

DRAFT

SUMMARY

Prohibits child care providers from enrolling in Central Background Registry or providing child care for five years after denial, revocation or voluntary surrender of certification or registration and for five years after denial, removal or voluntary surrender of enrollment in Central Background Registry.

Confers Office of Child Care with continuing jurisdiction over actions against child care facilities.

Permits Office of Child Care to issue cease and desist orders.

Directs Office of Child Care to develop progressive enforcement system for rule violations.

Permits Office of Child Care to impose conditions on certification or registration of child care facility.

Increases maximum civil penalty amounts for violations committed by child care providers.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to child care; creating new provisions; amending ORS 329A.030,
3 329A.250, 329A.252, 329A.263, 329A.300, 329A.330, 329A.360, 329A.370 and
4 329A.992; and declaring an emergency.

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

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

7 329A.030. (1) The Office of Child Care shall establish a Central Back-
8 ground Registry and may maintain information in the registry through elec-
9 tronic records systems.

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

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

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

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

6 (c) A child abuse and neglect records check in accordance with rules
7 adopted by the council; and

8 (d) A foster care certification check and an adult protective services
9 check in accordance with rules adopted by the council.

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

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

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

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

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

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

26 (A) The individual has a disqualifying condition as defined in rules
27 adopted by the council[.]; **or**

28 (B) **The individual is an exempt prohibited individual, as that term**
29 **is defined in ORS 329A.252.**

30 (b) **If an individual who has a disqualifying condition or who is an**
31 **exempt prohibited individual is enrolled in the Central Background**

1 **Registry, the office shall remove the individual from the registry.**

2 (6)(a) The office may conditionally enroll an individual in the Central
3 Background Registry pending the results of a nationwide criminal records
4 check through the Federal Bureau of Investigation if the individual has met
5 other requirements of the office for enrollment in the registry.

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

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

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

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

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

23 (10) For purposes of this section, "subject individual" means a subject
24 individual as defined by the Early Learning Council by rule or a person who
25 applies to be:

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

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

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

31 (d) An individual in a child care facility who may have unsupervised

1 contact with children as identified by the office;

2 (e) A contractor or an employee of the contractor who provides early
3 childhood special education or early intervention services pursuant to ORS
4 343.455 to 343.534;

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

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

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

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

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

25 (b) Information provided to a private agency or organization facilitating
26 the provision of respite services, as defined in ORS 418.205, for parents pur-
27 suant to a properly executed power of attorney under ORS 109.056 about the
28 enrollment status of the persons described in subsection (10)(h) of this sec-
29 tion shall be subject to an agreement with the private agency or organiza-
30 tion. The agreement must provide for the recovery of administrative,
31 including direct and indirect, costs incurred by the office from participation

1 in the agreement. Any moneys collected under this paragraph shall be de-
2 posited in the Child Care Fund established under ORS 329A.010.

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

10 **SECTION 2.** ORS 329A.250 is amended to read:

11 329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the
12 context requires otherwise:

13 (1) “Babysitter” means a person who goes into the home of a child to give
14 care during the temporary absence of the parent or legal guardian or custo-
15 dian.

16 (2) “Certification” means the certification that is issued under ORS
17 329A.280 by the Office of Child Care to a family child care home, child care
18 center or other child care facility.

19 (3) “Child” means a child under 13 years of age or a child under 18 years
20 of age who has special needs or disabilities and requires a level of care that
21 is above normal for the child’s age.

22 (4) Subject to ORS 329A.440, “child care” means the care, supervision and
23 guidance on a regular basis of a child, unaccompanied by a parent, guardian
24 or custodian, provided to a child during a part of the 24 hours of the day,
25 in a place other than the child’s home, with or without compensation. “Child
26 care” does not include care provided:

27 (a) In the home of the child;

28 (b) By the child’s parent, guardian, or person acting in loco parentis;

29 (c) By a person related to the child by blood or marriage within the
30 fourth degree as determined by civil law;

31 (d) On an occasional basis by a person not ordinarily engaged in provid-

1 ing child care;

2 (e) By providers of medical services;

3 (f) By a babysitter;

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

6 (h) By a person who cares for no more than three children other than the
7 person's own children; or

8 (i) By a person who is a member of the child's extended family, as deter-
9 mined by the office on a case-by-case basis.

