

Senate Bill 757

Sponsored by COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH AND RECOVERY

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**.

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 Modifies definition of "exempt prohibited individual" to include individuals whose certification or registration has been revoked or whose enrollment in Central Background Registry has been removed only if revocation or removal was for cause.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

1
2 Relating to children; amending ORS 329A.030 and 329A.252; and declaring an emergency.

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

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

5 329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may
6 maintain information in the registry through electronic records systems.

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

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

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

15 (B) The child abuse occurred on or after September 1, 2019, and involved any child for whom
16 the individual was providing child care, as defined in ORS 329A.250 (4), or care identified in ORS
17 329A.250 (4)(a), (c), (f), (g), (h) or (i).

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

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

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

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

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

28 (D) A foster care certification check and an adult protective services check in accordance with
29 rules adopted by the 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 (b) In addition to the information that the office is required to check under paragraph (a) of this
 2 subsection, the office may consider any other information obtained by the office that the office, by
 3 rule, determines is relevant to enrollment in the Central Background Registry.

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

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

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

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

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

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

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

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

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

20 (6)(a) The office may conditionally enroll an individual in the Central Background Registry
 21 pending the results of a nationwide criminal records check through the Federal Bureau of Investi-
 22 gation if the individual has [*met other requirements of the office for enrollment in the registry*] **suc-**
 23 **cessfully completed the criminal records check and the child abuse and neglect records check**
 24 **in this state and in the state of the individual's residence, if other than Oregon.**

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

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

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

34 (b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a
 35 probationary basis an individual who is conditionally enrolled in the Central Background Registry.

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

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

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

43 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to
 44 329.200;

45 (c) The operator or an employee of a federal Head Start program regulated by the United States

1 Department of Health and Human Services;

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

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

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

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

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

14 (i) The operator or an employee of an early learning program as defined in rules adopted by the
15 council.

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

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

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

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

36 329A.252. (1) As used in this section, "exempt prohibited individual" means:

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

39 (b) An individual whose enrollment in the Central Background Registry established by ORS
40 329A.030 is suspended, has been denied for cause or has been removed **for cause** under ORS
41 329A.030.

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

44 (d) An individual who voluntarily surrendered the individual's certification, registration or en-
45 rollment in the Central Background Registry while under investigation by the Office of Child Care

1 or at any time after the Office of Child Care has given notice of an administrative proceeding
2 against the individual or the individual's child care facility.

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

4 (A) After a contested proceeding; or

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

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

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

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

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

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

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

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

20 **SECTION 3. This 2021 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
22 **on its passage.**