OFFICE OF REPRESENTATIVE ANNESSA HARTMAN

Responding to ODAA's Assertions Regarding HB 4059-2

This letter responds to the Oregon District Attorneys Association's February 5, 2026, letter regarding HB 4059, as well as statements made by the ODAA representative during today's public hearing. While we recognize that the -2 amendment arrived later than we had hoped, the changes reflected within it were discussed in detail during the final two meetings of the Family Justice and Child Welfare Reform Work Group, which ODAA chose not to attend. Had ODAA participated in those meetings, it would have been aware of—and had the opportunity to engage on—the amendments addressing several of the concerns it continues to raise.

HB 4059, as amended, is the product of months of work by the Family Justice and Child Welfare Reform Work Group. informed by extensive research, stakeholder input, national best practices, and data reflecting Oregon's uniquely high referral, screen-in, and substantiation rates, as well as persistent CPS backlogs.[1] The work group's charge was to improve child safety while strengthening due process and ensuring that CPS intervention is focused, effective, and aligned with the agency's core protective role.

The -2 amendment reflects good-faith efforts to respond to feedback raised during the work group process and since. Several of ODAA's stated concerns are now directly addressed in this amendment, including specific provisions requiring DHS to investigate exposure to domestic violence and substantial risk of sexual abuse.

The sections below address each assertions directly, explaining how HB 4059-2 preserves DHS's full authority to investigate and respond to real safety concerns, including domestic violence; why aligning the substantiation standard with established legal thresholds strengthens rather than weakens child protection; and how clarifying DHS's investigatory scope ensures that limited resources are directed where the agency can meaningfully reduce risk to children.

I. Threatened Harm: The -2 Amendment Preserves DHS Authority While Clarifying Standards

ODAA continues to assert that narrowing the definition of "threatened harm" will create gaps in investigations and reduce DHS's ability to intervene before children are harmed. That assertion does not reflect the bill as amended.

a. We have replaced "imminent" with a broader, established standard

The -2 amendment removes the word "imminent" and replaces it with the phrase "reasonably likely to occur in the near future," which mirrors existing Oregon administrative rule and aligns with how DHS already evaluates risk in safety assessments.

---

[1] OHDS, *Child Welfare Data Book* (2024), p.5; ODHS, *Child Welfare Progress Report to the Governor* (2025), p.9.

ODAA's claim that there is "no caselaw" explaining this phrase ignores the reality that child welfare determinations routinely rely on statutory standards that require professional judgment guided by policy, training, and oversight. DHS already applies this concept in multiple contexts, including present danger and ongoing risk assessments.

The amended language avoids speculative, indefinite future risk while preserving DHS authority to intervene when harm is likely, not merely possible.

b. Sexual abuse and sexual exploitation concerns are explicitly addressed

ODAA raised concerns during the hearing that the amended definition would not cover sexual communications between adults and children. The -2 amendment directly resolves this issue.

The amendment adds a revised definition of sexual abuse that includes conduct described in ORS chapter 163 and placing a child at substantial risk of sexual abuse. This preserves DHS authority to investigate grooming, sexually explicit communications, and preparatory conduct that places a child at risk, regardless of whether physical contact has yet occurred.

c. Domestic violence is explicitly covered, now in its own category focused on the abuser's conduct

ODAA's written letter suggests that HB 4059 removes DHS authority to intervene in domestic violence cases. That is inaccurate.

The -2 amendment adds a new, standalone definition of child abuse: "exposure to domestic violence." This definition explicitly covers situations in which an abuser causes a child to witness acts of domestic violence committed against a family or household member.

This change directly responds to stakeholder concerns and ensures that children exposed to domestic violence remain squarely within DHS's protective authority.

d. "Severe harm" does not narrow DHS investigation to extreme cases

ODAA suggests that requiring "severe harm" will exclude meaningful categories of abuse. That is incorrect.