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

14 (a) Preschool recorded program.

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

17 (c) Facility providing care that is primarily group athletic or social ac-
18 tivities sponsored by or under the supervision of an organized club or hobby
19 group.

20 (d) Facility operated by:

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

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

23 (C) A governmental agency.

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

25 (f) Babysitters.

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

28 (h) Facility providing care while the child's parent remains on the prem-
29 ises and is engaged in an activity offered by the facility or in other nonwork
30 activity.

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

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

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

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

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

6 (b) Membership in the cooperative includes parents;

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

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

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

14 (10) "Record" means the record that is issued under ORS 329A.255 to a
15 preschool recorded program or under ORS 329A.257 to a school-age recorded
16 program.

17 (11) "Registration" means the registration that is issued under ORS
18 329A.330 by the Office of Child Care to a family child care home where care
19 is provided in the family living quarters of the provider's home.

20 (12) "School age" means of an age eligible to be enrolled in [*the first*
21 *grade*] **kindergarten** or above and, during the months of summer vacation
22 from school, means of an age eligible to be enrolled in [*first grade*]
23 **kindergarten** or above in the next school year.

24 (13) "School-age recorded program" means a program for school-age chil-
25 dren:

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

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

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

1 (14) “Youth development activities” means care, supervision or guidance
2 that is intended for enrichment, including but not limited to teaching skills
3 or proficiency in physical, social or educational activities such as tutoring,
4 music lessons, social activities, sports and recreational activities.

5 **SECTION 3.** ORS 329A.252 is amended to read:

6 329A.252. *[(1) Notwithstanding ORS 329A.250 (4), care provided to children*
7 *other than the children of the person providing the care by a person whose*
8 *enrollment in the Central Background Registry established by ORS 329A.030*
9 *has been denied for cause, has been revoked or is under suspension, or whose*
10 *certification or registration has been denied for cause, has been revoked or is*
11 *under suspension, or who has voluntarily surrendered the person’s certification*
12 *or registration while under investigation by the Office of Child Care, is “child*
13 *care” for purposes of ORS 329A.030 and 329A.250 to 329A.450.]*

14 *[(2) Notwithstanding ORS 329A.250 (5), a facility providing care for four*
15 *hours or less per day that is primarily educational to preschool children that*
16 *is operated by a person whose enrollment in the Central Background Registry*
17 *established by ORS 329A.030 has been denied for cause, has been revoked or*
18 *is under suspension, or whose certification or registration has been denied for*
19 *cause, has been revoked or is under suspension, or who has voluntarily sur-*
20 *rendered the person’s certification or registration while under investigation by*
21 *the Office of Child Care, is a “child care facility” for purposes of ORS*
22 *329A.030 and 329A.250 to 329A.450.]*

23 **(1) As used in this section, “exempt prohibited individual” means:**

24 **(a) An individual whose certification or registration has been denied**
25 **or revoked under ORS 329A.350.**

26 **(b) An individual whose enrollment in the Central Background**
27 **Registry established by ORS 329A.030 has been denied or removed un-**
28 **der ORS 329A.030.**

29 **(c) An individual who voluntarily surrendered the individual’s cer-**
30 **tification, registration or enrollment in the Central Background Reg-**
31 **istry while under investigation by the Office of Child Care or at any**

1 **time after the Office of Child Care has given notice of an administra-**
2 **tive proceeding against the individual or the individual’s child care**
3 **facility.**

4 **(2) For a period of five years following the date of the most recent**
5 **violation for which an individual has been deemed an exempt prohib-**
6 **ited individual, the exempt prohibited individual:**

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

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

12 **(3) After the five-year period described in subsection (2) of this**
13 **section, an individual ceases to be an exempt prohibited individual if**
14 **the individual:**

15 **(a) Enrolls in the Central Background Registry; and**

16 **(b) Obtains a certification or registration.**

17 **SECTION 4. ORS 329A.263 and sections 6 to 8 of this 2018 Act are**
18 **added to and made a part of ORS 329A.250 to 329A.450.**

