

A-Engrossed
House Bill 4065

Ordered by the House February 14
Including House Amendments dated February 14

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Early Childhood and Family Supports)

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.

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

Confers on Office of Child Care continuing jurisdiction over actions against **individuals or** 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, 329A.250, 329A.252,
3 329A.263, 329A.300, 329A.330, 329A.360, 329A.370 and 329A.992; and declaring 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 Background Registry and may
7 maintain information in the registry through electronic records systems.

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

11 (3) Upon receiving an application for enrollment in the Central Background Registry, the office
12 shall complete:

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

14 (b) A criminal records check of other registries or databases in accordance with rules adopted
15 by the Early Learning Council;

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

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

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

21 (A) Is determined to have no criminal, child abuse and neglect, negative adult protective ser-
22 vices or negative foster home certification history, or to have dealt with the issues and provided

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 adequate evidence of suitability for the registry;

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

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

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

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

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

11 **or**

12 **(B) The individual is an exempt prohibited individual, as defined in ORS 329A.252.**

13 **(b) If an individual who has a disqualifying condition or who is an exempt prohibited in-**
14 **dividual is enrolled in the Central Background Registry, the office shall remove the individual**
15 **from the registry.**

16 (6)(a) The office may conditionally enroll an individual in the Central Background Registry
17 pending the results of a nationwide criminal records check through the Federal Bureau of Investi-
18 gation if the individual has met other requirements of the office for enrollment in the registry.

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

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

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

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

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

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

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

36 (b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to
37 329.200;

38 (c) The operator or an employee of a federal Head Start program regulated by the United States
39 Department of Health and Human Services;

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

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

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

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

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

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

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

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

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

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

29 329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the context requires oth-
30 erwise:

31 (1) "Babysitter" means a person who goes into the home of a child to give care during the
32 temporary absence of the parent or legal guardian or custodian.

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

35 (3) "Child" means a child under 13 years of age or a child under 18 years of age who has special
36 needs or disabilities and requires a level of care that is above normal for the child's age.

37 (4) Subject to ORS 329A.440, "child care" means the care, supervision and guidance on a regular
38 basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part
39 of the 24 hours of the day, in a place other than the child's home, with or without compensation.
40 "Child care" does not include care provided:

41 (a) In the home of the child;

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

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

45 (d) On an occasional basis by a person not ordinarily engaged in providing child care;

1 (e) By providers of medical services;

2 (f) By a babysitter;

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

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

5 or

6 (i) By a person who is a member of the child's extended family, as determined by the office on
7 a case-by-case basis.

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

11 (a) Preschool recorded program.

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

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

16 (d) Facility operated by:

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

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

19 (C) A governmental agency.

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

21 (f) Babysitters.

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

23 (h) Facility providing care while the child's parent remains on the premises and is engaged in
24 an activity offered by the facility or in other nonwork activity.

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

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

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

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

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

30 (b) Membership in the cooperative includes parents;

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

32 (d) A board of directors that includes parents of the children cared for by the cooperative con-
33 trols the policies and procedures of the program.

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

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

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

42 (12) "School age" means of an age eligible to be enrolled in [*the first grade*] **kindergarten** or
43 above [*and, during the months of summer vacation from school, means of an age eligible to be enrolled*
44 *in first grade or above in the next school year*] **on or before the first day of the current school**
45 **year.**

1 (13) "School-age recorded program" means a program for school-age children:

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

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

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

7 (14) "Youth development activities" means care, supervision or guidance that is intended for
8 enrichment, including but not limited to teaching skills or proficiency in physical, social or educa-
9 tional activities such as tutoring, music lessons, social activities, sports and recreational activities.

