

PRELIMINARY STAFF MEASURE SUMMARY

Senate Committee On Human Services and Early Childhood

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

Sub. Referrals: Joint Committee On Ways

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

and Means

Action Date:**Action:****Meeting Dates:****Prepared By:** Cheyenne Ross, Committee Administrator**WHAT THE MEASURE DOES:**

Strengthens the Department of Human Services' (the Department's) authority to license, regulate, and take enforcement action against child-caring agencies. Makes the Department's authority to condition, suspend and revoke licenses explicit. Requires the Department to take immediate steps to suspend or revoke a license upon certain findings that constitute insubstantial compliance per se. Requires the Department to issue an interim emergency order to correct situations that risk a child's health, safety or welfare. Authorizes the Department to seek injunction against child-caring agencies under certain circumstances. Requires the Department to investigate immediately upon learning that a child-caring agency or its personnel are being investigated by another entity and deems the Department's failure to act as grounds for second degree official misconduct. Requires the Department of Justice, Department of Revenue, and the Bureau of Labor and Industries to notify and regularly update the Department of investigations of child-caring agencies or personnel and deems any interference with such information, second degree official misconduct. Authorizes licensed child-caring agencies to certify family foster homes as provided. Requires the Department to maintain a minimum of five full-time staff dedicated to licensing and regulating child-caring agencies and family foster homes. Provides for inspections. Requires the Department to inform the Legislature and others when a child-caring agency fails to correct deficiencies as directed by the Department. Requires Department personnel to report noncompliant child-care agencies internally as specified. Requires Department to investigate such reports immediately and deems failure to do so, second degree official misconduct. Requires child-caring agencies to report certain information at least once every two years and as directed by the Department. Requires child-caring agencies to disclose a child's location and circumstances to the Department, and to permit immediate access to children and premises for specified persons. Requires civil penalties up to \$500 for certain violations. Defines child abuse in a child-caring agency. Requires immediate action by the Department upon receipt of a report of abuse as specified. Protects those who report abuse in good faith from liability and retaliation. Requires the Department to provide notice of reports of abuse and make certain determinations, as specified. Operative July 1, 2016. Declares emergency, effective on passage.

ISSUES DISCUSSED:**EFFECT OF COMMITTEE AMENDMENT:**

[-1 amendment]: Makes technical, clarifying and conforming changes throughout (definition of child-caring agency; replacing "certification" with "certificate"; removing reference to "insubstantial compliance"; corrections with regard to OYA); inserting reference to definition of family foster home, etc.). Requires certain financial disclosures for child-caring agencies with revenues in excess of \$1 million, to begin starting January 1, 2017, including disclosure of tax compliance certificates from the DOR. Adds to the list of notifications DHS must make upon learning of suspected deficiencies or taking any action with regard to a child-caring agency, any governmental unit contracting with the agency. Removes once-every-two-year child-care agency reporting requirement (and the grounds for revocation based on failure to report) and permits DHS to make rules regarding same. Requires quarterly report from DHS to legislature, with specified information, excluding children's identifying information.

[-2 amendment]: Requires DHS report to legislature by October 1, 2016, on recommendations for a Center for Continuous Improvement to begin operation by July 1, 2017. Specifies content of report and sunsets January 2, 2017.

[-3 amendment]: Requires DHS report to legislature by December 1, 2016, on requirements Oregon must meet to obtain national accreditation in child welfare by September 1, 2017. Specifies report content and sunsets January 2, 2017.

[-4 amendment]: Not summarized.

[-5 amendment]: Makes technical, clarifying and conforming changes throughout (removes change to ORS 419B.100 (juvenile code); replaces "family foster home" with "proctor foster home"; replaces "certification" with "certificate"; removes reference to "insubstantial compliance"; makes corrections with regard to OYA, etc.). Requires certain financial disclosures for child-caring agencies with revenues in excess of \$1 million, to begin starting January 1, 2017, including disclosure of tax compliance certificates from the DOR. Adds to the list of notifications DHS must make upon learning of suspected deficiencies or taking any action with regard to a child-caring agency, any governmental unit contracting with the agency. Removes once-every-two-year child-care agency reporting requirement (and the grounds for revocation based on failure to report) and permits DHS to make rules regarding same. Requires quarterly report from DHS to legislature, with specified information, excluding children's identifying information.

[-6 amendment:] Same as -2 amendment, but replacing "family foster home" with "proctor foster home."

BACKGROUND:

In 2012, the Oregon Department of Justice (DOJ) began to investigate West Linn resident Mary Ayala, also called Mary Holden, for financial mismanagement of a Portland nonprofit foster care provider called Give Us This Day. In the fall of 2015, just before DOJ filed a formal complaint against Ms. Ayala, it came to light that the Oregon Department of Human Services (the Department) had received numerous reports against Give Us This Day for harming the children in its care and putting them at risk, going back more than a dozen years. While an increasing concentration of accusations against the provider were made in recent history (as its financial problems came to a head) that included children being without food and bedding, there were also accusations of sexual and other serious forms of abuse and use of force. The Department was thoroughly criticized for failing to investigate, for continuing to work with Ms. Ayala, and for continuing to refer children into the care of Give Us This Day.

There are thousands of children in the state's care, with varying needs. Children in the state's care are arguably the most vulnerable by definition. Give Us This Day received some of the most acute. The investigation of Ms. Ayala's conduct fueled discussion about whether the state spent enough to ensure the Department's capacity to regulate and oversee providers, and whether the Department's practice of working to support struggling and difficult providers was best serving the children in their care. A number of personnel at senior levels within DHS were also replaced; the Governor ordered a comprehensive external review; and Senate Bill 1515, and its companion, Senate Bill 1516, were developed and introduced.

Senate Bill 1515 strengthens the Department of Human Services' authority to license, regulate, inspect, investigate, and take immediate enforcement action against entities that risk a child's health, safety or welfare. It authorizes certain information to be shared between state agencies about providers; grounds charges of official misconduct for certain agency failures to act; requires minimum regulatory staffing to be maintained; authorizes civil penalties up

to \$500 for certain violations; imposes both periodic and event-based reporting requirements; and protects those who report abuse in good faith, from retaliation.