



# HB 4059: FAMILY JUSTICE & CHILD WELFARE REFORM ACT

TUESDAY, FEBRUARY 10,  
HOUSE COMMITTEE ON EARLY CHILDHOOD & HUMAN SERVICES

OFFICE OF REPRESENTATIVE ANNESSA HARTMAN, HD 40

# PUBLIC HEARING SCHEDULE

**LAST WEEK: Thursday, February 5**

## Narrowing the Scope of DHS Investigations

- Adult third parties without caregiving roles
- Minors accused of abuse (with exceptions)
- System capacity and safety outcomes

**TODAY: Tuesday, February 10**

## Threatened Harm & Substantiation Standards

- Changes to “threatened harm” definition
- New “exposure to domestic violence” category
- Raising substantiation standard to preponderance

**Today's Focus: How the -2 Amendment refines Oregon's abuse definitions and improve casework standards to align Oregon with national best practices and increase child safety.**



# **BACKGROUND ON HB 4086 JURISDICTION ADVISORY COMMITTEE COMMITTEE**



# HB 4086 JURISDICTION ADVISORY COMMITTEE

*35 Members Representing Oregon's Child Welfare Stakeholders*

## **Adam Rodakowski**

Director of Foster Care, Greater Oregon Behavioral Health Inc.

## **Alexis Amorelli**

Foster Care Ombudsman, Governor's Advocacy Office

## **Amanda K. Barnhart**

Family Services Prog. Admin. (former), Confederated Tribes of Siletz Indians

## **Amber Barker**

Parent Mentor, Morrison Child & Family Services

## **Amelia Kercher**

Executive Director, Amani Center (Columbia County CAC)

## **Ana Day**

Executive Director, Oregon Community Programs

## **Anneliese Sheahan**

Childcare Provider, CCPT Local 132 AFSCME

## **Arielle Hacker**

Strategic Initiatives Coord., Prevent Child Abuse Oregon

## **Ashley Cross**

Parent Mentor, Morrison Child & Family Services

## **Buck Pearce**

Police Captain, Albany PD; OR Assoc. Chiefs of Police

## **Brendan Murphy**

Chief Deputy DA, Marion County; ODAA

## **Cassidy Kotter**

Gov't Relations Specialist, Oregon School Employees Assoc.

## **Chris Hinkel**

Staff Attorney, Oregon CASA Network

## **Chris Peck**

Children's Team Supervisor, Lane County DDS

## **Deborah A. Martin**

Parent with Lived Experience, MA'DAM LLC

## **Diane Deleon**

Parent with Lived Experience, District 6 Parent Advisory Council

## **Heber Bray**

Senior Ops & Policy Analyst, Oregon Youth Authority

## **Heidi Moon**

Dependency Analyst, Oregon Judicial Department

## **Iris Hodge**

Dir. of Gov't Relations (former), Oregon School Employees Assoc.

## **Jennifer Lieb**

Child Welfare Certified Resource Parent

## **Kristin Ward**

Attorney, DOJ, Child Advocacy & Protection Div.

## **Lindsay Bigelow**

Interim Chief Investigator, ODHS, OTIS

## **Lisa Bender**

Assistant Deputy Director, ODHS, Child Welfare Division

## **Lisa Joy Bateman**

Education Specialist, Oregon Department of Education

## **Nicole Cunningham**

Executive Director, Prevent Child Abuse Oregon

## **Sam Elliott**

Sheriff, Yamhill County; OSSA

## **Samantha Fenner**

Clinical Manager, Klamath-Lake CARES (CAC)

## **Sarah Stewart**

Executive Director, Kids FIRST (Lane County CAC)