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

11 329A.252. *[(1) Notwithstanding ORS 329A.250 (4), care provided to children other than the children*
12 *of the person providing the care by a person whose enrollment in the Central Background Registry*
13 *established by ORS 329A.030 has been denied for cause, has been revoked or is under suspension, or*
14 *whose certification or registration has been denied for cause, has been revoked or is under suspension,*
15 *or who has voluntarily surrendered the person's certification or registration while under investigation*
16 *by the Office of Child Care, is "child care" for purposes of ORS 329A.030 and 329A.250 to*
17 *329A.450.]*

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

25 **(1) As used in this section, "exempt prohibited individual" means:**

26 **(a) An individual whose certification or registration has been denied for cause or revoked**
27 **under ORS 329A.350.**

28 **(b) An individual whose enrollment in the Central Background Registry established by**
29 **ORS 329A.030 has been denied for cause or removed under ORS 329A.030.**

30 **(c) An individual who voluntarily surrendered the individual's certification, registration**
31 **or enrollment in the Central Background Registry while under investigation by the Office**
32 **of Child Care or at any time after the Office of Child Care has given notice of an adminis-**
33 **trative proceeding against the individual or the individual's child care facility.**

34 **(2) For five years following the date on which an individual becomes an exempt prohibited**
35 **individual, the exempt prohibited individual:**

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

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

39 **(3) After the five-year period described in subsection (2) of this section, an individual**
40 **ceases to be an exempt prohibited individual if the individual enrolls in the Central Back-**
41 **ground Registry.**

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

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

45 329A.263. (1) As used in this section:

1 (a) "Certified child care facility" means a child care facility that has been certified under ORS
2 329A.280 by the Office of Child Care.

3 [(b) "*Child care facility*" has the meaning given that term in ORS 329A.250 (5).]

4 [(c)] (b) "Registered child care facility" means a child care facility that has been registered
5 under ORS 329A.330 by the Office of Child Care.

6 (2) Every certified child care facility and registered child care facility shall:

7 (a) Adopt a plan to provide for the safety of children who are receiving child care at a child
8 care facility in the event of an emergency that requires immediate action by the staff of the facility
9 due to conditions of imminent danger that pose a threat to the life, health or safety of children who
10 are receiving child care at the facility; and

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

13 (3) The Early Learning Council shall adopt by rule the requirements for the plan and training
14 required by this section. The rules adopted shall include, but are not limited to, procedures for the
15 evacuation of the children who are receiving child care at the child care facility to a place of safety
16 when the conditions of imminent danger require relocation of those children.

17 **SECTION 6. The Office of Child Care is not deprived of jurisdiction to proceed with an**
18 **investigation of or an action or disciplinary proceeding against an individual or a child care**
19 **facility by the:**

20 (1) **Lapsing, suspension, revocation or voluntary surrender of a certification or registra-**
21 **tion; or**

22 (2) **Lapsing, suspension, removal or voluntary surrender of an individual's enrollment in**
23 **the Central Background Registry established by ORS 329A.030.**

24 **SECTION 7. (1) If the Office of Child Care has reason to believe that an individual or a**
25 **child care facility has engaged, is engaging or is about to engage in a violation of ORS**
26 **181A.200 or 329A.030 and 329A.250 to 329A.450 or the rules promulgated pursuant to ORS**
27 **181A.195, 181A.200, 181A.215 or 329A.030 and 329A.250 to 329A.450, the office may, subject to**
28 **ORS chapter 183, issue an order directing the individual or facility to cease and desist from**
29 **the violation or threatened violation.**

30 (2) **A cease and desist order issued under subsection (1) of this section shall include:**

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

32 (b) **A requirement that the individual or child care facility named in the order cease and**
33 **desist from the violation;**

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

35 (d) **A notice to the individual or facility named in the order of the right to a contested**
36 **case hearing under ORS chapter 183.**

37 (3) **A cease and desist order issued under subsection (1) of this section becomes effective**
38 **21 days after service of the order unless the individual or child care facility named in the**
39 **order requests a hearing on the order.**

40 (4)(a) **If an individual or a child care facility makes a timely demand for a hearing on the**
41 **order, the office shall hold a hearing as provided by ORS chapter 183.**

42 (b) **After the hearing, the office shall enter a final order vacating, modifying or affirming**
43 **the order.**

44 (5) **An individual or a child care facility is entitled to judicial review of an order by the**
45 **office under ORS chapter 183 if the individual or facility made a timely demand for a hearing.**

