “(a) Asks or requires the employee or volunteer to sign a
2 nondisclosure or similar agreement prohibiting the employee or vol-
3 unteer from disclosing the information;

4 “(b) Trains an employee or volunteer not to disclose the informa-
5 tion; or

6 “(c) Takes actions or communicates to the employee or volunteer
7 that the employee or volunteer may not disclose the information.

8 “(3) The department may revoke or suspend the license of a long
9 term care facility that is found to have violated subsection (1) of this
10 section.

11 “(4) The department shall adopt rules to carry out the provisions
12 of this section.

13 “(5) This section does not authorize the disclosure of protected
14 health information, as defined in ORS 192.556, other than as is per-
15 mitted by the federal Health Insurance Portability and Accountability
16 Act privacy regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to
17 192.581 or by other state or federal laws limiting the disclosure of
18 health information.

19 “SECTION 3. Section 4 of this 2019 Act is added to and made a part
20 of ORS 443.400 to 443.455.

21 “SECTION 4. (1) A residential facility may not interfere with the
22 good faith disclosure of information by an employee or volunteer
23 concerning the abuse or mistreatment of a resident in the residential
24 facility, violations of licensing or certification requirements, criminal
25 activity at the facility, violations of state or federal laws or any prac-
26 tice that threatens the health and safety of a resident of the facility
27 to:

28 “(a) The Long Term Care Ombudsman, the Residential Facilities
29 Ombudsman, the Department of Human Services, a law enforcement
30 agency or other entity with legal or regulatory authority over the

1 residential facility; or

2 “(b) A family member, guardian, friend or other person who is
3 acting on behalf of the resident.

4 “(2) A residential facility interferes with the disclosure of the in-
5 formation described in subsection (1) of this section by:

6 “(a) Asking or requiring the employee or volunteer to sign a
7 nondisclosure or similar agreement prohibiting the employee or vol-
8 unteer from disclosing the information;

9 “(b) Training an employee or volunteer not to disclose the infor-
10 mation; or

11 “(c) Taking actions or communicating to the employee or volunteer
12 that the employee or volunteer may not disclose the information.

13 “(3) The licensing agency may revoke or suspend the license of a
14 residential facility that is found to have violated subsection (1) of this
15 section.

16 “(4) The department shall adopt rules to carry out the provisions
17 of this section.

18 “(5) This section does not authorize the disclosure of:

19 “(a) Protected health information, as defined in ORS 192.556, other
20 than as is permitted by the federal Health Insurance Portability and
21 Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164,
22 ORS 192.553 to 192.581 or by other state or federal laws limiting the
23 disclosure of health information; or

24 “(b) Information protected under ORS 419A.255 and 419A.257.

25 “SECTION 5. Section 6 of this 2019 Act is added to and made a part
26 of ORS 443.705 to 443.825.

27 “SECTION 6. (1) An adult foster home may not interfere with the
28 good faith disclosure of information by an employee or volunteer
29 concerning the abuse or mistreatment of a resident in the adult foster
30 home, violations of licensing or certification requirements, criminal

1 activity at the adult foster home, violations of state or federal laws
2 or any practice that threatens the health and safety of a resident in
3 the adult foster home to:

4 “(a) The Long Term Care Ombudsman, the Residential Facilities
5 Ombudsman, the Department of Human Services, a law enforcement
6 agency or other entity with legal or regulatory authority over the
7 adult foster home; or

8 “(b) A family member, guardian, friend or other person who is
9 acting on behalf of the resident.

10 “(2) An adult foster home interferes with the disclosure of the in-
11 formation described in subsection (1) of this section by:

12 “(a) Asking or requiring the employee or volunteer to sign a
13 nondisclosure or similar agreement prohibiting the employee or vol-
14 unteer from disclosing the information;

15 “(b) Training an employee or volunteer not to disclose the infor-
16 mation; or

17 “(c) Taking actions or communicating to the employee or volunteer
18 that the employee or volunteer may not disclose the information.

19 “(3) The licensing agency may revoke or suspend the license of an
20 adult foster home that is found to have violated subsection (1) of this
21 section.

22 “(4) The licensing agency shall adopt rules to carry out the pro-
23 visions of this section.