"Severe harm" is defined by existing statute to include life-threatening damage or significant or acute injury to physical, sexual, or psychological functioning. It does not require catastrophic injury, permanent injury, or hospitalization, but it does require that the risk be real, not trivial, and grounded in facts rather than speculation.

This clarification strengthens child protection by ensuring that intervention is tied to meaningful danger, while reducing inconsistent and subjective decision-making.

II. Scope of Investigations: No Gap in Law Enforcement or Child Safety

ODAA argues that narrowing DHS's investigative scope will leave gaps in investigations into adults and reduce public safety. This framing misunderstands both the bill and the respective roles of DHS and law enforcement.

Law enforcement and DHS serve different, complementary functions. Law enforcement investigates crimes, identifies suspects, and pursues criminal accountability. DHS's role is different: to assess whether a child's placement is safe and whether intervention is needed to protect the child's welfare.

HB 4059 does not remove or limit law enforcement authority in any way. Criminal conduct by neighbors, acquaintances, or strangers remains squarely within law enforcement jurisdiction. What the bill does is clarify when DHS intervention is appropriate: when the alleged conduct involves a person or situation from which DHS can meaningfully safeguard the child through child protective services.

For example, if a child is reported to be without parents or caregivers, there is no "gap" created by HB 4059. That child would already be screened and investigated under neglect, because the absence of a responsible caregiver directly implicates the child's safety and welfare. HB 4059 does not change that analysis.

a. DHS retains authority over adults from whom it can protect a child

As amended, HB 4059 still requires DHS to investigate abuse by:

- parents, guardians, custodians, and caregivers;
- adults with access because of their relationships with caregivers;
- adults in positions of authority or trust;
- education providers and child-care facilities; and
- any individual from whom DHS can, consistent with its statutory mission, safeguard the child through child protective services.

This includes situations where a third party poses an ongoing risk to the child or other children.

b. Minor-on-minor abuse concerns are addressed

The -2 amendment restores and clarifies DHS authority in cases involving minors. DHS is required to investigate when the alleged abusive minor is a parent or caregiver, or when the conduct involves sexual abuse or severe injury. DHS is also permitted to issue findings in additional cases when doing so is in the interest of public safety.

This approach balances accountability, child safety, and the recognition that not all harmful behavior by minors should be processed through the CPS substantiation system.

c. Law enforcement authority is unchanged

Nothing in HB 4059 limits law enforcement's authority to investigate crimes committed by neighbors, acquaintances, or other third parties. Allegations involving criminal conduct remain fully within law enforcement jurisdiction.

ODAA's suggestion that DHS must investigate every allegation involving every possible perpetrator in order for children to be safe conflates CPS functions with criminal investigations. The work group's analysis concluded that requiring DHS to investigate situations where it cannot meaningfully intervene diverts limited resources from children who are actually unsafe in their homes.

III. HB 4059-2 Clarifies the Scope of DHS Investigations to Improve Child Safety

ODAA asserts that Section 4 of HB 4059-2 improperly restricts DHS's ability to investigate child abuse based on the identity or relationship of the alleged abuser. That framing misunderstands both the bill and DHS's role within the broader child-protection system.

d. Abuse by caregivers

As part of the work group's research, we reviewed how DHS investigatory authority is defined nationally. The overwhelming majority of states limit DHS investigations to abuse committed by parents, caregivers, household members, or adults in positions of authority or trust over a child, with some states also including adults who have access to a child through their relationship to a caregiver. Oregon is currently an outlier in requiring DHS to investigate reports of abuse by any person, regardless of role or relationship.

HB 4059-2 aligns Oregon with national practice by focusing DHS investigations on situations where DHS can actually safeguard the child through child protective services. The bill expressly requires investigation when the alleged abuser is:

- a parent (including minors), guardian, or custodian;
- an adult with access to the child through household or caregiving relationships;
- an adult in a role involving responsibility for, power over, or trust of the child (including teachers, coaches, and child-care providers);
- a child-care facility or education provider; or
- an individual from whom DHS can meaningfully protect the child through intervention.