1 **(6) A judgment of a reviewing court under ORS chapter 183 does not bar the office from**
2 **vacating or modifying an order involved in the proceeding for review, or entering a new or-**
3 **der, for a proper cause that was not decided by the reviewing court.**

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

6 **(2) The enforcement system developed under this section may establish:**

7 **(a) A set of progressively higher enforcement actions that the office may take in re-**
8 **sponse to an individual's or a child care facility's violation of the rules described in sub-**
9 **section (1) of this section; and**

10 **(b) Standards for monitoring the compliance of individuals and child care facilities with**
11 **the rules described in subsection (1) of this section.**

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

13 329A.300. (1) Upon receipt of an application for a certification, accompanied by the required fee,
14 the Office of Child Care shall issue a certification if the office finds that the child care facility and
15 its operations are in compliance with the requirements of ORS 181A.200, 329A.030 and 329A.250 to
16 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and
17 329A.250 to 329A.450.

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

23 **(3) If the Office of Child Care determines that it is necessary to protect the health and**
24 **safety of the children for whom a child care facility is to provide care, the office may impose**
25 **a condition on the facility's certification that is reasonably designed to protect the health**
26 **and safety of children. The office may impose a condition during the application process for**
27 **an initial certification, during the application process for a renewal of a certification or at**
28 **any time after the issuance of a certification.**

29 [(3)] (4) The Office of Child Care shall serve as the state agency authorized, upon request, to
30 certify compliance with applicable federal child care standards or requirements by any facility pro-
31 viding child care in the state.

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

33 329A.330. (1) A provider operating a family child care home where care is provided in the family
34 living quarters of the provider's home that is not subject to the certification requirements of ORS
35 329A.280 may not operate a child care facility without registering with the Office of Child Care.

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

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

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

40 (3)(a) To obtain a registration, a provider must apply to the Office of Child Care by submitting
41 a completed application work sheet and a nonrefundable fee. The fee shall vary according to the
42 number of children for which the facility is requesting to be registered, and shall be determined and
43 applied through rules adopted by the Early Learning Council under ORS 329A.275. The fee shall be
44 deposited as provided in ORS 329A.310 (2). The office may waive any or all of the fee if the office
45 determines that imposition of the fee would impose a hardship on the provider.

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

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

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

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

7 (c) The provider is currently certified in infant and child first aid and cardiopulmonary resus-
8 citation;

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

10 (e) The office determines that the application meets the requirements of ORS 181A.200, 329A.030
11 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215,
12 329A.030 and 329A.250 to 329A.450, and receives a satisfactory records check, including criminal
13 records and protective services records.

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

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

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

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

21 (6) A registration authorizes operation of the facility only on the premises described in the
22 registration and only by the person named in the registration.

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

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

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

26 (c) Establishing under what circumstances the adult to child ratio requirements may be tempo-
27 rarily waived; and

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

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

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

31 (C) Room temperature;

32 (D) Lighting of rooms occupied by children;

33 (E) Glass panels on doors;

34 (F) Condition of floors;

35 (G) Availability of emergency telephone numbers; and

36 (H) Smoking.

37 (8) The office shall adopt the application work sheet required by subsection (3) of this section.
38 The work sheet must include, but need not be limited to, the following:

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

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

41 **(9) If the Office of Child Care determines that it is necessary to protect the health and**
42 **safety of the children for whom a child care facility is to provide care, the office may impose**
43 **a condition on the facility's registration that is reasonably designed to protect the health and**
44 **safety of children. The office may impose a condition during the application process for an**
45 **initial registration, during the application process for a renewal of a registration or at any**

1 **time after the issuance of a registration.**

2 [(9)] (10) The office, upon good cause shown, may waive one or more of the registration re-
 3 quirements. The office may waive a requirement only if appropriate conditions or safeguards are
 4 imposed to protect the welfare of the children and the consumer interests of the parents of the
 5 children. The office may not waive the on-site review requirement for applicants applying for an
 6 initial registration or renewal of a registration.

