



HOUSE OF REPRESENTATIVES

July 10, 2026
(SENT BY EMAIL)

Amy Zubko, Director
Valerie Sasaki, Chair
Oregon Law Commission Program Committee

Dear Director Zubko, Chair Sasaki, and members of the Program Committee,

Please find below a proposal for a workgroup examining Oregon's child abuse statutes.

Problem

Identify the specific issue to be studied or addressed by the Commission and explain the adverse consequences of current law. An illustration from real life might be helpful.

The Oregon Department of Human Services (ODHS), alongside law enforcement, is responsible for investigating reports of suspected child abuse. Under current law and practices, investigations of reports of suspected child abuse that occur in a child's home and when a child is with a care provider are investigated differently and by different entities. Reports of suspected abuse involving a child's family are investigated by Child Protective Services, an arm of ODHS' Child Welfare Division. These investigations are the impetus for opening a child welfare case involving a child and family and may result in provision of in-home support services, out-of-home placement in foster care, termination of parental rights, or further actions in juvenile dependency court (ORS 419B.005).

Investigations involving children and youth under 21 who are currently under the care of professional caregivers in child-caring agencies, certified foster homes, and developmental disabilities residential facilities are handled differently both in practice and in law. For these "children in care," investigations of abuse, including improper use of restraint and seclusion, are handled by the ODHS' Office of Trainings, Investigations, and Safety (OTIS), and consequences resulting from the investigation may result in civil penalties, licensing restrictions, and legal actions taken against the entities providing the care (ORS 418.257 to 418.259; ORS 418.519 to 418.532). OTIS is also responsible for investigating abuse that occurs in child care and educational settings and abuse by third parties that are not a child's parent or family member (OAR 413-015-0215).



At the root of many challenges are two statutory problems that define how Oregon's child welfare system operates. First, Oregon substantiates child abuse based on "reasonable cause to believe," a threshold the Court of Appeals has equated with reasonable suspicion—the same minimal standard used to screen reports in for investigation.

In part, due to the fact that substantiation can rest on suspicion alone, Oregon substantiates child abuse at unusually high rates, with significant county-by-county variation, and sometimes without gathering the level of evidence needed to meet the preponderance standard the juvenile court requires to assert jurisdiction and order services. Families bear lasting consequences of substantiation, including placement on the child abuse registry, even when ODHS lacks sufficient evidence to secure court jurisdiction to require parental participation in services.

Second, Oregon's threatened harm abuse category is defined far more broadly than the standard applied by Oregon appellate courts or federal principles. Although statute frames threatened harm as any "substantial risk of harm," courts consistently require ODHS to prove a current, serious, and likely threat before they can assert jurisdiction.

The gap between the statute and judicial interpretation has made "threatened harm" Oregon's most frequently substantiated and most frequently overturned category, contributing to high substantiation rates, uneven application across counties, and disproportionate intervention in Black, Native, disabled, low-income, and domestic violence survivor families. These inequities stem from the breadth and ambiguity of the statutory definition, which allows concerning conditions to be labeled as abuse even when they do not meet the legal threshold for state intervention.

For children in care, definitions of abuse differ based on the setting they're in. As an example, imagine a foster child – when they're at school, the definitions of abuse in ORS 419B apply; however, when they're at their foster/resource home, the definitions of abuse in ORS 418 apply.

An additional problem facing the state is the use of temporary lodging for children in ODHS Child Welfare's custody when an appropriate placement cannot be found. Finding placement for children with complex behavioral health needs is a challenge ODHS faces. While there have been efforts to increase behavioral health capacity, it has been documented by the System of Care Advisory Council that behavioral health providers turn away children with complex behavioral health needs in Child Welfare's custody in part due to concerns with liability. They point to Oregon's definitions of child abuse in ORS 418, which is about "children in care."

In previous efforts to reform this system through legislation, there are two critical bottlenecks:

1. Different parties (the Legislature, Executive Branch, stakeholders) have different interpretations of legal terms currently in statute and in proposed legislation; and

2. Because the statutory framework is fragmented, any changes to the law may have rippling effects, and there are lots of fears around unintended consequences.

ORS 418.257 includes the full definition of abuse, and other terms like “adjudicated youth foster home”

The Oregon Law Commission can look to existing policy recommendations, such as the HB 4086 studies ([here](#) and [here](#)) on these issues; however, we do request that additional analysis and stakeholder engagement occur. A rewrite of ORS 418 and 419B is requested to ensure our laws are clear, reduce regulatory complexity, support families, and above all, protect children.

History of Reform Efforts

Explain past efforts to address the problem and the success or limitations of those efforts.

2019: SB 171 codifies the federal Family First Prevention Services Act into Oregon law; SB 155 gives the Office of Trainings, Investigations and Safety authority over child abuse investigations in school settings.