19 **SECTION 5. ORS 329A.263 is amended to read:**

20 **329A.263. (1) As used in this section:**

21 **(a) “Certified child care facility” means a child care facility that has been**
22 **certified under ORS 329A.280 by the Office of Child Care.**

23 **[(b) “Child care facility” has the meaning given that term in ORS 329A.250**
24 **(5).]**

25 **[(c)] (b) “Registered child care facility” means a child care facility that**
26 **has been registered under ORS 329A.330 by the Office of Child Care.**

27 **(2) Every certified child care facility and registered child care facility**
28 **shall:**

29 **(a) Adopt a plan to provide for the safety of children who are receiving**
30 **child care at a child care facility in the event of an emergency that requires**
31 **immediate action by the staff of the facility due to conditions of imminent**

1 danger that pose a threat to the life, health or safety of children who are
2 receiving child care at the facility; and

3 (b) Provide training to all employees of the child care facility about the
4 responsibilities of the employees to implement the plan required by this
5 section.

6 (3) The Early Learning Council shall adopt by rule the requirements for
7 the plan and training required by this section. The rules adopted shall in-
8 clude, but are not limited to, procedures for the evacuation of the children
9 who are receiving child care at the child care facility to a place of safety
10 when the conditions of imminent danger require relocation of those children.

11 **SECTION 6. The Office of Child Care is not deprived of jurisdiction**
12 **to proceed with an investigation of or an action or disciplinary pro-**
13 **ceeding against a child care facility by the:**

14 (1) **Lapsing, suspension, revocation or voluntary surrender of a**
15 **certification or registration; or**

16 (2) **Lapsing, suspension, removal or voluntary surrender of a**
17 **person's enrollment in the Central Background Registry established**
18 **by ORS 329A.030.**

19 **SECTION 7. (1) If the Office of Child Care has reason to believe that**
20 **a child care facility has engaged, is engaging or is about to engage in**
21 **a violation of ORS 181A.200, 329A.030 and 329A.250 to 329A.450 or the**
22 **rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215,**
23 **329A.030 and 329A.250 to 329A.450, the office may, subject to ORS**
24 **chapter 183, issue an order directing the facility to cease and desist**
25 **from the violation or threatened violation.**

26 (2) **A cease and desist order issued under subsection (1) of this sec-**
27 **tion shall include:**

28 (a) **A statement of the facts constituting the violation;**

29 (b) **A requirement that the child care facility named in the order**
30 **cease and desist from the violation;**

31 (c) **The effective date of the order; and**

1 (d) A notice to the facility named in the order of the right to a
2 contested case hearing under ORS chapter 183.

3 (3) A cease and desist order issued under subsection (1) of this sec-
4 tion becomes effective 21 days after service of the order unless the
5 child care facility named in the order requests a hearing on the order.

6 (4)(a) If a child care facility makes a timely demand for a hearing
7 on the order, the office shall hold a hearing as provided by ORS
8 chapter 183.

9 (b) After the hearing, the office shall enter a final order vacating,
10 modifying or affirming the order.

11 (5) A child care facility is entitled to judicial review of an order by
12 the office under ORS chapter 183 if the facility made a timely demand
13 for a hearing.

14 (6) A judgment of a reviewing court under ORS chapter 183 does
15 not bar the office from vacating or modifying an order involved in the
16 proceeding for review, or entering a new order, for a proper cause that
17 was not decided by the reviewing court.

18 **SECTION 8.** (1) The Office of Child Care may develop a progressive
19 enforcement system for the rules promulgated pursuant to ORS
20 329A.030 and 329A.250 to 329A.450.

21 (2) The enforcement system developed under this section shall:

22 (a) Establish a set of progressively higher enforcement actions that
23 the office may take in response to a child care facility's violation of
24 the rules described in subsection (1) of this section;

25 (b) Assign progressively higher point values to violations of the
26 rules described in subsection (1) of this section; and

27 (c) Establish standards for monitoring the compliance of child care
28 facilities with the rules described in subsection (1) of this subsection.