7 [(10)] (11) The Early Learning Council, by rule, shall develop a list of recommended standards
 8 consistent with standards established by professional organizations regarding child care programs
 9 for child care facilities. Compliance with the standards is not required for a registration, but the
 10 office shall encourage voluntary compliance and shall provide technical assistance to a child care
 11 facility attempting to comply with the standards. The child care facility shall distribute the list of
 12 recommended minimum standards to the parents of all children cared for at the facility.

13 [(11)] (12) In adopting rules relating to registration, the Early Learning Council shall consult
 14 with the appropriate legislative committee in developing the rules to be adopted. If the rules are
 15 being adopted during a period when the Legislative Assembly is not in session, the Early Learning
 16 Council shall consult with the appropriate interim legislative committee.

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

18 329A.360. (1) Upon deciding to deny, revoke, suspend, **impose a condition on** or not [to] renew
 19 a certification or registration, the Office of Child Care shall give notice and opportunity for hearing
 20 as provided in ORS chapter 183.

21 (2) The Office of Child Care shall make the final decision and notice thereof shall be sent by
 22 certified mail to the address of the child care facility as shown on the records of the office. The
 23 decision of the office is reviewable by the Court of Appeals in the manner provided in ORS 183.480
 24 for the review of orders in contested cases.

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

26 329A.370. (1) Without the necessity of prior administrative proceedings or hearing and entry of
 27 an order or at any time during such proceedings if they have been commenced, the Office of Child
 28 Care, **the Attorney General or the prosecuting attorney of any county** may institute pro-
 29 ceedings to enjoin the operation of any child care facility operating in violation of ORS 181A.200,
 30 329A.030 and 329A.250 to 329A.450 or the rules promulgated pursuant to ORS 181A.195, 181A.200,
 31 181A.215, 329A.030 and 329A.250 to 329A.450.

32 **(2) An injunction may be issued under this section without proof that a person has sus-
 33 tained actual damage as a result of a child care facility's actions.**

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

35 329A.992. (1) In addition to any other provision of law or rule adopted pursuant to ORS 329A.260
 36 for enforcement of the provisions of ORS chapter 329A, the Office of Child Care may suspend or
 37 revoke a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450, or im-
 38 pose a civil penalty in the manner provided in ORS 183.745, for violation of:

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

40 (b) The terms and conditions of a certification or registration issued under ORS 329A.030 and
 41 329A.250 to 329A.450; or

42 (c) Any rule of the Early Learning Council adopted under ORS 329A.030 and 329A.250 to
 43 329A.450.

44 (2) The Early Learning Council [shall] **may** adopt by rule a schedule establishing the civil pen-
 45 alties that may be imposed under this section. [The schedule must provide for categories of violations

1 for which a penalty may be imposed, including “nonserious” and “serious” to be defined by the council
2 by rule under ORS 329A.260.]

3 [(3) The office must issue a written warning for a nonserious or serious violation before assessing
4 a civil penalty under this section. The written warning must prescribe a reasonable time in which to
5 correct a violation.]

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

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

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

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

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

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

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

19 **(a) \$750 per violation for a registered family child care home.**

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

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

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

25 **(a) Certification, in violation of ORS 329A.280; or**

26 **(b) Registration, in violation of ORS 329A.330.**

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

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

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

34 **(8) All moneys received under this section shall be deposited in the Child Care Fund established
35 under ORS 329A.010 and may be used for the administration of ORS 181A.200, 329A.030 and
36 329A.250 to 329A.450.**

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

40 **SECTION 15. The amendments to ORS 329A.030, 329A.250, 329A.252, 329A.300, 329A.330
41 and 329A.360 by sections 1, 2, 3, 9, 10 and 11 of this 2018 Act become operative on September
42 30, 2018.**

43 **SECTION 16. The Office of Child Care and the Early Learning Council may take any
44 action before the operative date specified in section 15 of this 2018 Act that is necessary for
45 the office or the council to exercise, on and after the operative date specified in section 15**

1 of this 2018 Act, all of the duties, functions and powers conferred on the office and the
2 council by the amendments to ORS 329A.030, 329A.250, 329A.252, 329A.300, 329A.330 and
3 329A.360 by sections 1, 2, 3, 9, 10 and 11 of this 2018 Act.

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

7