DHS is most effective when it investigates situations in which it can assess ongoing risk, influence the child's environment, engage caregivers, or seek court oversight. Those tools are designed for cases involving caregiving roles, authority, or access, not for every allegation involving a third party with no ongoing relationship to the child.

Notably, in our first meeting with ODAA during this work group, representatives from the association themselves raised this concern, pointing out that it does not make sense for DHS to investigate situations such as a drive-by shooting that strikes a child inside a home, where the alleged perpetrator has no caregiving role, no ongoing access, and no relationship that DHS can meaningfully intervene upon. Addressing that mismatch is one of the core purposes of Section 4 of HB 4059-2.

ODAA's current argument assumes that broader DHS authority necessarily increases safety. The work group's analysis reached the opposite conclusion. Oregon already faces exceptionally high referral and screen-in rates, significant assessment backlogs, and delayed response times in high-risk cases. Requiring DHS to investigate abuse by anyone, regardless of role or relationship, dilutes limited resources and undermines the system's ability to respond promptly and effectively where children are actually unsafe in their placements.

HB 4059-2 does not prevent reports, information-sharing, or law-enforcement involvement when abuse is alleged outside DHS's scope. Instead, it ensures that DHS investigations are reserved for situations where DHS can meaningfully intervene to protect a child, while other systems—including law enforcement and community-based services—respond where they are better suited to do so.

e. Minor on Minor Abuse

ODAA also raised concerns about limiting CPS investigations involving siblings, peers, classmates, and other minors. Throughout the work group process, members have been explicit that minor-on-minor behavior presents fundamentally different policy questions than abuse by adults, and that it requires a more nuanced statutory approach.

As those discussions have concluded, the work group has reached consensus on a narrower and more precise scope for CPS involvement in cases involving minors, which will be reflected in an amendment to HB 4059-2. Under that framework, CPS would only be required to investigate reports of minor-on-minor abuse only where the alleged abusive minor is a parent or caregiver, where the conduct resulted in severe injury, or where the conduct involved sexual abuse.

Consistent throughout these discussions has been an effort to clarify which cases of minor-on-minor behavior warrant CPS involvement, to allow investigation and intervention without requiring a formal abuse finding in every case, and to ensure that cases are directed toward family-based services, schools, behavioral health supports, and restorative interventions when those systems are better suited to respond.

This approach is consistent with national research and best practices showing that many instances of harmful behavior by minors are more effectively addressed outside the CPS substantiation framework, which can carry significant and lasting consequences without improving outcomes.

IV. Background on how the work group approached "threatened harm"

The work group began its analysis with the definition of "threatened harm" because it is, by far, the most frequently used basis for CPS substantiations in Oregon (50.9%).[2] It is also the broadest and least defined category of child abuse that we could find in the nation.

Unlike other categories of child abuse, like physical abuse, sexual abuse, or mental injury, threatened harm allows conduct to be treated as child abuse before any injury has actually occurred. Under current statute, there is no requirement that the harm be likely to occur within any particular timeframe, nor that the potential injury be particularly bad.[3] As a result, speculative concerns, generalized future risks, or the possibility of relatively minor injuries can be investigated and labeled as child abuse, often when the child is safe.

Both the HB 4086 Scope of Jurisdiction Study[4] and many of the stakeholders we met with during the work group's scoping phase identified "threatened harm" as an area of concern because of how vague and expansive Oregon's statutory language is compared to that of other states and the federal government, which requires both imminent and serious harm.[5]

When legal standards allow intervention based on any risk, without grounding in severity or imminence, decision-making can become subjective. For that reason, the work group examined research on discretion and subjectivity in child welfare systems, which consistently shows that vague maltreatment standards produce inconsistent outcomes across regions and workers, amplify implicit bias, increase surveillance and intervention in families of color,[6] lead to misinterpretation of disability-related caregiving needs as neglect or risk,[7] and expose domestic violence survivors to CPS involvement that can result in survivors being labeled as child abusers because of their abuser's conduct, or in the child abuse reporting process being weaponized by abusers to harass survivors and gain leverage in court.[8]

