

# D R A F T

## SUMMARY

Limits availability of conditional enrollment in Central Background Registry to individuals who have successfully completed criminal background check in Oregon and, if applicable, in state of residence. Modifies definition of “exempt prohibited individual” to include individuals whose certification or registration has been revoked or whose enrollment in Central Background Registry has been removed only if revocation or removal was for cause.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

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2 Relating to children; amending ORS 329A.030 and 329A.252; and declaring  
3 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 Back-  
7 ground Registry and may maintain information in the registry through elec-  
8 tronic records systems.

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

13 (b) An individual who has been the subject of a founded or substantiated  
14 report of child abuse shall apply to and be enrolled in the Central Back-  
15 ground Registry prior to providing any of the types of care identified in ORS  
16 329A.250 (4)(a), (g) or (h) if:

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

**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 or

2 (B) The child abuse occurred on or after September 1, 2019, and involved  
3 any child for whom the individual was providing child care, as defined in  
4 ORS 329A.250 (4), or care identified in ORS 329A.250 (4)(a), (c), (f), (g), (h)  
5 or (i).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (B) The individual is an exempt prohibited individual, as provided by ORS  
11 329A.252.

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

15 (6)(a) The office may conditionally enroll an individual in the Central  
16 Background Registry pending the results of a nationwide criminal records  
17 check through the Federal Bureau of Investigation if the individual has [*met*  
18 *other requirements of the office for enrollment in the registry*] **successfully**  
19 **completed the criminal records check and the child abuse and neglect**  
20 **records check in this state and in the state of the individual's resi-**  
21 **dence, if other than Oregon.**

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

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

30 (8)(a) A child care facility shall not hire or employ an individual if the  
31 individual is not enrolled in the Central Background Registry.

1 (b) Notwithstanding paragraph (a) of this subsection, a child care facility  
2 may employ on a probationary basis an individual who is conditionally en-  
3 rolled in the Central Background Registry.

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

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

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

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

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

16 (d) An individual in a child care facility who may have unsupervised  
17 contact with children as identified by the office;

18 (e) A contractor or an employee of the contractor who provides early  
19 childhood special education or early intervention services pursuant to ORS  
20 343.455 to 343.534;

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

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

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

31 (i) The operator or an employee of an early learning program as defined

1 in rules adopted by the council.

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

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

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

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

27 329A.252. (1) As used in this section, “exempt prohibited individual”  
28 means:

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

31 (b) An individual whose enrollment in the Central Background Registry

1 established by ORS 329A.030 is suspended, has been denied for cause or has  
2 been removed **for cause** under ORS 329A.030.

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

6 (d) An individual who voluntarily surrendered the individual's certifica-  
7 tion, registration or enrollment in the Central Background Registry while  
8 under investigation by the Office of Child Care or at any time after the Of-  
9 fice of Child Care has given notice of an administrative proceeding against  
10 the individual or the individual's child care facility.

11 (e) An individual to whom the Office of Child Care has issued a final  
12 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  
15 hearing.

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

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

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

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

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

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

31 (b) Is required to report as a sex offender under ORS 163A.010, 163A.015,

1 163A.020 or 163A.025 or the laws of another jurisdiction.

2 **SECTION 3. This 2021 Act being necessary for the immediate pres-**  
3 **ervation of the public peace, health and safety, an emergency is de-**  
4 **clared to exist, and this 2021 Act takes effect on its passage.**

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