29 **SECTION 9.** ORS 329A.300 is amended to read:

30 329A.300. (1) Upon receipt of an application for a certification, accompa-
31 nied by the required fee, the Office of Child Care shall issue a certification

1 if the office finds that the child care facility and its operations are in com-
2 pliance with the requirements of ORS 181A.200, 329A.030 and 329A.250 to
3 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200,
4 181A.215, 329A.030 and 329A.250 to 329A.450.

5 (2) The Office of Child Care may issue a temporary certification, subject
6 to reasonable terms and conditions, for a period not longer than 180 days to
7 a child care facility that does not comply with the requirements and rules
8 if the office finds that the health and safety of any child will not be endan-
9 gered thereby. Not more than one temporary certification shall be issued for
10 the same child care facility in any 12-month period.

11 **(3) If the Office of Child Care determines that it is necessary to**
12 **protect the health and safety of the children for whom a child care**
13 **facility is to provide care, the office may impose a condition on the**
14 **facility's certification that is reasonably designed to protect the health**
15 **and safety of children. The office may impose a condition during the**
16 **application process for an initial certification, during the application**
17 **process for a renewal of a certification or at any time after the issu-**
18 **ance of a certification.**

19 [(3)] (4) The Office of Child Care shall serve as the state agency author-
20 ized, upon request, to certify compliance with applicable federal child care
21 standards or requirements by any facility providing child care in the state.

22 **SECTION 10.** ORS 329A.330 is amended to read:

23 329A.330. (1) A provider operating a family child care home where care
24 is provided in the family living quarters of the provider's home that is not
25 subject to the certification requirements of ORS 329A.280 may not operate
26 a child care facility without registering with the Office of Child Care.

27 (2) A child care facility holding a registration may care for a maximum
28 of 10 children, including the provider's own children. Of the 10 children:

29 (a) No more than six may be younger than school age; and

30 (b) No more than two may be 24 months of age or younger.

31 (3)(a) To obtain a registration, a provider must apply to the Office of

1 Child Care by submitting a completed application work sheet and a
2 nonrefundable fee. The fee shall vary according to the number of children for
3 which the facility is requesting to be registered, and shall be determined and
4 applied through rules adopted by the Early Learning Council under ORS
5 329A.275. The fee shall be deposited as provided in ORS 329A.310 (2). The
6 office may waive any or all of the fee if the office determines that imposition
7 of the fee would impose a hardship on the provider.

8 (b) Upon receipt of an initial or renewal application satisfactory to the
9 office, the office shall conduct an on-site review of the child care facility
10 under this section. The on-site review shall be conducted within 30 days of
11 the receipt of a satisfactory application.

12 (4) The office shall issue a registration to a provider operating a family
13 child care home if:

14 (a) The provider has completed a child care overview class administered
15 by the office;

16 (b) The provider has completed two hours of training on child abuse and
17 neglect issues;

18 (c) The provider is currently certified in infant and child first aid and
19 cardiopulmonary resuscitation;

20 (d) The provider is certified as a food handler under ORS 624.570; and

21 (e) The office determines that the application meets the requirements of
22 ORS 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated
23 pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to
24 329A.450, and receives a satisfactory records check, including criminal re-
25 cords and protective services records.

26 (5) Unless the registration is revoked as provided in ORS 329A.350, the
27 registration is valid for a period of two years from the date of issuance. The
28 office may **not** renew a registration of a provider operating a family child
29 care home [*if*] **unless** the provider:

30 (a) Is currently certified in infant and child first aid and cardiopulmonary
31 resuscitation;

1 (b) Has completed a minimum of eight hours of training related to child
2 care during the most recent registration period; and

3 (c) Is certified as a food handler under ORS 624.570.

4 (6) A registration authorizes operation of the facility only on the premises
5 described in the registration and only by the person named in the registra-
6 tion.