2021: SB 710 makes rules on use of restraint and seclusion more robust. On August 6, 2021, Governor Brown signed the bill, but issued a letter noting concerns from child caring agencies: “They raised concerns that we will see an increase in children who are turned away from services, and programs that will no longer serve those with the highest needs. They are also concerned that the legislation will further exacerbate hiring challenges and retention of staff.”

2023: SB 790 added use of restraint and seclusion to the definition of abuse.

2024: HB 4086 required ODHS to commission a study on the scope of child abuse investigations in Oregon, and take a multidisciplinary look at the statewide response to children who exhibit complex sexual behavior.

2025: There were a number of competing bills during the 2025 session. HB 3835, developed by the System of Care Advisory Council, was introduced. SB 1113, sponsored by Senator Gelser Blouin, was also introduced. Different parties (the Legislature, Executive Branch, stakeholders) had different interpretations of legal terms currently in statute and in the proposed legislation. This was a huge barrier in moving conversations forward. Two other bills, SB 736 and SB 875, passed the House and the Senate, but these bills were vetoed by Governor Kotek, who in her [veto letter](#) stated “both SB 875 and SB 736 exemplify the risks of fragmented policymaking in this area, adding new statutory layers without a unified framework for who is a victim, who is a perpetrator, when abuse occurs, and where it falls under the law. These are the exact questions that the House Bill 4086 (2024) Child Abuse Statutory Alignment Workgroup is tackling) We must allow the workgroup to share its recommendations in advance of future policy decisions.

2026: HB 4059, sponsored by Representative Hartman, was introduced. This bill would have modified the definition of child abuse, required ODHS to investigate a report of child abuse



only when the alleged perpetrator is a specified individual, and raised the standard to substantiate a finding of child abuse.

Scope of Project

Explain what needs to be studied, evaluated or changed to fix the problem. In what form will the final product likely be? A written recommendation, rule, statute, etc.?

The project would include an examination of Oregon's child abuse investigation process. The final product would be a report on policy decisions and a statutory draft concept streamlining ORS 418 and 419B for introduction as legislation in the 2029 legislative session.

Timeline of Project

What is the desired timeline to complete this project? If legislation is to be brought, during what legislative session would it be introduced?

If the Oregon Law Commission approves a work group for this project, the ideal timeline is to begin this workgroup in the fall of 2026, meeting monthly as needed, through the fall of 2028 for proposed legislation for the 2029 legislative session.

Law Commission Involvement

Explain why the issue is a good subject for law reform of broad general interest and need (as opposed to an issue likely to be advanced by a single interest group or lobby).

Oregon's abuse statutes have the potential to impact every Oregonian. Clarity in the law would be beneficial to all parties involved, including children, parents and caregivers, and people working with children in any capacity.

We believe the Oregon Law Commission is an appropriate venue to look holistically at Oregon's child abuse framework, analyze current statutory definitions, and make recommendations on how to 1) ensure our definitions of abuse are keeping children safe and 2) clarify and streamline our fragmented statute.

This is an area of law with many nuances and intricacies that will involve many viewpoints and will need time and space to do the necessary research.

Project Participants

Identify individuals who are willing to serve on a Work Group, and a Reporter who is willing to work with the Chair of the Work Group to draft a Report and Comments. The Chair of the Work Group should be a Commissioner. The Proposal may state a preference for a chair.

Chair: Suggestions for Chair are welcomed

Reporter: Suggestions for Reporter are welcomed

Members: We have not identified specific individuals yet, but believe the following interested groups should be brought into the work:

- Asante Health Network
- Casey Family Programs
- Disability Rights Oregon
- Greater Oregon Behavioral Health (GOBHI)
- J Bar J Youth Services
- Options Counseling and Family Services
- Oregon Alliance
- Oregon Association Chiefs of Police
- Oregon CASA Network
- Oregon Community Programs
- Oregon Criminal Defense Lawyers Association
- Oregon Department of Human Services
- Oregon District Attorneys Association
- Oregon Family Support Network
- Oregon Judicial Department
- Oregon State Sheriffs' Association
- Oregon Children Oregon
- Prevent Child Abuse Oregon
- Providence
- SEIU Local 503
- System of Care Advisory Council
- Youth, Rights & Justice

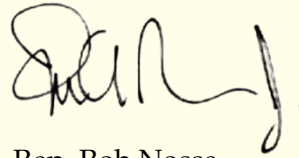
Additionally, the group would welcome additional voices of participants or representatives of children impacted by the Child Welfare system, along with any other voices the Oregon Law Commission deems appropriate.

Thank you for your consideration.

Sincerely,



Rep. Julie Fahey
Speaker of the Oregon House of
Representatives



Rep. Rob Nosse
Chair, House Committee on Health Care



Rep. Tawna Sanchez
Co-Chair, Joint Committee on Ways and
Means



Sen. Deb Patterson
Chair, Senate Committee on Health Care



Rep. Hai Pham
Chair, House Committee on Behavioral
Health



Sen. Lisa Reynolds
Chair, Senate Committee on Early
Childhood and Behavioral Health