Against that backdrop, the work group approached "threatened harm" to examine when and under what conditions CPS investigation and substantiation are appropriate. From the outset, the work group was also explicit that any refinement of the definition needed to continue to cover

---

[2] OHDS, *Child Welfare Data Book* (2024), p.7-8.
[3] ORS 419B.005 (1)(a)(G)
[4] HB 4086 Jurisdiction Advisory Committee, *HB 4086 Scope of Jurisdiction Study* (2025), p. 39.
[5] 42 U.S.C. § 5106g(4).
[6] See, e.g., Yi Y, Edwards F, Emanuel N, Lee H, Leventhal JM, Waldfogel J, Wildeman C. "State-Level Variation in the Cumulative Prevalence of Child Welfare System Contact, 2015-2019," Child Youth Serv Rev. 2023 (noting that 72% of Black children in Oregon will be subject to a CPS investigation by age 18); Amanda Mahoney, "How Failure to Protect Laws Punish the Vulnerable," 29 Health Matrix 429 (2019); Alan Dettlaff & Reiko Boyd, "Racial Disproportionality and Disparities in the Child Welfare System: Why Do They Exist, and What Can Be Done to Address Them?" *The Annals of the American Academy of Political and Social Science*, vol. 692 (2020), p. 253–74.
[7] See Nat'l Council on Disability, *Rocking the Cradle* (2012), p.54–97
[8] See Goodman, Lisa A., and Jennifer E. Fauci. "The Long Shadow of Family Separation: a Structural and Historical Introduction to Mandated Reporting in the Domestic Violence Context." *Journal of Family Violence* 35, no. 3 (2020) p. 217.

circumstances in which intervention is necessary to prevent serious harm, domestic violence, and sexual abuse.

To ensure that alignment, the work group examined the legal threshold for dependency jurisdiction, which already requires that abuse or neglect—or risk thereof—be current and serious, and proven by a preponderance of the evidence. The group sought to bring CPS substantiation standards closer to these existing legal guardrails, rather than allowing substantiation to operate on a far looser and more speculative basis than the court system itself.

In defining those terms, the work group reviewed federal CAPTA standards, other states' statutes, and existing Oregon law, and ultimately chose to rely on established Oregon definitions. OAR 413-015-0425 defines "imminent" as "[t]he family behavior, condition, or circumstance is likely to occur in the immediate to near future," and ORS 419B.150 defines "severe harm" as "(a) life-threatening damage; or (b) significant or acute injury to a person's physical, sexual, or psychological functioning." Work group members concluded that these definitions capture the full range of physical, sexual, and psychological injuries that CPS should be investigating, while avoiding trivial, speculative, or culturally contingent concerns.

ODAA's work group representative did not offer alternative statutory language during work group meetings, did not submit written proposals when feedback was requested, and did not raise the hypothetical scenarios described in the association's letter during the work group process.

V. Reviewing ODAA's hypotheticals

Turning to the hypothetical scenarios ODAA suggests would no longer be investigated or substantiated under HB 4059-2, it is important to distinguish between screening a report for investigation and substantiating a particular abuse category. ODAA's comments repeatedly conflate these two steps. At our work group meeting on 1/22/26, DHS Child Welfare leadership assured the Work Group that under HB 4059-2, the conduct described in each scenario would still be screened in for investigation and, in appropriate cases, substantiated—either under the new definition of threatened harm or under other abuse categories that are unaffected by the bill.

f. Threats to subject a child to physical or sexual abuse would still be screened in as "threatened harm."

ODAA suggests that an adult threatening to withhold food or subject a child to physical or sexual abuse may be insufficient to allow DHS intervention if the threat is not explicitly tied to harm in the near future. That assumption is incorrect.

Under HB 4059-2, "threatened harm" is defined as subjecting a child to a risk of severe harm that is reasonably likely to occur in the near future, with "severe harm" defined as life-threatening damage or significant or acute injury to a person's physical, sexual, or psychological functioning.