## **Sarah Walker**

Asst. Program Manager, ODHS Child Safety Program

## **Scott Alto**

Enforcement Officer, OR Dept. of Early Learning and Care

## **ToiNae Gibson**

Program Manager, Multnomah County IDD Children & YA

## **Torri Lynn**

Juvenile Director, Linn County Juvenile Dept; OJDDA

## **Hon. Valeri Love**

Circuit Court Judge, Lane County Juvenile Court

# HB 4086 COMMITTEE RECOMMENDATIONS

Recommendation	Accept As Is	Accept with Conditions	Oppose
1. Bring alternative pathways to scale	9	9	0
→ 2a. Narrow span of child welfare scope of jurisdiction	10	7	1
→ 2b. Name perpetrators in statute	11	5	1
→ 2c. Address child on child abuse	9	5	0
3a. Share responsibility for safety concerns	11	6	1
3b. Allow certain investigations to be performed by other safety partners	11	6	0
3c. Use single terminology for dispositional findings	11	6	0
4a. Account for 418 definitions in 419B	12	5	1
→ 4b. Reclassify threat of harm definition	11	4	1
4c. Refine neglect definition	10	6	0
4d. Add poverty exception to neglect definition	12	4	1
4e. Remove seclusion & restraint as abuse types	10	5	1
→ 5. Raise standard of proof for concluding child abuse investigations	7	7	1
6. Enhance client rights notification	8	7	0
7. Strengthen implementation of MDT best practices	11	3	0
8. Extend SDM model to CPS & OTIS investigations	9	5	0
9. Streamline appeal process	12	3	1
10. Establish child abuse registry	9	6	0
11. Establish expungement criteria	8	6	0



# DATA ON OUR CURRENT SYSTEM IMPACTS



# OREGON'S CHILD WELFARE SYSTEM IS UNDER STRAIN

**99.9**

referrals per 1,000 children  
National: 70.5

**48%**

of reports screened in  
National: 33%

**21.5%**

assessments substantiated  
National: 16%

**45.8%**

CPS assessments overdue  
as of Oct 2025

## DECISION QUALITY & FAIRNESS

- Vague statutory standards for child abuse
- High subjectivity and inconsistency
- Disproportionate harm to domestic violence survivors, people with disabilities, families of color, and working families
- Weak determinations of child abuse that can be difficult to sustain on review or in court

## SCOPE & CAPACITY

- CPS is required to investigate people it cannot regulate or support
- Thousands of investigations with no caregiving nexus
- Missed timelines and diluted attention to serious caregiving risk



# DISPROPORTIONALITY OF CPS INVESTIGATIONS

*Likelihood of Oregon CPS investigation by age 18:*

**72%**

**of Black Children**

National Average for  
Black Children: 53%

**50%**

**of Native Children**

Overall National Average: 37%

## What Triggers Investigations?

Mothers report being cited for:

- Dirty dishes in the sink
- Laundry piles
- Children sharing beds
- Lack of "age-appropriate" toys
- Culturally normative discipline
- "Harsh tone" or raised voices

Oregon ranks among the worst states nationally for CPS investigations of Black and Native children—only Arkansas, Indiana, Kentucky, and Montana have higher rates for Black families.

*Source: State-level variation in the cumulative prevalence of child welfare system contact, 2015–2019 (2023); Lifetime Prevalence of Investigating Child Maltreatment Among US Children (2017)*

# DISPROPORTIONATE IMPACT: PARENTS WITH DISABILITIES

**2.4x**

more likely to have CPS involvement

**3.3x**

more likely to lose parental rights

**40-80%**

removal rate for parents with  
intellectual disabilities

*"Reports are 'tainted by the same prejudices regarding parents with disabilities as are held by many members of society,' and investigations are 'more probing,' with parents receiving 'less benefit of the doubt.'"*

## Documented Issues:

- Investigations triggered by minor childhood injuries or routine parenting differences
- Failure to provide accommodations (e.g., accessible communication)
- Disability-related communication barriers mischaracterized as "non-cooperation"
- "Perceptions" treated as sufficient to justify state intervention

