

May 11, 2025

Dear House Committee on Rules,

The Oregon Department of Human Services, Office of Tribal Affairs is submitting testimony in support of House Bill 3835A and the -5 Amendment. Office of Tribal Affairs advocated for the additional changes in Section 36 because it removes unfair and harmful barriers that prevent children in state custody from accessing medically necessary treatment when it only exists out of state.

The Indian Child Welfare Act and Oregon Indian Child Welfare Act (ICWA/ORICWA) were passed to remedy the widespread and unwarranted practice of separating American Indian/Alaska Native children from their families and Tribes. There are many requirements the courts and ODHS Child Welfare must comply with when courts determine an Indian child in the custody of ODHS. One important ICWA/ORICWA requirement is compliance with placement preference for the Indian child.

House Bill 3835A and the -5 Amendment removes barriers for ODHS Child Welfare to specifically meet placement preference because it allows the Indian child's special needs to be met and honors the Indian child's Tribe the sovereign right to choose an institution for the Indian child that has a program suitable to meet the Indian child's need and is approved by an Indian tribe or operated by an Indian organization.

Most Indian children in state custody are members or eligible for membership in out-of-state Tribes. In 2024, there was an Indian child who was a member of a federally recognized Tribe in California. The Tribe requested the Indian child be placed in a specific institution that had a program suitable for the Indian child's special needs and it was near the Tribe in California. ODHS Child Welfare could not obtain an exception to place the Indian child out of state and therefore was not in compliance with the Tribe's placement preference. ODHS Child Welfare was not in compliance with ICWA/ORICWA and worst of all ODHS did not honor the Tribe's sovereign right to determine the best placement for their Indian child.

That is why ODHS Office of Tribal Affairs supports House Bill 3835A and the -5 Amendment.

Respectfully,

Sherril Kuhns

Interim Director

Office of Tribal Affairs