A credible threat of physical or sexual abuse made directly to a child plainly constitutes a threat of significant or acute injury to the child's physical, sexual, or psychological functioning for several reasons.

A direct threat of physical abuse is fundamentally different from a generalized risk that harm may occur. In a broad sense, essentially every child is at some risk of physical harm at any given time, whether from accidents, environmental factors, or ordinary life circumstances. General risk, therefore, describes conditions that *could* lead to harm at some undefined point and necessarily requires prediction and inference.

On the other hand, a direct threat communicates intent. When a caregiver indicates that they are willing to physically or sexually harm a child in a way that could be severe, this presents an immediate threat to the child. A caregiver who is willing to harm a child in the future has shown that the child is not safe now—there is no reliable way to assume that harm will wait for a later moment. For that reason, such threats represent a present risk, not a speculative one.

Only where statements are clearly rhetorical, hyperbolic, or reference lawful discipline that does not typically result in serious injury, like spanking, would they fall outside this scope.

g. Threats to subject a child to physical or sexual abuse could also be screened in under "mental injury."

Under DHS's SDM Screening Rules and Procedures Manual, these scenarios could also be screened in under the "**mental injury**" child abuse category.[9] The Manual defines mental injury to include cruel or unconscionable acts or statements made, or threatened to be made, to a child where there is reasonable cause to believe those acts, statements, or threats have resulted in severe harm or substantial impairment to the child's psychological, cognitive, emotional, or social well-being and functioning.

At the screening stage, the Manual does not require proof that psychological injury has already fully manifested. Instead, an allegation may be screened in where there is reasonable cause to believe that a parent or caregiver's behavior, intentionally or unintentionally, has caused or is creating conditions consistent with impairment of the child's functioning.

The Manual explicitly identifies injurious caregiver actions to include threatened harm to the child or others, victimizing the child through psychologically cruel, unusual, or excessive discipline, and exposure to brutal or intimidating actions or statements. Direct threats to subject a child to physical or sexual abuse fall squarely within these examples, as they are both intimidating and degrading and create conditions likely to cause severe psychological harm.

---

[9] Evident Change, ODHS Oregon Child Abuse Hotline, *SDM Screening and Response Time Assessment* (2024) p.15.

h. Threats to withhold food could still be screened in as "threatened harm."

Under HB 4059, as amended (-2), "threatened harm" is defined as subjecting a child to a risk of severe harm to the child's health or welfare that is reasonably likely to occur in the near future, with "severe harm" defined as life-threatening damage or significant or acute injury to a child's physical, sexual, or psychological functioning. Threats to withhold food can meet this standard where the threatened deprivation creates a real and foreseeable risk of such injury.

First, food deprivation can constitute severe harm, depending on the nature and context of the threat. Prolonged or nutritionally significant deprivation of food can cause acute physical injury, exacerbate medical conditions, impair development, and cause serious psychological distress. When a caregiver threatens to deny food in a manner that would foreseeably result in these outcomes, the threatened conduct itself implicates severe harm.

Second, DHS would contextually assess whether the risk is reasonably likely to occur in the near future, consistent with existing DHS rule. When a caregiver with authority and access to a child threatens to withhold food, and there are credible indicators that the threat could be carried out—such as prior deprivation, escalating discipline, isolation of the child, or the absence of other caregivers who are able to intervene—the risk is reasonably likely to occur in the near future.

Third, the credibility and severity of the threat distinguish threatened harm from ordinary discipline. HB 4059, as amended, does not treat routine parenting decisions—such as withholding dessert, limiting snacks, or short-term, non-harmful consequences—as threatened harm. Those actions do not pose a foreseeable risk of severe injury. By contrast, threats to deny adequate meals, to withhold food for extended periods, or to condition food on compliance in ways that endanger health go beyond ordinary discipline and create a real risk of acute harm.