7 (7) The Early Learning Council shall adopt rules:

8 (a) Creating the application work sheet required under subsection (3) of
9 this section;

10 (b) Defining full-time and part-time care;

11 (c) Establishing under what circumstances the adult to child ratio re-
12 quirements may be temporarily waived; and

13 (d) Establishing health and safety procedures and standards on:

14 (A) The number and type of toilets and sinks available to children;

15 (B) Availability of steps or blocks for use by children;

16 (C) Room temperature;

17 (D) Lighting of rooms occupied by children;

18 (E) Glass panels on doors;

19 (F) Condition of floors;

20 (G) Availability of emergency telephone numbers; and

21 (H) Smoking.

22 (8) The office shall adopt the application work sheet required by sub-
23 section (3) of this section. The work sheet must include, but need not be
24 limited to, the following:

25 (a) The number and ages of the children to be cared for at the facility;
26 and

27 (b) The health and safety procedures in place and followed at the facility.

28 **(9) If the Office of Child Care determines that it is necessary to**
29 **protect the health and safety of the children for whom a child care**
30 **facility is to provide care, the office may impose a condition on the**
31 **facility's registration that is reasonably designed to protect the health**

1 **and safety of children. The office may impose a condition during the**
2 **application process for an initial registration, during the application**
3 **process for a renewal of a registration or at any time after the issu-**
4 **ance of a registration.**

5 [(9)] (10) The office, upon good cause shown, may waive one or more of
6 the registration requirements. The office may waive a requirement only if
7 appropriate conditions or safeguards are imposed to protect the welfare of
8 the children and the consumer interests of the parents of the children. The
9 office may not waive the on-site review requirement for applicants applying
10 for an initial registration or renewal of a registration.

11 [(10)] (11) The Early Learning Council, by rule, shall develop a list of
12 recommended standards consistent with standards established by professional
13 organizations regarding child care programs for child care facilities. Com-
14 pliance with the standards is not required for a registration, but the office
15 shall encourage voluntary compliance and shall provide technical assistance
16 to a child care facility attempting to comply with the standards. The child
17 care facility shall distribute the list of recommended minimum standards to
18 the parents of all children cared for at the facility.

19 [(11)] (12) In adopting rules relating to registration, the Early Learning
20 Council shall consult with the appropriate legislative committee in develop-
21 ing the rules to be adopted. If the rules are being adopted during a period
22 when the Legislative Assembly is not in session, the Early Learning Council
23 shall consult with the appropriate interim legislative committee.

24 **SECTION 11.** ORS 329A.360 is amended to read:

25 329A.360. (1) Upon deciding to deny, revoke, suspend, **impose a condition**
26 **on** or not [to] renew a certification or registration, the Office of Child Care
27 shall give notice and opportunity for hearing as provided in ORS chapter 183.

28 (2) The Office of Child Care shall make the final decision and notice
29 thereof shall be sent by certified mail to the address of the child care facility
30 as shown on the records of the office. The decision of the office is review-
31 able by the Court of Appeals in the manner provided in ORS 183.480 for the

1 review of orders in contested cases.

2 **SECTION 12.** ORS 329A.370 is amended to read:

3 329A.370. (1) Without the necessity of prior administrative proceedings
4 or hearing and entry of an order or at any time during such proceedings if
5 they have been commenced, the Office of Child Care, **the Attorney General**
6 **or the prosecuting attorney of any county** may institute proceedings to
7 enjoin the operation of any child care facility operating in violation of ORS
8 181A.200, 329A.030 and 329A.250 to 329A.450 or the rules promulgated pur-
9 suant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to
10 329A.450.

11 **(2) An injunction may be issued under this section without proof**
12 **that a person has sustained actual damage as a result of a child care**
13 **facility's actions.**

14 **SECTION 13.** ORS 329A.992 is amended to read:

15 329A.992. (1) In addition to any other provision of law or rule adopted
16 pursuant to ORS 329A.260 for enforcement of the provisions of ORS chapter
17 329A, the Office of Child Care may suspend or revoke a certification or
18 registration issued under ORS 329A.030 and 329A.250 to 329A.450, or impose
19 a civil penalty in the manner provided in ORS 183.745, for violation of:

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

21 (b) The terms and conditions of a certification or registration issued un-
22 der ORS 329A.030 and 329A.250 to 329A.450; or

23 (c) Any rule of the Early Learning Council adopted under ORS 329A.030
24 and 329A.250 to 329A.450.

