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Prepared by: Kim To
Reviewed by: Laurie Byerly, John Borden, Paul Siebert
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Measure Description:

Expands definition of "child in care" to include children receiving care and services from certified foster homes and developmental disabilities residential facilities.

Government Unit(s) Affected:

Department of Human Services (DHS), Oregon Department of Justice (ODJ), Department of Administrative Services (DAS)

Analysis:

<Revised to incorporate new information from the Department of Justice which reduces Attorney General Expenses by \$158,780>

Senate Bill 243:

1. Modifies the definition of "child in care" to include children who are under 21 years old receiving care and services from certified foster homes and developmental disabilities residential facilities.
2. Expands abuse reporting requirements and responsibilities to certified foster homes and developmental disabilities residential facilities.
3. Expands the obligation of the Department of Human Services (DHS) to investigate and notify appropriate entities of suspected child abuse or neglect to certified foster homes and developmental disabilities residential facilities.
4. Requires DHS to ensure that certified foster homes and developmental disabilities residential facilities provide annual training and written materials, and have in place procedures and protocols relating to reporting of abuse and neglect.

The bill clarifies the definition for "involuntary seclusion" and specifies that:

1. DHS is not required to notify the parents or guardians of each child in care that is receiving at certain facilities subject to reporting and investigation, but must notify the local citizen review board established by the Judicial Department.
2. "Child in care" does not include children under 21 years old living with their parents.
3. Child caring agencies, certified foster homes, and developmental disabilities residential facilities which do not have any employees, staff, or volunteers are exempt from the requirement to provide annual training and written materials, as well as the requirement to have in place procedures and protocols relating to reporting of abuse and neglect.
4. When reporting to the legislature, if there are less than five certified foster homes in a county, DHS should not identify the name of the county where a certified foster home is located.

Passage of this bill is anticipated to have a fiscal impact on the Department of Human Services (DHS) and the Department of Justice (DOJ). The Department of Human Services reports that currently 4,181 facilities fall under the definition of certified foster homes or developmental disabilities residential facilities. The bill adds new definitions of abuse that would apply to these certified foster homes and developmental disabilities residential facilities including verbal abuse, financial exploitation, and involuntary seclusion for the convenience of the caretaker. This is predicted to increase the number of allegations that DHS will need to screen-in, notify, and investigate. This predicted increase is based on the impact of SB 1515 (2016) which similarly expanded the role of DHS to about 200 child-caring agencies (CCA). DHS reports that there were 559 total abuse reports in 2015, with 137 resulting in an investigation. For 2016, after SB 1515 (2016) went into effect, there were 1,344 total abuse reports, with 469 resulting in an investigation. The following workload and cost calculations are extrapolated based on this spike in cases in which DHS sought DOJ legal consultation and advice on whether certain substantiated findings were legally sufficient to take legal action.

Department of Human Services (DHS)

	2017-19 Biennium	2019-21 Biennium
General Fund		
Personal Services	77,927	
Services & Supplies	38,513	
Attorney General Charges	86,752	62,359
Total General Fund	\$203,192	\$62,359
Federal Funds		
Personal Services	33,399	
Services & Supplies	16,393	
Attorney General Charges	37,180	26,725
Total General Fund	\$86,972	\$26,725
Total Funds		
Personal Services	111,326	-
Services & Supplies	54,906	-
Attorney General Charges	123,932	89,084
TOTAL FUNDS	\$290,164	\$89,084
Positions	1	0
FTE	0.50	0.00

The fiscal impact of this bill to the Department of Human Services is \$290,164 Total Funds (\$203,192 General Fund) and 1 limited duration position (0.05 FTE) for the 2017-19 biennium; and \$89,084 Total Fund (\$62,359 General Fund) for the 2019-21 biennium. The amount of the fiscal impact includes the cost of system modifications to accommodate the expansion of abuse definition and facilities oversight, Attorney General charges, Personal Services, and related Services and Supplies for one limited duration Policy Analyst 3 position. This position will assist existing staff with duties related to training, notification, as well as assisting with rule writing and revisions. Note that this fiscal uses a conservative estimate, and assumes that the initial spike in training and notification (and more slowly investigation) activities will decrease as the new provisions of the bill become status quo. If these activities do not decrease as predicted, the agency may need to return to the Legislature to request additional staffing and resources.

Department of Justice (DOJ)

The fiscal impact of this bill to the Department of Justice (DOJ) is an estimated \$123,932 Other Funds and 1 position (0.38 FTE) for the 2019-17 biennium; and \$89,084 Other Funds and 1 positions (0.25 FTE) for the 2019-21 biennium. Passage of this bill is anticipated to increase the need for DOJ's Civil Enforcement Division services to train caseworkers and certifiers on the new legal standard of abuse, advise and represent DHS in the preparation and adoption of administrative rules, as well as the handling of contested case proceedings, child protective services investigations, confidentiality laws, and release of records. In order to handle this anticipated increase in workload, DOJ anticipates establishing one permanent part-time Assistant Attorney General position (0.38 FTE for the 2017-19 biennium and 0.25 FTE for the 2019-17 biennium) to provide continuing support to DHS. These legal service charges would be billed to DHS, and are reflected in fiscal impact statement for DHS above. DOJ would have a minimal fiscal impact related to Department of Administrative Services Risk Management claims.

Department of Administrative Services (DAS)

The fiscal impact of this bill on the Department of Administrative Services Risk Management is indeterminate but expected to be minimal. With additional oversight over certified foster homes and developmental disabilities residential facilities, the bill has the potential to increase the risk of a state employee being charged with official misconduct in the second degree (a Class C misdemeanor). State employees are eligible for legal expenses coverage under the state's Criminal Tort Equivalent Coverage policy. At this time, the number of circumstances under which an employee might seek, and is granted, coverage cannot be predicted. As a point of reference, the state's Criminal Tort Equivalent Coverage policy allows an employee's legal expenses be covered, up to \$15,000 for a Class C misdemeanor.