

SB 736 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Human Services

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Meeting Dates: 3/6, 3/20, 3/27

WHAT THE MEASURE DOES:

The measure creates an exception for abuse of a child in care if the suspected abuse was committed by a child's parent. The measure requires the Department of Human Services to provide written notice in advance to a parent or guardian prior to a face-to-face meeting during a child abuse investigation.

Detailed Summary:

Abuse of a Child in Care

- Creates exception to provisions regarding abuse and involuntary restraint and seclusion of a child in care if the suspected abuse was committed by the parent of a child in care.
- Applies to investigations that occur on or after the measure's effective date.

Notice Provided during Child Abuse Investigations

- Requires the Department of Human Services to provide advance notice to a parent or guardian before a face-to-face meeting with investigators related to an investigation of suspected abuse occurs.
- Specifies the procedure when a parent or guardian refuses to sign and date an acknowledgment of receipt of the notice.
- Prescribes the content of the notice that must be provided to a parent or guardian, which must include:
 - Warnings about the possible consequences of making any statements to investigators; and
 - Information about a parent or guardian's rights during an investigation.
- Clarifies that a department representative is not an attorney and cannot provide legal advice to a parent or guardian.
- Adds provisions to current requirements regarding notice provided to a parent or guardian during a child abuse investigation.
- Applies to meetings that occur on or after the measure's effective date.
- Applies to investigations that are pending or are initiated on or after the measure's effective date.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

ISSUES DISCUSSED:

- Connection with Wyatt v. Kotek class-action lawsuit
- Inclusion of guardians in provisions relating to abuse of a child in care
- Information currently provided to parents during investigations
- Rights of parents during investigative process
- Impact on Child Advocacy Centers
- Social groups with disproportionate rates of child welfare involvement
- Comparison with Miranda warnings
- Comparable requirements in other states

EFFECT OF AMENDMENT:

-1 The amendment replaces a reference to a "child's parent or guardian" with "individual who is the child's parent or guardian." The amendment removes a reference to the Oregon Rules of Civil Procedure.

REVENUE: No revenue impact

FISCAL: Fiscal impact issued

-2 The amendment specifies that a parent or guardian's right to be notified of the outcome of an investigation and to request an administrative review applies only to outcomes of investigations that are founded.

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

BACKGROUND:

The Oregon Department of Human Services (ODHS), alongside law enforcement, is responsible for investigating reports of suspected child abuse. Under current law and practices, investigation 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 et seq](#)). In these cases, under current law, the department is required to provide a parent, guardian, or caregiver with an explanation of the investigation and court processes and their rights during those processes ([ORS 409.185](#)). In 2023, the legislature enacted [Senate Bill 757](#), which required that a founded disposition of an abuse investigation be provided to a perpetrator's attorney in addition to a perpetrator of abuse.

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](#)).