24 “(5) This section does not authorize the disclosure of protected
25 health information, as defined in ORS 192.556, other than as is per-
26 mitted by the federal Health Insurance Portability and Accountability
27 Act privacy regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to
28 192.581 or by other state or federal laws limiting the disclosure of
29 health information.

30 “SECTION 7. Section 8 of this 2019 Act is added to and made a part

1 of ORS 329A.250 to 329A.450.

2 **“SECTION 8. (1) A child care facility may not interfere with the**
3 **good faith disclosure of information by an employee or volunteer**
4 **concerning the abuse or mistreatment of a child in the child care fa-**
5 **cility, violations of licensing or certification requirements, criminal**
6 **activity at the facility, violations of state or federal laws or any prac-**
7 **tice that threatens the health and safety of a child in the child care**
8 **facility to:**

9 **“(a) The Office of Child Care, a law enforcement agency or other**
10 **entity with legal or regulatory authority over the child care facility;**
11 **or**

12 **“(b) The child’s parent, legal guardian or personal representative**
13 **as defined in ORS 192.556.**

14 **“(2) A child care facility interferes with the disclosure of the infor-**
15 **mation described in subsection (1) of this section by:**

16 **“(a) Asking or requiring the employee or volunteer to sign a**
17 **nondisclosure or similar agreement prohibiting the employee or vol-**
18 **unteer from disclosing the information;**

19 **“(b) Training an employee or volunteer not to disclose the infor-**
20 **mation; or**

21 **“(c) Taking actions or communicating to the employee or volunteer**
22 **that the employee or volunteer may not disclose the information.**

23 **“(3) The office may revoke or suspend the certification of a child**
24 **care facility that is found to have violated subsection (1) of this sec-**
25 **tion.**

26 **“(4) The disclosure of information to a child’s parent, legal guardian**
27 **or personal representative under subsection (1) of this section does not**
28 **relieve the employee or volunteer of any obligation to report the abuse**
29 **of a child.**

30 **“(5) This section does not authorize the disclosure of protected**

1 health information, as defined in ORS 192.556, other than as is per-
2 mitted by the federal Health Insurance Portability and Accountability
3 Act privacy regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to
4 192.581 or by other state or federal laws limiting the disclosure of
5 health information.

6 **“SECTION 9.** Notwithstanding ORS 329A.992, the Office of Child
7 Care shall impose a civil penalty, as provided in ORS 183.745, for the
8 violation of section 8 of this 2019 Act. The civil penalty is \$500 for each
9 violation.

10 **“SECTION 10.** Section 11 of this 2019 Act is added to and made a
11 part of ORS 418.205 to 418.327.

12 **“SECTION 11. (1)** A child-caring agency may not interfere with the
13 good faith disclosure of information by an employee or volunteer
14 concerning the abuse or mistreatment of a child in the care of the
15 child-caring agency, violations of licensing or certification require-
16 ments, criminal activity at the child-caring agency, violations of state
17 or federal laws or any practice that threatens the health and safety
18 of a child in the care of the child-caring agency to:

19 **“(a)** The Department of Human Services, a law enforcement agency
20 or other entity with legal or regulatory authority over the child-caring
21 agency; or

22 **“(b)** A family member, guardian or other person who is acting on
23 behalf of the child.

24 **“(2)** A child-caring agency interferes with the disclosure of the in-
25 formation described in subsection (1) of this section by:

26 **“(a)** Asking or requiring the employee or volunteer to sign a
27 nondisclosure or similar agreement prohibiting the employee or vol-
28 unteer from disclosing the information;

29 **“(b)** Training an employee or volunteer not to disclose the infor-
30 mation; or

1 “(c) Taking actions or communicating to the employee or volunteer
2 that the employee or volunteer may not disclose the information.

3 “(3) The department may revoke or suspend the license, certifica-
4 tion or authorization of a child-caring agency that is found to have
5 violated subsection (1) of this section.

6 “(4) The department shall adopt rules to carry out the provisions
7 of this section.

