



Oregon Alliance of Children's Programs

SENATE HUMAN SERVICES COMMITTEE

1 February 2017 Hearing

ALLIANCE POSITIONS AND REQUESTED AMENDMENTS to SB 243 * 244 * 245 * 246 * 636

SB 243 – Expands definition of “child in care” to include children in certified foster homes and DD residential homes/facilities for the purpose of abuse reporting and notification.

Key areas in the LC:

- Adds requirement that DHS's family foster care system and developmentally disabled homes/residential facilities will be subject to abuse investigation/reporting requirements of SB 1515 (including abuse reporting, abuse definition, abuse investigation process, notifications and legislative reports)
- Does not apply CCA licensing requirements to these entities (i.e., mandatory suspensions and revocations)

ALLIANCE POSITION: NEUTRAL

SB 244 – Changes who is notified of suspected licensing deficiencies or abuse.

SUMMARY – This gives DHS authority to place conditions during investigation and changes the notices required under SB 1515 in a favorable way.

Key areas in bill:

Gives DHS authority to *immediately* place conditions (in addition to suspension/revocation) if DHS determines *during an investigation* that abuses or licensing deficiencies occurred and are or threaten a serious danger

Favorable changes to SB 1515 notice requirement as follows:

For suspected *licensing* deficiencies:

- Removes requirement to notify CCA governing board/owners and CCA governmental contractors
- Adds requirement to notify “appropriate personnel” in DHS including but not limited to DHS licensing, certifying or authorizing CCAs and developmental disabilities office (if CCA serves DD children)
- Adds requirement to notify OYA (if CCA serves OYA children)

When serious *licensing* action is taken (suspend, revoke, or conditions):

- Removes broad requirement to notify "state or governmental agency or unit, governing board, trustees, owners, managers or operators or other appropriate authorities"
- Adds more narrow requirement to notify state agency that contracts with CCA
- Adds more narrow requirement to governing board of CCA

For *abuse* reports (before investigation):

- Removes requirement to notify CCA governing board/owners
- Removes requirement notice to *governmental agency* contractors of CCA
- Adds more narrow requirement to notify *state agency* contractors of CCA
- Keeps other SB 1515 notice requirements (i.e., child's case manager, attorney, court appointed special advocate, guardians, etc.)

If *abuse* is substantiated (Section 3):

- Removes requirement to notify parents and guardians of children in care who were not involved in the abuse
- Removes requirement notice to *governmental agency* contractors of CCA
- Adds more narrow requirement to notify *state agency* contractors of CCA

ALLIANCE POSITION: SUPPORT WITH AMENDMENTS - include the following changes:

- Add requirement that conditions placed must be narrowly tailored to immediate threat of serious danger
- Add requirement for expedited hearing when "immediate" licensing action is taken

SB 245 – Clarifies facilities that are exempt from definition of CCA

Key area in bill: Appears to be clarification to exempt (a) facilities that exclusively serve individuals 18 years of age or older; and (b) facilities that serve both adults and children and require that child be accompanied by a parent/guardian at all times.

ALLIANCE POSITION: SUPPORT

SB 246 – Allows DHS Director to rescind a license revocation with agreement of others. Places new conditions on providers for 10 years.

Key areas in bill:

- Requires agreement between DHS Director, Attorney General, OHA medical director to rescind a license revocation.
- Requires notice to Governor and legislature in advance of rescinding
- Adds ability for DHS to immediately place conditions on a license (death of child; or failure to report, cooperate, or provide financial statements).
- Conditions on provider for 3 years (annual license application), 5 years (DHS can immediately revoke or suspend license), 10 years (no other rescinding of a license revocation).

ALLIANCE POSITION: SUPPORT WITH AMENDMENTS – include the following changes:

- Change "must take immediate steps" to "may take immediate steps" in ORS 418.240(2)(c)
- Change new rescission section from "must be made by agreement between" to "must be made after consultation with"

- Add to ORS 418.240(2)(c)(A), "and the abuse or neglect that led to the death was known to the agency and the agency did not take immediate steps to report the abuse or neglect and to ensure the child's safety."
- Delete Attorney General
- Add a psychiatric professional and two peers in addition to the medical director for OHA
- Add provision allowing CCA to request DHS engage in rescission consultation
- Delete language permitting immediate suspension or revocation for 5 years after rescission
- Delete prohibition on rescinding notice of intent to suspend or revoke more than once in 10 year period
- Add requirement that conditions placed must be narrowly tailored to immediate threat of serious danger
- Add requirement for expedited hearing when "immediate" licensing action is taken

SB 636 – Changes definition of “Unsubstantiated” finding

Key area in bill:

- Changes definition of "unsubstantiated" from “no evidence” that abuse occurred to no “reasonable cause to believe that abuse occurred.”

ALLIANCE POSITION: SUPPORT WITH AMENDMENTS – Include the following changes:

- Delete “Inconclusive” finding
- Change "substantiated" finding from "reasonable cause" to "preponderance of evidence"
- Change "unsubstantiated" finding from "not provide reasonable cause to believe" to "not provide sufficient evidence to demonstrate"
- Add under “Substantiated” finding – two new categories:
 - Letter of Concern – for incidents with no harm; note the incident; dismissed, no action or requirements; letter stays in file on individual
 - Letter of Reprimand – note the incident; can require corrective actions such as training; peer support; supervision when working with children, etc. These actions are intended to be remedial and not punitive.
- De-link “substantiated” finding for an individual from licensing penalties for organization, such as license conditions, suspension or revocation.