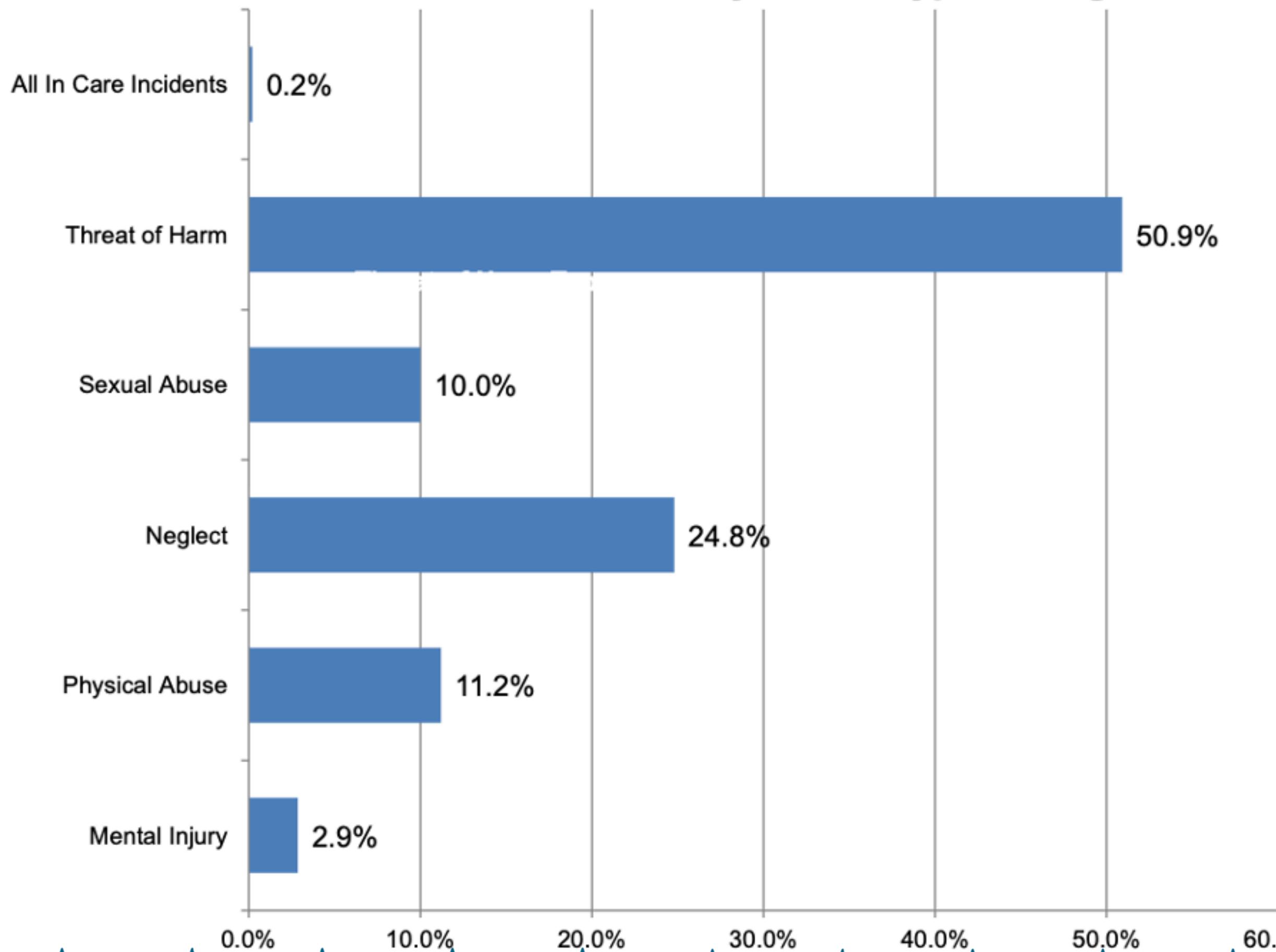
*Source: Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and Their Children (National Council on Disability, 2012)*

## **POLICY #1**

# **REFINING “THREATENED HARM” AS A CHILD ABUSE CATEGORY**



## Percent of Incidents of Child Abuse by Abuse Type during FFY 2024



After growing steadily for years, “threat of harm” now makes up over half of founded incidents of abuse.

It also now makes up the highest percentage of overturned dispositions. Overturning dispositions can be very difficult for parents, due to complexity of the review process, short deadlines, and more.