8 “(5) This section does not authorize the disclosure of:

9 “(a) Protected health information, as defined in ORS 192.556, other
10 than as is permitted by the federal Health Insurance Portability and
11 Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164,
12 ORS 192.553 to 192.581 or by other state or federal laws limiting the
13 disclosure of health information; or

14 “(b) Information protected under ORS 419A.255 and 419A.257.

15 “SECTION 12. Section 13 of this 2019 Act is added to and made a
16 part of ORS 418.625 to 418.645.

17 “SECTION 13. (1) A foster home may not interfere with the good
18 faith disclosure of information by an employee or volunteer concern-
19 ing the abuse or mistreatment of a child in the care of the foster
20 home, violations of licensing or certification requirements, criminal
21 activity at the foster home, violations of state or federal laws or any
22 practice that threatens the health and safety of a child in the care of
23 the foster home to:

24 “(a) The Department of Human Services, a law enforcement agency
25 or other entity with legal or regulatory authority over the foster
26 home; or

27 “(b) A family member, guardian or other person who is acting on
28 behalf of the child.

29 “(2) A foster home interferes with the disclosure of the information
30 described in subsection (1) of this section by:

1 “(a) Asking or requiring the employee or volunteer to sign a
2 nondisclosure or similar agreement prohibiting the employee or vol-
3 unteer from disclosing the information;

4 “(b) Training an employee or volunteer not to disclose the infor-
5 mation; or

6 “(c) Taking actions or communicating to the employee or volunteer
7 that the employee or volunteer may not disclose the information.

8 “(3) The department may revoke or suspend the certificate of ap-
9 proval of a foster home that is found to have violated subsection (1)
10 of this section.

11 “(4) The department shall adopt rules to carry out the provisions
12 of this section.

13 “(5) This section does not authorize the disclosure of:

14 “(a) Protected health information, as defined in ORS 192.556, other
15 than as is permitted by the federal Health Insurance Portability and
16 Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164,
17 ORS 192.553 to 192.581 or by other state or federal laws limiting the
18 disclosure of health information; or

19 “(b) Information protected under ORS 419A.255 and 419A.257.

20 “SECTION 14. In addition to any other liability or penalty provided
21 by law, the Director of Human Services shall impose a civil penalty
22 on a foster home, as defined in ORS 418.625, that violates section 13
23 of this 2019 Act. A civil penalty under this section is \$500 for each vi-
24 olation and shall be imposed as provided in ORS 183.745.

25 “SECTION 15. Section 16 of this 2019 Act is added to and made a
26 part of ORS 420.855 to 420.885.

27 “SECTION 16. (1) A youth care center may not interfere with the
28 good faith disclosure of information by an employee or a volunteer
29 concerning the abuse or mistreatment of a youth in the care of the
30 center, violations of licensing or certification requirements, criminal

1 activity at the youth care center, violations of state or federal laws
2 or any practice that threatens the health and safety of a youth in the
3 care of the center to:

4 “(a) The Oregon Youth Authority, a law enforcement agency or
5 other entity with legal or regulatory authority over the care center;
6 or

7 “(b) A family member, guardian or other person who is acting on
8 behalf of the youth.

9 “(2) A care center interferes with the disclosure of the information
10 described in subsection (1) of this section by:

11 “(a) Asking or requiring the employee or volunteer to sign a
12 nondisclosure or similar agreement prohibiting the employee or vol-
13 unteer from disclosing the information;

14 “(b) Training an employee or volunteer not to disclose the infor-
15 mation; or

16 “(c) Taking actions or communicating to the employee or volunteer
17 that the employee or volunteer may not disclose the information.

18 “(3) The authority may revoke or suspend the approval of a care
19 center that is found to have violated subsection (1) of this section.

20 “(4) This section does not authorize the disclosure of:

21 “(a) Protected health information, as defined in ORS 192.556, other
22 than as is permitted by the federal Health Insurance Portability and
23 Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164,
24 ORS 192.553 to 192.581 or by other state or federal laws limiting the
25 disclosure of health information; or

26 “(b) Information protected under ORS 419A.255 and 419A.257.

27 **“SECTION 17. (1) In addition to any other liability or penalty pro-**
28 **vided by law, the Director of the Oregon Youth Authority shall impose**
29 **a civil penalty, as provided in ORS 183.745, on a youth care center, as**
30 **defined in ORS 420.855, that violates section 16 of this 2019 Act.**

1 “(2) A civil penalty under subsection (1) of this section is \$500 for
2 each violation.

