

## HOUSE AMENDMENTS TO HOUSE BILL 4005

By COMMITTEE ON EARLY CHILDHOOD

February 10

1 On page 2 of the printed bill, line 33, restore the bracketed material and delete the boldfaced  
2 material.

3 On page 5, delete lines 40 through 42 and insert:

4 “(f) The Early Learning Division for the purpose of carrying out the functions of the division,  
5 including the certification, registration or regulation of child care facilities and child care providers  
6 and the administration of enrollment in the Central Background Registry;”.

7 On page 6, delete line 5 and insert:

8 “(j) The Office of Child Care for purposes of applications described in ORS 329A.030 (10)(c)(G),  
9 (H) and (I);”.

10 On page 11, delete lines 15 through 45.

11 On page 12, delete lines 1 and 2 and insert:

12 “**SECTION 15.** ORS 329A.992, as amended by section 27 of this 2022 Act, is amended to read:

13 “329A.992. (1) In addition to any other provision of law or rule adopted pursuant to ORS  
14 329A.260 for enforcement of the provisions of ORS chapter 329A, the Office of Child Care may:

15 “(a) Suspend or revoke a certification or registration issued under ORS [*329A.030 and*] 329A.250  
16 to 329A.450, or impose a civil penalty in the manner provided in ORS 183.745, for violation of:

17 “(A) Any of the provisions of ORS 329A.030 and 329A.250 to 329A.450;

18 “(B) The terms and conditions of a certification or registration issued under ORS [*329A.030*  
19 *and*] 329A.250 to 329A.450; or

20 “(C) Any rule of the Early Learning Council adopted under ORS 329A.030 and 329A.250 to  
21 329A.450.

22 “(b) Impose a civil penalty in the manner provided in ORS 183.745 and file for injunctive relief  
23 in a circuit court for the provision of child care, or for having a child in an individual’s care, in  
24 violation of ORS 329A.030 (2).

25 “(c) Remove an individual described in ORS 329A.030 (10)(d) from the Central Background Reg-  
26 istry, or impose a civil penalty in the manner provided in ORS 183.745, for the individual’s or the  
27 subsidized care facility’s violation of:

28 “(A) Any of the provisions of ORS 329A.030 or 329A.500; or

29 “(B) Any rule of the Early Learning Council adopted under ORS 329A.030, 329A.500 or 329A.505  
30 or of the Department of Human Services adopted under ORS 329A.500.

31 “(2) The Early Learning Council may adopt by rule a schedule establishing the civil penalties  
32 that may be imposed under this section.

33 “(3) Except as provided in subsection (4) of this section, penalties imposed under this section  
34 may not exceed:

35 “(a) \$750 per violation for a registered family child care home.

1 “(b) \$1,200 per violation for a certified family child care home.  
2 “(c) \$2,500 per violation for a certified child care center that is not a family child care home.  
3 “(4) The office may impose a civil penalty of not more than \$1,500 for a child care facility that  
4 provides child care without a valid:  
5 “(a) Certification, in violation of ORS 329A.280; or  
6 “(b) Registration, in violation of ORS 329A.330.  
7 “(5) Each day that a child care facility is operating in violation of any of the provisions de-  
8 scribed in subsection (1) of this section is a separate violation.  
9 “(6) The office may revoke a child care facility’s certification or registration or deny a child  
10 care facility’s renewal application for a certification or registration if the facility fails to pay a civil  
11 penalty after the order imposing the penalty becomes final.  
12 “(7) A civil penalty imposed under this section may be remitted or reduced upon such terms and  
13 conditions as the office considers proper and consistent with the public health and safety.  
14 “(8) All moneys received under this section shall be paid into the State Treasury and credited  
15 to the General Fund.”.  
16 On page 18, after line 14, insert:  
17 “**SECTION 22.** ORS 329A.250 is amended to read:  
18 “329A.250. As used in ORS 329A.030, [and] 329A.250 to 329A.450 **and 329A.500**, unless the con-  
19 text requires otherwise:  
20 “(1) ‘Babysitter’ means a person who goes into the home of a child to give care during the  
21 temporary absence of the parent or legal guardian or custodian.  
22 “(2) ‘Certification’ means the certification that is issued under ORS 329A.280 by the Office of  
23 Child Care to a family child care home, child care center or other child care facility.  
24 “(3) ‘Child’ means a child under 13 years of age or a child under 18 years of age who has special  
25 needs or disabilities and requires a level of care that is above normal for the child’s age.  
26 “(4)(a) ‘Child care’ means the care, supervision and guidance on a regular basis of a child, un-  
27 accompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours  
28 of the day, in a place other than the child’s home, with or without compensation.  
29 “(b) ‘Child care’ does not include care provided:  
30 “(A) In the home of the child;  
31 “(B) By the child’s parent, guardian, or person acting in loco parentis;  
32 “(C) By a person related to the child by blood or marriage within the fourth degree as deter-  
33 mined by civil law;  
34 “(D) On an occasional basis by a person not ordinarily engaged in providing child care;  
35 “(E) By providers of medical services;  
36 “(F) By a babysitter;  
37 “(G) By a person who cares for children from only one family other than the person’s own  
38 family;  
39 “(H) By a person who cares for no more than three children other than the person’s own chil-  
40 dren; or  
41 “(I) By a person who is a member of the child’s extended family, as determined by the office on  
42 a case-by-case basis.  
43 “(5) ‘Child care facility’ means any facility that provides child care to children, including a day  
44 nursery, nursery school, child care center, certified or registered family child care home or similar  
45 unit operating under any name, but not including any:

1       “(a) Preschool recorded program.

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

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

6       “(d) Facility operated by:

7       “(A) A school district as defined in ORS 332.002;

8       “(B) A political subdivision of this state; or

9       “(C) A governmental agency.

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

11       “(f) Babysitters.

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

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

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

16       “(6) ‘Family’ has the meaning given that term in ORS 329.145.

17       “(7) ‘Occasional’ means that care is provided for no more than 70 days in any calendar year.

18       “(8) ‘Parent cooperative’ means a child care program in which:

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

20       “(b) Membership in the cooperative includes parents;

21       “(c) There are written policies and procedures; and

22       “(d) A board of directors that includes parents of the children cared for by the cooperative  
23 controls the policies and procedures of the program.

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

27       “(10) ‘Record’ means the record that is issued under ORS 329A.255 to a preschool recorded  
28 program or under ORS 329A.257 to a school-age recorded program.

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

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

34       “(13) ‘School-age recorded program’ means a program for school-age children:

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

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

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

40       **“(14)(a) ‘Subsidized care’ means the care, supervision and guidance on a regular basis of**  
41 **a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part**  
42 **of the 24 hours of a day, paid for in whole or in part by public funds.**

43       **“(b) ‘Subsidized care’ does not include care provided:**

44       **“(A) By the child’s parent, guardian or person acting in loco parentis;**

45       **“(B) By a sibling living in the same home as the child;**

1 “(C) By a person on the same subsidized care case of a child in care; or

2 “(D) By a provider of medical services, as determined by the office on a case-by-case  
3 basis.

4 “(15) ‘Subsidized care facility’ means any facility that provides subsidized care to chil-  
5 dren, including a day nursery, nursery school, child care center, certified or registered family  
6 child care home or similar unit operating under any name, but not including any program  
7 or facility identified by the Early Learning Council by rule.

8 “[14] (16) ‘Youth development activities’ means care, supervision or guidance that is intended  
9 for enrichment, including but not limited to teaching skills or proficiency in physical, social or ed-  
10 ucational activities such as tutoring, music lessons, social activities, sports and recreational activ-  
11 ities.”.

12 In line 15, delete “22” and insert “23”.

13 On page 19, line 40, delete “with or without compensation” and insert “paid for in whole or in  
14 part by public funds”.

15 On page 20, line 4, after “facility” delete the rest of the line and insert “identified by the Early  
16 Learning Council by rule.”.

17 After line 8, insert:

18 “**SECTION 24.** ORS 329A.500 is amended to read:

19 “329A.500. (1) As used in this section, ‘family’ means any individual who is responsible for the  
20 care, control and supervision of a child.

21 “(2) The Department of Human Services and the Early Learning Council shall adopt rules for  
22 the operation of the Employment Related Day Care subsidy program **and for other subsidy pro-**  
23 **grams** administered by the department.

24 “(3) The rules adopted under this section must support equitable access to a supply of diverse  
25 [*child care providers*] **subsidized care facilities** that meet the needs of families, as those needs are  
26 defined by the department by rule, including:

27 “(a) Cultural diversity;

28 “(b) Linguistic diversity;

29 “(c) Racial and ethnic diversity; and

30 “(d) Diversity of [*provider*] **subsidized care facility** types.

31 “(4) The rules adopted under this section must provide that:

32 “(a) A child’s eligibility to participate in the Employment Related Day Care subsidy program  
33 must be based on:

34 “(A) The household income of a child’s family; and

35 “(B) Any other criteria established by the department.