**Table 14: Number & Percentage of Abuse Types of the Dispositions Overturned or Changed by Central Office, by Year**

Abuse type	2020	2021	2022	2023	2024	Total	Abuse type	2020	2021	2022	2023	2024	Total
Mental Injury	7	5	3	6	11	32	Mental Injury	4%	5%	3%	7%	13%	6%
Neglect	91	32	37	24	21	205	Neglect	57%	33%	35%	29%	26%	39%
Physical Abuse	11	7	6	6	6	36	Physical Abuse	7%	7%	6%	7%	7%	7%
Sexual Abuse	7	8	15	7	8	45	Sexual Abuse	4%	8%	14%	8%	10%	9%
Threat of Harm	43	44	33	38	31	189	Threat of Harm	27%	46%	31%	46%	38%	36%
Involuntary Seclusion CIC					1	1	Involuntary Seclusion CIC	0%	0%	0%	0%	1%	0.2%
Neglect CIC				3	1	1	Neglect CIC	0%	0%	3%	1%	1%	1%
Physical Abuse CIC				7		2	Physical Abuse CIC	0%	0%	7%	0%	2%	2%
Verbal Abuse CIC				1	1	1	Verbal Abuse CIC	0%	0%	1%	1%	1%	1%
<b>Total</b>	<b>159</b>	<b>96</b>	<b>105</b>	<b>83</b>	<b>82</b>	<b>525</b>	<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Central Office Founded Disposition Review Results Data, Statewide, Jan. 2020 – Sept. 2024

# THREATENED HARM ORS 419B.005(1)(A)(G):

“Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child’s health or welfare.”

## VAGUE STANDARD

Substantial risk of any harm



## RESULT

Subjective interpretation

Same facts, different outcomes: One worker may substantiate based on parental substance use or poverty; another might screen out identical facts.

## The Disparity Evidence

Black and Native American children are substantiated at far higher rates than white children, despite similar maltreatment rates.

## Who Bears the Cost?

Survivors of domestic violence

Penalized for their abuser's behavior

People with disabilities

Accommodation needs misread as risk

Families of color

Cultural practices viewed as unsafe

Working families in poverty

Poverty conflated with neglect when families need support

# NATIONAL OUTLOOK

- The federal government, under the Child Abuse Prevention & Treatment Act (CAPTA), defines child abuse to include “or an act or failure to act which presents an imminent risk of serious harm.”
- Washington defines “negligent treatment” to include exposing a child to a risk of harm, but requires that the risk be “clearly imminent and substantial.”
- Idaho, Iowa, Oklahoma, and Minnesota treat “threatened harm” as a risk factor guiding service referrals, not a separate abuse type.



# THREATENED HARM IN HB 4059-2 (SEC 1-2):

“Threatened harm to a child, which means subjecting a child to a risk of severe harm to the child’s health or welfare if the harm is reasonably likely to occur in the near future.”

## DEFINING SEVERITY

Pages 6 & 11 use the ORS 419B.150 definition of **severe harm**:

- (a) Life-threatening damage; or
- (b) Significant or acute injury to a person’s physical, sexual, or psychological functioning.



## **-2 AMENDMENT ENSURES DHS STILL INVESTIGATES SEXUAL GROOMING**

**-2 Sections 1-2: Page 2, Line 1 & Page 7, Line 5**

**“(D) Sexual abuse of a child or placing a child at substantial risk of sexual abuse.”**

**“(8) ‘Sexual abuse’ means sexual abuse as described in ORS chapter 163.”**



## **-2 ENSURES DHS STILL INVESTIGATES DOMESTIC VIOLENCE**

**-2 Sections 1-2: Page 3, Line 7 & Page 8, Line 9**

**“(M) Causing a child to witness abuse as defined in ORS 107.705 of the child’s family or household members as defined in ORS 107.705.”**

## **DEFINITION OF ABUSE (ORS 107.705)**

- (a) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury.
- (b) Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury.
- (c) Causing another to engage in involuntary sexual relations by force or threat of force.

## **DEFINITION OF HOUSEHOLD MEMBER (ORS 107.705)**

Spouses, former spouses, & adults related by blood, marriage, or adoption

Unmarried parents & people who are living together or who have in the past

People who were involved in a sexually intimate relationship with each other within two years before one filed a restraining order against the other



## POLICY #2

# RAISING THE SUBSTANTIATION STANDARD



# **SUBSTANTIATION DETERMINES LIFELONG CONSEQUENCES**

## **YET OREGON USES THE LOWEST EVIDENTIARY STANDARD IN THE NATION**

- Child abuse reports that DHS investigates must result in a determination that the report was founded, unfounded, or unable to determine.
- Findings of child abuse influence future DHS decisions; prior reports (even unsubstantiated) increase the likelihood of future substantiation.
- Substantiated findings also appear on child abuse background checks, and can affect employment, childcare licensing, foster care certification, school volunteering, and even custody decisions.
- Oregon substantiates 21.47% of assessments (national average ≈ 16%)