Fourth, psychological injury is part of the severe-harm analysis. Even before physical effects occur, credible threats to deny food can cause acute psychological injury, particularly for young or vulnerable children. Fear of starvation or deprivation by a caregiver can significantly impair a child's psychological functioning, satisfying the "risk of severe harm" component of the amended threatened-harm definition.

i. Threats to withhold food could also be "neglect" or "mental injury."

Threats to withhold could also be screened in under the statutory definition of **neglect**, depending on the circumstances. Oregon law defines neglect to include the negligent treatment or maltreatment of a child, including the failure to provide adequate food, clothing, shelter, or medical care, where that failure is likely to endanger the health or welfare of the child. [10]

At the screening stage, DHS is not required to determine that deprivation has already occurred; it is sufficient that there is reasonable cause to believe the caregiver's conduct is likely to endanger the child's health or welfare. [11] Threats to withhold food may therefore implicate this definition

---

[10] ORS 419B.005 (1)(a)(F)
[11] Evident Change, ODHS Oregon Child Abuse Hotline, *SDM Screening and Response Time Assessment* (2024) p.5.

where the threatened deprivation is nutritionally significant, prolonged, or otherwise creates a foreseeable risk to the child's health.

At the same time, not every reference to food as a disciplinary measure would meet the statutory threshold for neglect. Ordinary parental discipline, such as withholding dessert or limiting snacks, does not endanger a child's health or welfare and would not, standing alone, warrant screening or investigation.

In addition, depending on the context, threats to withhold food may also be screened in under the **mental injury** category. DHS screening guidance recognizes mental injury where a caregiver's acts or threatened acts create conditions consistent with substantial impairment of a child's psychological, emotional, or social functioning. Threatening a child with deprivation of food—particularly where the threat is coercive, degrading, or terrorizing—can create an environment of fear and insecurity that itself constitutes or is likely to result in psychological injury, even if physical deprivation has not yet occurred.

j. Threats of confinement without food will be screened in.

ODAA also posits a scenario in which a parent tells a child that poor grades on a future report card will result in the child being locked in their bedroom for three days without food. This example likewise would not fall through the cracks under HB 4059-2. Depriving a child of food is explicitly categorized as neglect—a failure to provide for a child's basic needs—and is independently sufficient to trigger screening and investigation. [12]

Separately, confining a child to their bedroom for days at a time would also meet the definition of mental injury, as screeners are directed to screen in reports involving isolating, rejecting, degrading, or psychologically cruel discipline. [13] These categories are unaffected by HB 4059-2.

VI. Raising the Substantiation Standard will Result in Better Casework.

ODAA argues that Section 9 of HB 4059-2 will make it more difficult for DHS to protect children by raising the standard for a "founded" finding from "reasonable cause" to a preponderance of the evidence. That argument rests on a fundamental conflation of safety assessment authority with substantiation standards, and it overlooks the practical benefits of requiring DHS to meet a meaningful evidentiary threshold.

---

[12] *Id*.
[13] *Id.* at p.15.

k. Substantiation standards do not control safety assessments or protective action.

First and most importantly, the substantiation standard has nothing to do with DHS's ability to assess child safety or take protective action.

Safety assessments, safety planning, and emergency protective responses occur before and independent of any substantiation decision. DHS evaluates present danger and ongoing risk at intake and throughout an investigation, regardless of whether an allegation is ultimately substantiated as founded, unfounded, or unable to determine.

Raising the substantiation standard does not limit DHS's ability to:

- screen reports for investigation,
- assess immediate or ongoing safety threats,
- develop safety plans,
- engage families voluntarily,
- take protective custody when legally authorized, or
- seek court involvement when necessary to protect a child.

HB 4059-2 changes only the evidentiary standard required after an investigation to formally label a report as "founded."

l. Substantiation does not authorize DHS to require services.

ODAA again incorrectly asserts that a lower substantiation standard is necessary for DHS to require families to engage in services.

As the work group has repeatedly reviewed, services can be required only after a court exercises dependency jurisdiction, which, in turn, requires proof by a **preponderance of the evidence** that the child faces a current and serious threat. CPS substantiation—under either a reasonable-cause or preponderance standard—does not compel services, create court authority, or mandate compliance.

