

**Enrolled**  
**House Bill 2260**

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Education)

CHAPTER .....

AN ACT

Relating to child care information maintained by the Office of Child Care; amending ORS 329A.010, 329A.020, 329A.310, 329A.390 and 329A.992; and declaring an emergency.

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

**SECTION 1.** ORS 329A.010 is amended to read:

329A.010. (1) There is established within the Early Learning Division the Office of Child Care.

(2)(a) The Office of Child Care, as designated by the Governor, shall be responsible for administering funds received by the State of Oregon pursuant to the federal Child Care and Development Block Grant Act of [1990] **2014**, the [*Dependent Care Planning and Development Grant*] **Child Care and Development Fund** and other federal child care funds and grants received by the State of Oregon.

(b) Through the legislative budgeting process, the Legislative Assembly shall identify the portion of the funds received by the State of Oregon pursuant to the federal Child Care and Development Block Grant Act of [1990] **2014** to be spent to provide quality child care, to provide child care subsidies and for administrative expenditures. The Office of Child Care shall administer the funds according to the portions identified by the Legislative Assembly.

(c) The Office of Child Care shall submit an annual report to the Legislative Fiscal Office regarding the expenditures of the funds received by the State of Oregon pursuant to the federal Child Care and Development Block Grant Act of [1990] **2014** and the most recent estimate of the balance of the funds.

(3) The Office of Child Care shall comply with directives of the Early Learning Council established in ORS 326.425 in the office's implementation of the provisions of ORS 329A.250 to 329A.450.

**(4) The Office of Child Care may maintain information about child care facilities and providers through electronic records systems.**

**(5) The Office of Child Care may share information with other public entities when the office determines that sharing the information would support the health or safety of children in child care, except as otherwise prohibited by state or federal law.**

[4] **(6)** There is established in the State Treasury, separate and distinct from the General Fund, the Child Care Fund. The Child Care Fund shall consist of moneys collected and received by the Office of Child Care pursuant to subsection (2) of this section, ORS 329A.310 and 329A.992 and such moneys as may be otherwise made available by law. Interest earned on the fund shall be credited to the fund. The moneys in the Child Care Fund are appropriated continuously to the Office of Child Care and shall be used in a manner consistent with the grant of funds or for the administration of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

**SECTION 2.** ORS 329A.020 is amended to read:

329A.020. (1) The Office of Child Care staff shall provide technical assistance, linkage of local agencies, data collection and monitoring.

(2) The Office of Child Care shall continually monitor and disseminate information about federal and charitable programs for the purposes of ORS 329A.100 to 329A.190.

**(3) The Office of Child Care shall maintain a website that provides information regarding certified and registered child care facilities and regulated subsidy facilities as that term is defined by rule adopted by the Early Learning Council.**

**(4) The Early Learning Council, in consultation with the Office of Child Care, shall adopt rules to implement the provisions of this section.**

**SECTION 3.** ORS 329A.390 is amended to read:

329A.390. (1) Whenever an authorized representative of the Office of Child Care is advised or has reason to believe that child care that is subject to regulation by the office is being provided without a certification, registration or record, the authorized representative may visit and conduct an on-site investigation of the premises of the facility at any reasonable time to determine whether the facility is subject to the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

(2) At any reasonable time, an authorized representative of the Office of Child Care may conduct an on-site investigation of the premises of any certified or registered child care facility to determine whether the child care facility is in conformity with ORS 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to 329A.450.

(3) An authorized representative of the Office of Child Care shall conduct an on-site investigation of the premises of any certified or registered child care facility or of any other child care facility that is subject to regulation by the office if the office receives a serious complaint about the child care facility. [*The Early Learning Council, by rule, shall adopt a definition for "serious complaint."*]

**(4) Complaints, including but not limited to serious complaints, made by individuals or entities regarding certified or registered child care facilities, regulated subsidy facilities, preschool recorded programs or school-age recorded programs may be received and investigated by the Office of Child Care. The name, address and other identifying information about the individual or entity that made the complaint may not be disclosed.**

[(4)] (5) Any state agency that receives a complaint about a certified or registered child care facility, a **regulated subsidy facility**, a preschool recorded program or a school-age recorded program shall notify the Office of Child Care about the complaint and any subsequent action taken by the state agency based on that complaint.

[(5)] (6) [*The*] **A** director [*and*] **or** operator of a child care facility, a **regulated subsidy facility**, a preschool recorded program or a school-age recorded program shall permit an authorized representative of the Office of Child Care to inspect records of the facility or program and shall furnish promptly reports and information required by the office.

**(7) The Office of Child Care may share information regarding investigations or inspections conducted under this section with other public entities when the office determines that sharing the information would support the health or safety of children in child care.**

**(8) The Early Learning Council shall adopt rules defining the terms "serious complaint" and "regulated subsidy facility" as used in this section and ORS 329A.020.**

**SECTION 4.** ORS 329A.310 is amended to read:

329A.310. (1) Application for a certification or for the annual renewal thereof shall be made to the Office of Child Care on forms provided by the office and accompanied by a nonrefundable fee. The fee shall vary according to the type of facility and the number of children for which the facility is requesting to be certified, and shall be determined and applied through rules adopted by the Early Learning Council pursuant to ORS 329A.275.

(2) All fees received under subsection (1) of this section shall be deposited in the Child Care Fund established under ORS 329A.010 [(4)] and may be used for the administration of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

(3) Any certification issued pursuant to ORS 329A.030 and 329A.250 to 329A.450 authorizes operation of the facility only on the premises described in the certification and only by the person named in the certification.

(4) Unless sooner revoked, a temporary certification expires on the date specified therein. Unless sooner revoked and except as provided in ORS 329A.270 (2), an annual certification expires one year from the date of issuance.

**SECTION 5.** ORS 329A.992 is amended to read:

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

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

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

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

(2) The Early Learning Council shall adopt by rule a schedule establishing the civil penalties that may be imposed under this section. The schedule must provide for categories of violations for which a penalty may be imposed, including “nonserious” and “serious” to be defined by the council by rule under ORS 329A.260.

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

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

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

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

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

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

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

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

(8) All moneys received under this section shall be deposited in the Child Care Fund established under ORS 329A.010 [(4)] and may be used for the administration of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

**SECTION 6. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.**

**Passed by House June 30, 2017**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate July 5, 2017**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2017

**Approved:**

.....M,....., 2017

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2017

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Dennis Richardson, Secretary of State