# WHAT DOES A SUBSTANTIATION ACTUALLY DO?

## FFY 2024 OUTCOMES

**71.8%**

of children in founded abuse cases remained in their homes with no court-mandated services

**83.8%**

remained at home

**11.9%**

remained home with safety plan

**A founded disposition does NOT necessarily mean:**

There is enough evidence to require services  
The child is safer  
The family engages in services

**What it DOES mean:**

Parents are labeled as child abusers for up to 30 years  
Barriers to employment & foster certification (1000s per year)  
Increased scrutiny in future reports

# THE SUBSTANTIATION STANDARD DISCONNECT

## To Substantiate for Child Abuse

### Reasonable Cause to Believe

A reasonable person could believe abuse occurred

Limited, incomplete, or circumstantial evidence allowed

~Same standard used to screen in cases to begin with

## To Obtain Court Jurisdiction / Require Services

### Preponderance of the Evidence

More than 50% likelihood + weighing of the factors in support and against

Used by 37 states for substantiation

## The Critical Question

If the evidence is not strong enough to require services or sustain court review...

**Why should it be strong enough to label someone a child abuser for 30+ years?**



# EVIDENTIARY STANDARDS

## REASONABLE SUSPICION

Facts could lead a reasonable person to suspect abuse occurred. Standard for screening reports for investigation.

## REASONABLE CAUSE TO BELIEVE

Facts could lead a reasonable person to believe abuse occurred. Allows incomplete, or circumstantial evidence.

## PROBABLE CAUSE

Specific, articulable facts that, given the totality of the circumstances, show a crime likely occurred. Arrest standard.

## PREPONDERANCE OF THE EVIDENCE

More likely than not, through a weighing of the factors in support and against; most common civil standard.

## CREDIBLE EVIDENCE

Evidence that is specific, reliable, and believable, from a trustworthy source or corroborated by facts.