36 “(b) A child must be able to receive care that:

37 “(A) Meets the child’s developmental, disability and neurodiversity needs; and

38 “(B) Enables the child’s family to complete activities that relate to family well-being, which may  
39 include the family’s work hours, education hours, commute time, study time and other activities that  
40 support family well-being.

41 “(c) Payment to [*child care providers*] **subsidized care facilities** must be based on enrollment  
42 instead of attendance.

43 “(d) A child’s family may qualify for an incentive if the family voluntarily chooses a [*child care*  
44 *provider*] **subsidized care facility** that participates in the quality recognition and improvement  
45 system established under ORS 329A.261. A fair representation of the recipients who qualify for in-

1 centives must be families with children who are from underserved racial, ethnic or minority popu-  
2 lations. In addition, [*child care providers*] **subsidized care facilities** that participate in the quality  
3 recognition and improvement system may receive financial incentives under the subsidy programs  
4 in accordance with criteria established by rule.

5 “(e) **A child care facility is not eligible to be a subsidized care facility and to receive a**  
6 **reimbursement under the subsidy program unless each subject individual described in ORS**  
7 **329A.030 (10)(d) who operates, resides in or may have unsupervised contact with children at**  
8 **the subsidized care facility that provides or will provide subsidized care to the person’s child**  
9 **is enrolled in the Central Background Registry under ORS 329A.030.**

10 “(5) Taking into account the availability of funds, the rules adopted under this section must es-  
11 tablish a sliding scale for copayment, with the requirement that a copayment may not exceed seven  
12 percent of the household income of the child’s family.

13 “(6) In developing rules under this section, the department shall consider policies for increasing  
14 the stability and continuity of a child’s access to a family’s preferred child care [*provider*] **facility.**

15 “(7) Rules adopted by the department under this section establish minimum requirements per-  
16 taining to the Employment Related Day Care subsidy program and may not be construed to preempt,  
17 limit or otherwise diminish the applicability of any policy, standard or collective bargaining agree-  
18 ment that provides for an increased subsidy or a [*child care provider*] **subsidized care facility** re-  
19 imbursement amount under state or federal law.

20 “(8)(a) The department shall work to meet federal recommendations for income eligibility and  
21 market access in regard to the Employment Related Day Care subsidy program administered by the  
22 department.

23 “(b) Notwithstanding any provision of this section or any rule adopted by the department pur-  
24 suant to this section, the laws and regulations applicable to any federal funds shall govern when  
25 any aspect of child care is funded by federal funds.”.

26 In line 9, delete “23” and insert “25”.

27 In line 14, after “program” insert “and for other subsidy programs”.

28 In lines 39 and 40, restore the bracketed material and delete the boldfaced material.

29 In line 42, delete “Employment Related Day Care”.

30 On page 21, line 39, delete “24” and insert “26”.

31 Delete lines 42 through 44 and insert:

32 “(2)(a) A subject individual described in subsection (10)(a), (c) or (d) of this section shall apply  
33 to and must be enrolled in the Central Background Registry prior to the provision of care.”.

34 On page 22, delete lines 11 and 12.

35 On page 24, delete lines 20 through 45.

36 Delete pages 25 through 27.

37 On page 28, delete lines 1 and 2 and insert:

38 “**SECTION 27.** ORS 329A.992 is amended to read:

39 “329A.992. (1) In addition to any other provision of law or rule adopted pursuant to ORS  
40 329A.260 for enforcement of the provisions of ORS chapter 329A, the Office of Child Care may:

41 “(a) Suspend or revoke a certification or registration issued under ORS 329A.030 and 329A.250  
42 to 329A.450, or impose a civil penalty in the manner provided in ORS 183.745, for violation of:

43 “(A) Any of the provisions of ORS 329A.030 and 329A.250 to 329A.450;

44 “(B) The terms and conditions of a certification or registration issued under ORS 329A.030 and  
45 329A.250 to 329A.450; or

1 “(C) Any rule of the Early Learning Council adopted under ORS 329A.030 and 329A.250 to  
2 329A.450.

3 “(b) Impose a civil penalty in the manner provided in ORS 183.745 and file for injunctive relief  
4 in a circuit court for the provision of child care, or for having a child in an individual’s care, in  
5 violation of ORS 329A.030 (2).