3 “SECTION 18. Section 19 of this 2019 Act is added to and made a
4 part of ORS 420.888 to 420.892.

5 “SECTION 19. (1) A youth offender foster home may not interfere
6 with the good faith disclosure of information concerning the abuse or
7 mistreatment of a youth in the care of the youth offender foster home,
8 violations of licensing or certification requirements, criminal activity
9 at the youth offender foster home, violations of state or federal laws
10 or any practice that threatens the health and safety of a youth
11 offender in the care of the youth offender foster home to:

12 “(a) The Oregon Youth Authority, a law enforcement agency or
13 other entity with legal or regulatory authority over the youth offender
14 foster home; or

15 “(b) A family member, guardian or other person who is acting on
16 behalf of the youth.

17 “(2) A youth offender foster home interferes with the disclosure of
18 the information described in subsection (1) of this section by:

19 “(a) Asking or requiring the employee or volunteer to sign a
20 nondisclosure or similar agreement prohibiting the employee or vol-
21 unteer from disclosing the information;

22 “(b) Training an employee or volunteer not to disclose the infor-
23 mation; or

24 “(c) Taking actions or communicating to the employee or volunteer
25 that the employee or volunteer may not disclose the information.

26 “(3) The authority may revoke or suspend the certificate of approval
27 of a youth offender foster home that is found to have violated sub-
28 section (1) of this section.

29 “(4) This section does not authorize the disclosure of:

30 “(a) Protected health information, as defined in ORS 192.556, other

1 than as is permitted by the federal Health Insurance Portability and
2 Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164,
3 ORS 192.553 to 192.581 or by other state or federal laws limiting the
4 disclosure of health information; or

5 “(b) Information protected under ORS 419A.255 and 419A.257.

6 “SECTION 20. (1) In addition to any other liability or penalty pro-
7 vided by law, the Director of the Oregon Youth Authority shall impose
8 a civil penalty, as provided in ORS 183.745, on a youth offender foster
9 home, as defined in ORS 420.888, that violates section 19 of this 2019
10 Act.

11 “(2) A civil penalty under subsection (1) of this section is \$500 for
12 each violation.

13 “SECTION 21. (1) As used in this section, ‘employer’ means:

14 “(a) An adult foster home as defined in ORS 443.705;

15 “(b) A child care provider as defined in ORS 329A.700;

16 “(c) A child-caring agency as defined in ORS 418.205;

17 “(d) A child-caring facility as defined in ORS 418.950;

18 “(e) Community-based structured housing as defined in ORS 443.480;

19 “(f) A facility as defined in ORS 430.735;

20 “(g) A foster home as defined in ORS 418.625;

21 “(h) A long term care facility as defined in ORS 442.015;

22 “(i) A residential facility as defined in ORS 443.400;

23 “(j) A youth care center as defined in ORS 420.855;

24 “(k) A youth offender foster home as defined in ORS 420.888; or

25 “(L) Any other entity that is licensed, certified or registered by a
26 public body, as defined in ORS 174.109, to provide care to children,
27 youth, individuals with disabilities or older adults.

28 “(2) It is an unlawful employment practice under ORS chapter 659A
29 for an employer to violate section 2, 4, 6, 8, 11, 13, 16 or 19 of this 2019
30 Act or to interfere with an employee’s good faith disclosure of infor-

1 **mation concerning the abuse or mistreatment of an individual cared**
2 **for by the employer, violations of licensing or certification require-**
3 **ments, criminal activity occurring at the workplace, violations of state**
4 **or federal laws or any practice that threatens the health and safety**
5 **of the individual cared for by the employer to regulatory agencies, law**
6 **enforcement authorities or persons who are acting on behalf of the**
7 **individual.**

8 **“(3) An employee or a volunteer may file a civil action under ORS**
9 **659A.885, alleging violation of this section.**

10 **“SECTION 22. Sections 2, 4, 6, 8, 11, 13, 16 and 19 of this 2019 Act**
11 **apply to statements or conduct occurring on or after the effective date**
12 **of this 2019 Act.”.**

13
