

SB 736 A -A6 STAFF MEASURE SUMMARY

House Committee On Early Childhood and Human Services

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Meeting Dates: 5/1, 5/20

WHAT THE MEASURE DOES:

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

Detailed Summary:

Abuse of a Child in Care

- Creates an 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 the child in care.
- Applies to investigations that occur on or after the measure's effective date.

Notice Provided during Child Abuse Investigations

- Requires DHS to provide notice to a child's parent or guardian before conducting the first interview or face-to-face meeting with the parent or guardian upon receiving a report of abuse of a child.
- Requires the notice to be provided in writing, in a format and language that is accessible to the parent or guardian, and be verbally reviewed with the parent or guardian.
- Provides that the notice must include:
 - a warning that any statement or admission made by the parent or guardian may be used against the parent or guardian in a court proceeding, as a basis to remove the child or any other children from the custody or control of the parent or guardian, or as a basis to terminate the relationship of the parent or guardian with the child or any other child in the person's care or custody;
 - information about a parent or guardian's rights during an investigation, including the right to:
 - be informed of the basis for the child welfare assessment;
 - seek representation of an attorney and have an attorney present during interviews, and to request a court-appointed attorney if necessary;
 - refuse certain actions, such as allowing an investigator to enter the home without a court order, releasing medical or mental health records, or consenting to a drug test; and
 - be informed in writing if the investigation is founded and request an administrative review.
 - a disclosure that the representative of DHS is not attorney and cannot provide legal advice to the parent or guardian.
- Adds provisions to current requirements regarding notice provided to a parent or guardian during a child abuse investigation.
- Applies to meetings with a child's parent or guardian 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: No revenue impact

FISCAL: Has minimal fiscal impact

SENATE VOTE: Ayes, 27; Excused, 3.

ISSUES DISCUSSED:

- Methods to ensure the safety of children during investigations of child abuse
- Current ability for a law enforcement agency or the Department of Human Services (DHS) to enter a family's home
- Rights of parents during investigations of child abuse
- Existing notices and information provided by DHS
- Medical rights of children and parents

EFFECT OF AMENDMENT:

-A6 The amendment removes sections of the measure requiring the Department of Human Services (DHS) to provide an individual with specified written notices prior to the first face-to-face meeting with a child's parent or guardian during an investigation of child abuse. It requires the DHS to include a disclosure in the written materials provided during a child abuse investigation to a child's parent or guardian stating that the DHS representative is not an attorney and cannot offer legal advice. The amendment declares an emergency and is effective on passage.

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

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

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](#)).