

**SB 93 B STAFF MEASURE SUMMARY**

Carrier: Rep. Nelson

**House Committee On Early Childhood and Human Services****Action Date:** 05/17/23**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 6-4-0-0**Yeas:** 6 - Andersen, Hartman, Nelson, Neron, Nguyen H, Reynolds**Nays:** 4 - Cramer, Elmer, Hieb, Scharf**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Matthew Perreault, LPRO Analyst**Meeting Dates:** 5/8, 5/17**WHAT THE MEASURE DOES:**

Modifies requirement for Department of Human Services (DHS) to report to legislative committees on instances of suspected abuse in child-caring agencies to include whether abuse resulted in reportable injury, sexual abuse, or death. Modifies definition of "involuntary seclusion" of child in care. Modifies prohibited actions constituting restraint of child in care. Requires DHS to report on total number of children in care who experienced both restraint and involuntary seclusion and demographic information of all children in care of each program. Modifies definition of "abuse" to specify actions constituting mental injury to a child. Modifies definition of "child" to include children in care for purposes of abuse investigations. Adds parole and probation officers and behavior analysts and interventionists to list of mandatory abuse reporters. Authorizes DHS to disclose confidential records of abuse investigations to national nonprofit organization that assists with locating and recovering missing children. Preceding provisions operative September 1, 2023. Names DHS as party to juvenile court proceedings if DHS has taken child or ward into protective custody. Requires operators of community-based structured housing facilities that serve persons over age 65 or who have disabilities to register with DHS if facility is not licensed or registered with any other public entity. Allows DHS and Oregon Health Authority to determine responsibility for registering facilities while avoiding duplication when jurisdiction overlaps. Grants DHS authority to investigate complaints of abuse, ascertain compliance with laws and regulations, and apply for search warrant. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Background of regulation of community-based structured housing facilities
- Ability for DHS staff to attend shelter hearings at juvenile court
- Alignment of statutes relating to investigations of abuse of children in care
- Required reports on restraint and seclusion of children in care

**EFFECT OF AMENDMENT:**

Modifies requirement for Department of Human Services (DHS) to report to legislative committees on instances of suspected abuse in child-caring agencies to include whether abuse resulted in reportable injury, sexual abuse, or death. Modifies definition of "involuntary seclusion" of child in care. Modifies prohibited actions constituting restraint of child in care. Adds requirement for DHS to report on total number of children in care who experienced both restraint and involuntary seclusion and demographic information of all children in care of each program. Modifies definition of "abuse" to specify actions constituting mental injury to a child. Modifies definition of "child" to include children in care for purposes of abuse investigations. Adds parole and probation officers and behavior analysts and interventionists to list of mandatory abuse reporters. Authorizes DHS to disclose confidential records of abuse investigations to national nonprofit organization that assists with locating and recovering missing children. Becomes operative September 1, 2023.

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### **BACKGROUND:**

Oregon law prescribes strict limitations on the use of physical, mechanical, and chemical restraints and involuntary seclusion for children in the care of public education providers, child-caring agencies, proctor foster homes, and developmental disabilities residential facilities (ORS 418.519 to 418.532). The law prohibits providers from using restraint and seclusion as a form of discipline or for the convenience of staff but makes accommodations for instances such as breaking up a fight, interrupting impulsive behavior, separating children to allow them to regain self-control, preventing imminent risk of injury, and certain other instances that are necessary for medical needs or to protect a person's health and safety. Staff must be trained on proper usage of restraint and seclusion for children in their care. The Department of Human Services (DHS) may investigate improper use of restraint and seclusion as abuse of a child in care.

Oregon law recognizes the following as parties to proceedings in juvenile court: the child or ward; their parents or guardian; a putative father; the state; the juvenile department; a court appointed special advocate; and a tribal representative and custodian if the child is determined to be covered by the Indian Child Welfare Act (ORS 419B.875). DHS or a child-caring agency may only be a party to juvenile court proceedings if they have temporary custody of a child or ward but do not name the department as a party to proceedings to establish further custody such as protective custody.

Community-based structured housing facilities are a type of congregate housing that provide housing and meals to individuals with emotional, mental, behavioral, or substance use disorders, but do not provide residential care or treatment. Oregon law requires any person who owns or operates a community-based structured housing facility offered to the general public to register with the Oregon Health Authority (OHA) (ORS 443.485). OHA is responsible for investigating complaints of abuse in all registered facilities and imposing civil penalties and suspending or revoking registrations (ORS 443.500). The Legislative Assembly passed House Bill 3230 in 2015 to establish joint regulatory authority of community-based structured housing by OHA and DHS. House Bill 2953 (2021) reclassified community-based structured housing facilities and removed the ability of DHS to regulate the facilities, leaving OHA as the sole regulator.

Senate Bill 93 B modifies statutory definitions in order to align processes for investigations of suspected abuse of children in care, allows DHS and child-caring agencies to be parties to juvenile court proceedings if the department has taken a child or ward into protective custody as well as temporary custody, and restores the authority of DHS to regulate community-based structured housing facilities that are not already regulated by OHA.