6 “(c) **Remove an individual described in ORS 329A.030 (10)(d) from the Central Background**  
7 **Registry, or impose a civil penalty in the manner provided in ORS 183.745, for the individual’s**  
8 **or the subsidized care facility’s violation of:**

9 “(A) **Any of the provisions of ORS 329A.030 or 329A.500; or**

10 “(B) **Any rule of the Early Learning Council adopted under ORS 329A.030, 329A.500 or**  
11 **329A.505 or of the Department of Human Services adopted under ORS 329A.500.**

12 “(2) The Early Learning Council may adopt by rule a schedule establishing the civil penalties  
13 that may be imposed under this section.

14 “(3) Except as provided in subsection (4) of this section, penalties imposed under this section  
15 may not exceed:

16 “(a) \$750 per violation for a registered family child care home.

17 “(b) \$1,200 per violation for a certified family child care home.

18 “(c) \$2,500 per violation for a certified child care center that is not a family child care home.

19 “(4) The office may impose a civil penalty of not more than \$1,500 for a child care facility that  
20 provides child care without a valid:

21 “(a) Certification, in violation of ORS 329A.280; or

22 “(b) Registration, in violation of ORS 329A.330.

23 “(5) Each day that a child care facility is operating in violation of any of the provisions de-  
24 scribed in subsection (1) of this section is a separate violation.

25 “(6) The office may revoke a child care facility’s certification or registration or deny a child  
26 care facility’s renewal application for a certification or registration if the facility fails to pay a civil  
27 penalty after the order imposing the penalty becomes final.

28 “(7) A civil penalty imposed under this section may be remitted or reduced upon such terms and  
29 conditions as the office considers proper and consistent with the public health and safety.

30 “(8) All moneys received under this section shall be paid into the State Treasury and credited  
31 to the General Fund.

32 “**SECTION 28. (1)(a) The amendments to ORS 329A.030, 329A.250, 329A.500 and 329A.992**  
33 **by sections 22 to 27 of this 2022 Act apply to subsidized care facilities providing subsidized**  
34 **care under ORS 329A.500 on or after July 1, 2023.**

35 “(b) **On or after July 1, 2023, a subject individual described in ORS 329A.030 (10)(d) must**  
36 **enroll in the Central Background Registry under ORS 329A.030 for the purpose of the Em-**  
37 **ployment Related Day Care subsidy program.**

38 “(2) **Notwithstanding subsection (1) of this section and ORS 329A.030 (2)(a), as amended**  
39 **by section 26 of this 2022 Act:**

40 “(a) **A subject individual described in ORS 329A.030 (10)(d) who was approved before July**  
41 **1, 2023, as a provider of care by the Department of Human Services for the purposes of the**  
42 **Employment Related Day Care subsidy program is not required to enroll in the Central**  
43 **Background Registry until the earlier of the expiration of a child care background check or**  
44 **June 30, 2025.**

45 “(b) **Until July 1, 2023, a subject individual described in ORS 329A.030 (10)(d) who is**

1 seeking initial approval or renewed approval as a provider of care for purposes of the Em-  
2 ployment Related Day Care subsidy program may choose to enroll in the Central Background  
3 Registry under ORS 329A.030 or may seek a child background check through the Department  
4 of Human Services.

5 “(3) For the purpose of transferring the Employment Related Day Care subsidy program  
6 from the Department of Human Services to the Department of Early Learning and Care, as  
7 provided by section 79, chapter 631, Oregon Laws 2021, the Department of Human Services  
8 and the Early Learning Council shall adopt rules that provide:

9 “(a) Until July 1, 2023, the Department of Human Services shall accept an individual’s  
10 enrollment in the Central Background Registry as satisfying any requirement for background  
11 checks for the Employment Related Day Care subsidy program.

12 “(b) Until July 1, 2025, the Office of Child Care shall accept the Department of Human  
13 Service’s background check of an individual for the purposes of the Employment Related Day  
14 Care subsidy program as satisfying the requirements of the Central Background Registry.

15 “(4) No later than July 1, 2023, the Department of Human Services shall transfer copies  
16 of all files necessary for the Office of Child Care to provide background checks for individuals  
17 described in ORS 329A.030 (10)(d).”.

18 In line 6, delete “30” and insert “29”.

19 In line 27, delete “31” and insert “30”.

20 On page 29, line 8, delete “32” and insert “31”.

21 In line 15, after “center” insert a period and delete the rest of the line and line 16.

22 In line 18, after “center” insert a period and delete the rest of the line and lines 19 and 20.

23 In line 29, delete “33” and insert “32” and delete “32” and insert “31”.

24 Delete lines 30 through 41.

25 In line 45, delete “35” and insert “33”.

26 On page 30, line 6, delete “36” and insert “34”.

27