25 (2) The Early Learning Council [*shall*] **may** adopt by rule a schedule es-
26 tablishing the civil penalties that may be imposed under this section. [*The*
27 *schedule must provide for categories of violations for which a penalty may be*
28 *imposed, including "nonserious" and "serious" to be defined by the council by*
29 *rule under ORS 329A.260.*]

30 [(3) *The office must issue a written warning for a nonserious or serious*
31 *violation before assessing a civil penalty under this section. The written*

1 *warning must prescribe a reasonable time in which to correct a violation.]*

2 *[(4) The office may not impose a civil penalty of more than \$100 for a first*
3 *violation.]*

4 *[(5) The office may not impose a civil penalty for a subsequent violation that*
5 *exceeds the penalty imposed for the previous violation by more than \$100.*
6 *Penalties imposed under this subsection may not exceed \$500 per violation, or*
7 *\$1,000 total for multiple violations per quarter.]*

8 *[(6) Notwithstanding any other provision of this section, the maximum civil*
9 *penalty that may be imposed:]*

10 *[(a) For violation of ORS 329A.330 by a registered family child care home*
11 *provider is \$100.]*

12 *[(b) For violation of ORS 329A.280 by an operator of a child care facility*
13 *that is not a child care center is \$200.]*

14 *[(c) For violation of ORS 329A.280 by an operator of a child care facility*
15 *that is a child care center is \$500.]*

16 **(3) Except as provided in subsection (4) of this section, penalties**
17 **imposed under this section may not exceed:**

18 **(a) \$750 per violation for a registered family child care provider, as**
19 **defined in ORS 329A.430.**

20 **(b) \$1,200 per violation for a certified family child care provider, as**
21 **defined in ORS 329A.430.**

22 **(c) \$2,500 per violation for a certified child care facility that is not**
23 **a family child care home.**

24 **(4) The office may impose a civil penalty of not more than \$1,500 for**
25 **a violation of ORS 329A.280 or 329A.330.**

26 **(5) Each day that a child care facility is operating in violation of**
27 **any of the provisions described in subsection (1) of this section is a**
28 **separate violation.**

29 **(6) The office may revoke a child care facility's certification or**
30 **registration or deny a child care facility's renewal application for a**
31 **certification or registration if the facility fails to pay a civil penalty**

1 **after the order imposing the penalty becomes final.**

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

5 (8) All moneys received under this section shall be deposited in the Child
6 Care Fund established under ORS 329A.010 and may be used for the admin-
7 istration of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

8 **SECTION 14. The Early Learning Council shall adopt rules, policies**
9 **and standards to promote information sharing between the Office of**
10 **Child Care and the Department of Human Services.**

11 **SECTION 15. Sections 7, 8 and 14 of this 2018 Act and the amend-**
12 **ments to ORS 329A.030, 329A.250, 329A.252, 329A.300, 329A.330, 329A.360,**
13 **329A.370 and 329A.992 by sections 1, 2, 3, 9, 10, 11, 12 and 13 of this 2018**
14 **Act become operative on June 10, 2018.**

15 **SECTION 16. The Office of Child Care and the Early Learning**
16 **Council may take any action before the operative date specified in**
17 **section 15 of this 2018 Act that is necessary for the office or the council**
18 **to exercise, on and after the operative date specified in section 15 of**
19 **this 2018 Act, all of the duties, functions and powers conferred on the**
20 **office and the council by sections 7, 8 and 14 of this 2018 Act and the**
21 **amendments to ORS 329A.030, 329A.250, 329A.252, 329A.300, 329A.330,**
22 **329A.360, 329A.370 and 329A.992 by sections 1, 2, 3, 9, 10, 11, 12 and 13**
23 **of this 2018 Act.**

24 **SECTION 17. This 2018 Act being necessary for the immediate**
25 **preservation of the public peace, health and safety, an emergency is**
26 **declared to exist, and this 2018 Act takes effect on its passage.**

27