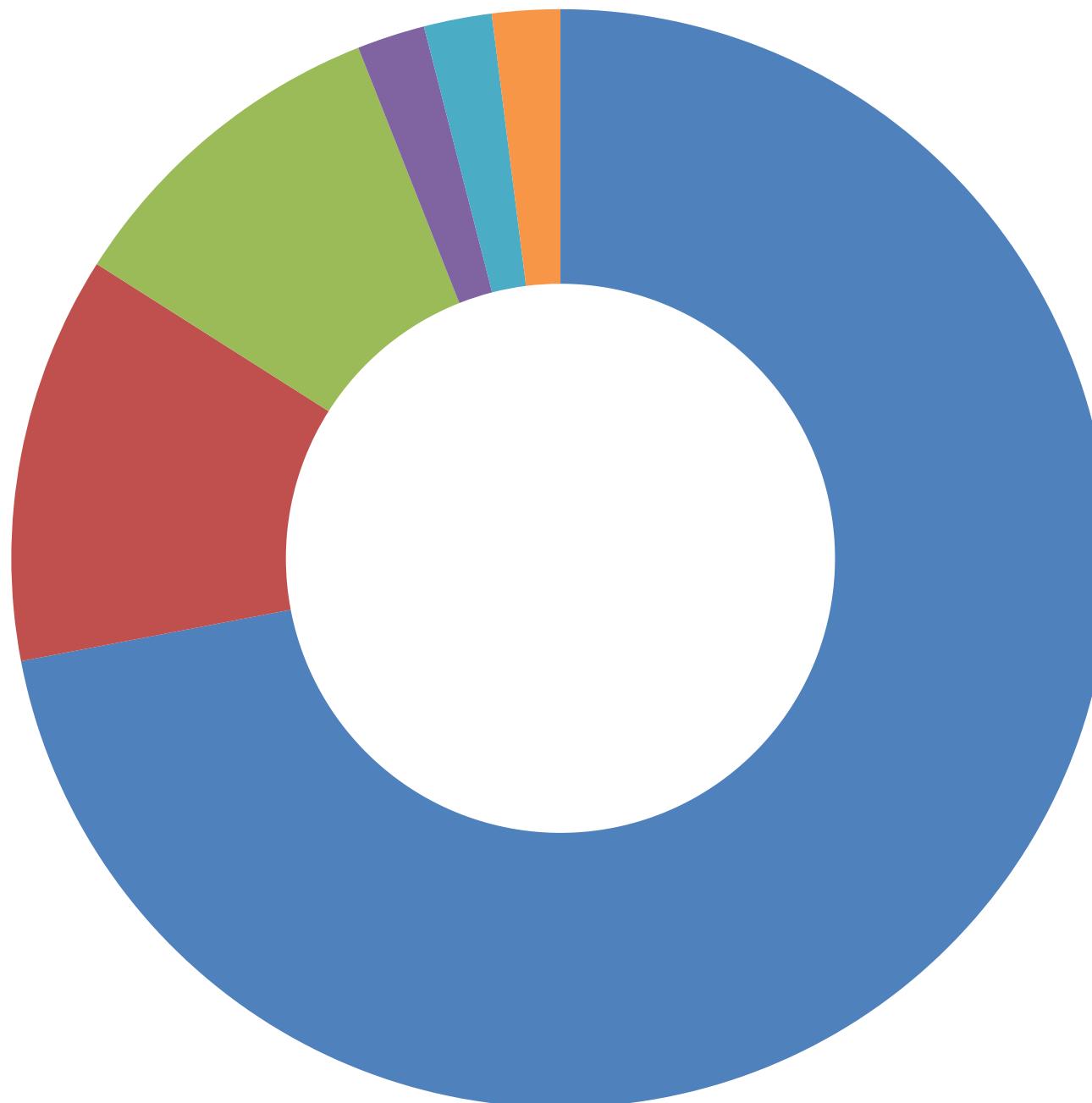
## CLEAR & CONVINCING

Strong, convincing evidence supporting the allegation. Required for ICWA cases & for child removal in many states.

## BEYOND A REASONABLE DOUBT

Requires proof so strong that there is no reasonable doubt about guilt. Highest legal standard—used in criminal cases.

# OTHER STATES' SUBSTANTIATION STANDARDS



Preponderance of the evidence	36
Reasonable cause to believe	6
Credible evidence	5
Substantial evidence	1
Credible evidence + reasonable cause to believe	1
Preponderance of credible evidence	1

## Recent Movement Toward Preponderance

New York (2022): Raised from some credible evidence to preponderance after litigation documented due process violations and racial disparities

Arizona (2024): Raised from probable cause to preponderance, citing the need for clear, fair decisions

Vermont (2024): Replaced reasonable person test with preponderance to address disproportionate impact on families in poverty

# WHAT THE RESEARCH SHOWS

**1-5%**

decrease in substantiations

**No Increase**  
in child fatalities

**More Visits**  
& thorough investigations

## Key Research Findings

- Raising the standard reduces false accusations (Type 1 errors) without compromising child safety
- States with higher standards show more home visits —workers gather better evidence before petitions
- Most states tie substantiation standards to required services

## What Preponderance Provides

- "More likely than not" through weighing of evidence
- Reduced reliance on subjective interpretation
- Due process protection matching 30-year consequences
- Alignment with 37 other states

*Sources: The Standard of Proof in the Substantiation of Child Abuse and Neglect (2017); Building Broken Children (2021)*

# HB 4059-2 SOLUTION: RAISE THE STANDARD TO PREPONDERANCE OF THE EVIDENCE

-2 Section 9, Page 24

“The local offices of the department shall report to the state registry in writing when an investigation has shown, **by a preponderance of the evidence**, that a child’s condition was the result of abuse even if the cause remains unknown.”



# HOW THE PIECES FIT TOGETHER

## The Core Principle

CPS investigations exist to ensure children can safely remain with their families. Labeling a person a child abuser should reflect real risks that CPS can actually address.

### POLICY 1

#### Threatened Harm

Focus on likely, severe risk

### POLICY 2

#### Substantiation

Match evidence to consequences

### POLICIES 3 & 4

#### Third-Party Investigations

Require caregiving nexus for CPS jurisdiction

## Together, These Reforms Aim to:

Focus resources on cases CPS can actually help.  
Align Oregon with national best practices.

Reduce subjectivity in decision-making.  
Address disparate outcomes for vulnerable families.