Accordingly, raising the substantiation standard does not reduce DHS's ability to protect children or require services where they are legally justified.

m. A preponderance standard improves evidentiary rigor and case quality.

Requiring DHS to support a founded disposition by a preponderance of the evidence asks the agency to determine whether it is more likely than not that abuse occurred, rather than whether there is merely a reasonable suspicion. That shift requires caseworkers to weigh evidence both for and against substantiation, articulate the factual basis for their conclusions, and document how the evidence supports a particular abuse finding.

Research shows that higher evidentiary standards encourage more thorough investigations, including additional home visits, fuller assessment of current conditions, and clearer documentation of the nexus between alleged conduct and risk of harm.[14] This kind of evidentiary discipline improves case quality by reducing reliance on speculation, past conditions, or generalized concerns, and by aligning administrative findings more closely with the standards courts apply when evaluating child safety.

Many victims of abuse and neglect are babies or very young children who cannot speak, disclose, or describe what has happened to them. Child safety determinations therefore cannot, and should not, depend on a child's ability to provide evidence that they are unsafe. DHS investigations already center on observable caregiver behavior, environmental conditions, medical findings, and risk factors that indicate whether abuse or neglect is more likely than not to have occurred.

A preponderance standard reinforces that responsibility. It requires caseworkers to weigh all available evidence, document how caregiver conduct creates risk, and explain why the facts support a particular abuse finding.

n. The national trend strongly supports a preponderance standard as a due-process safeguard.

ODAA's opposition to a preponderance standard is also out of step with national practice. More than two-thirds of states now require proof by a preponderance of the evidence to substantiate child abuse, and recent reforms show the trend is moving in that direction.

Arizona[15] and Vermont[16] both raised their standards to preponderance in 2024 to improve fairness, clarity, and due process, while New York adopted a "fair preponderance" standard in 2022 following findings that its prior suspicion-level standard produced unsupported determinations and racially disparate outcomes.[17] Missouri made a similar change in 2004.[18] In our review, we found no state that has moved to a lower evidentiary threshold.

Federal guidance from the U.S. Children's Bureau similarly emphasizes that substantiation decisions must be credible, well-supported, and accurately reflect actual maltreatment—standards that are difficult to meet under the reasonable cause threshold.[19]

---

[14] See The Standard of Proof in the Substantiation of Child Abuse and Neglect (2017); Standard of Proof in Child Welfare Cases (2025); Building Broken Children in the Name of Protecting Them: Examining the Effects of a Lower Evidentiary Standard in Temporary Child Removal Cases (2021)
[15] SB 1664, Arizona (2024)
[16] See Act No. 154 (H.661), Vermont (2024); Act No. 154 Legislative Staff Summary.
[17] See Part R of Chapter 56 of the Laws of 2020; *Nicholson v. Scoppetta*, 3 N.Y.3d 357, 368–69 (2004).
[18] HB 1453, Missouri (2004).
[19] U.S. Children's Bureau, *Child Maltreatment 2022* report (2023), p. 5–7.

Courts have repeatedly held that placing individuals on child abuse registries based on low evidentiary standards creates an unacceptably high risk of error and violates due process, particularly where substantiation carries consequences such as employment restrictions, licensing barriers, and long-term registry placement.[20]

Oregon exhibits the same warning signs that prompted reform elsewhere: wide county-by-county variation in substantiation rates, heavy reliance on threatened-harm findings, and disproportionate impact on families experiencing poverty and families of color. [21] Maintaining a low evidentiary standard perpetuates these inconsistencies and undermines confidence in CPS determinations.

[20] *In re W.B.M.*, 690 S.E.2d 41, 47–50 (N.C. Ct. App. 2010); *Valmonte v. Bane*, 18 F.3d 992 (2d Cir. 1994).
[21] OHDS, *Child Welfare Data Book* (2024), p. 28-32.