

February 5, 2020

Senator Sara Gelsler, Chair
Senate Committee on Human Services
900 Court St. NE, S-405
Salem, Oregon 97301

Senator Dallas Heard, Vice Chair
Senate Committee on Human Services
900 Court St. NE, S-315
Salem, Oregon 97301

Via e-mail: Sen.SaraGelsler@oregonlegislature.gov, Sen.DallasHeard@oregonlegislature.gov

RE: Written Testimony Regarding SB 1566 – Modifying Oregon Promise Program

Chair Gelsler, Vice-Chair Heard:

I would like to offer written testimony in support of Senate Bill 1566 on behalf of Disability Rights Oregon. Disability Rights Oregon is a nonprofit organization that protects the rights of people with disabilities throughout the state.

Over the past decade, the number of family placements for foster children has steadily declined. As the state has allowed these services to dwindle, it has increasingly turned to non-family based services, including hotels, detention centers, and out-of-state placements to house foster children. As the Oregon Department of Human Services has reported, “sending children out of state prove[s] our system is broken. . . .”¹

The gaps in the foster care system have particularly harmed children with disabilities. Children in the foster care system are far more likely to have disabilities than other children.² Sometimes foster children have disabilities, like traumatic brain injuries or emotional

¹ Or. Dep’t Hum. Servs. & Or. Health Auth., *Oregon’s Child, Youth, and Family Continuum of Care*, March 6, 2018, at 17, available at <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/DD/PROVIDERS-PARTNERS/EngagementInnovation/oha-dhs-continuum-care-proposal.pdf>.

² Oregon has estimated that “up to 80 percent of children in foster care have significant mental health issues.” *Id.* at 5. Another study reports that about 32% of foster youth have documented disabilities. Elspeth Slayter, *Youth with Disabilities in the United States Child Welfare System*, 64 CHILDREN & YOUTH SERVS. R. 155 (May 2016).

disabilities, as a result of the abuse or neglect that resulted in their placement in the system. Sometimes foster children have disabilities as a result of the traumas experienced within the foster care system. Once in the foster care system, children with disabilities are “more likely to be placed in group homes or residential treatment facilities than family foster care, decreasing their opportunities for permanency or adoption.”³ Children with disabilities are significantly less likely to live in kinship foster care.⁴ As a result, the vast majority of Oregon children placed out of state have some kind of disability.

Section 7 of SB 1566 would increase the required scrutiny of these out-of-state placements and increase ongoing supervision of children in out-of-state placements. DRO welcomes this important policy change. Many of the out-of-state placements selected by the Oregon Department of Human Services had demonstrable, easily discovered systemic problems. Had someone from DHS conducted a reasonable review of the facilities they chose to send Oregon children to, it might have prevented Oregon children from suffering in obviously inappropriate settings.

At one point last year, DHS had placed the largest number of out-of-state Oregon children at the Red Rock facility in Utah. Review of Utah’s online public licensing database⁵ would have revealed that on March 31, 2016, the Utah Department of Human Services had placed Red Rock on “Conditional Status,” a sort of probationary status for the license of the facility. Utah based its action on several founded complaints, including failure to report two incidents of child abuse, failing to conduct required criminal background checks on 18 of 34 employees, and a finding of multiple “failure to protect” violations against the director of the facility, relating to a resident with multiple prior findings of sexual misconduct having improper access to other residents. This probationary status continued until October 2016. Despite a prominent red flag in Red Rock’s regulatory history, Oregon DHS chose to send children there and repeatedly re-affirmed its decision to do so for months.

Oregon also failed to monitor the conditions at Red Rock during the time Oregon youth lived there. Public records show that police officers were called to Red Rock 200 times since 2014, prior to its closure in August 2019.⁶ Ten staff at Red Rock were charged with child abuse

³ University of Minnesota, *CW 360: The Intersection of Child Welfare and Disability: Focus on Children* (Spring 2013) available at http://cascw.umn.edu/wp-content/uploads/2013/12/Spring2013_360_web-FINAL.pdf.

⁴ Elspeth Slayter, *Youth with Disabilities in the United States Child Welfare System*, 64 CHILDREN & YOUTH SERVS. R. 155 (May 2016).

⁵ The list of agency actions by the Utah Department of Human Services is readily available. <https://hslic.utah.gov/notices-of-agency-action>

⁶ Jessica Miller, *Foster Boy Sues Oregon Officials who Sent Him to Red Rock Canyon School in St. George*, Salt Lake Tribune, Nov. 21, 2019, available at <https://www.sltrib.com/news/2019/11/21/an-oregon-foster-boy/>.

offenses between 2017 and 2019.⁷ In January 2019, two staff allegedly dragged a girl by her hair into a bathroom and beat her, reportedly over the theft of a snack.⁸ Those two staff were then charged with misdemeanor assault, later admitting to the offense.⁹ Other atrocious stories of physical and sexual abuse have continued to revolve around the shuttered facility.¹⁰ Oregon DHS did not maintain adequate direct visitation of the site, nor ongoing assessment of the legal and regulatory events affecting the school.

Utah's same easily-accessible records system also reveals that another for-profit facility, the Provo Canyon School run by UHS, had likewise had recent serious regulatory problems. A December 17, 2015 letter likewise put the facility on Conditional licensing status for not maintaining regular background screenings, that the facility had not used appropriate techniques in crises, had not properly reported restraints or seclusions of residents, had twice injured residents by using inappropriate force, and using locking seclusion rooms.¹¹ The Conditional status remained in place until October 2016.¹²

These problems were not isolated to Utah facilities. Public records requests to different states where private facilities hold Oregon foster youth yielded substantial records of abuse, neglect, and maltreatment of youth both in the years immediately before and during the confinement of Oregon youth out of state.

While Oregon youth were detained at Clarinda Academy in Iowa, authorities investigated serious allegations of gratuitous assaults by staff on 8 youths who had eloped from the facility. A state reviewer recommended that Iowa put Clarinda Academy's license on probationary status from August to September 2018. The recommendation was adopted by the head of Iowa's Division of Adult, Children, and Family Services. This followed a founded incident of abuse in 2015 at Clarinda, where a youth was injured in a restraint by a staff member who had been disciplined in 2013 and 2014 for improper restraints. Clarinda Academy was required to renew its license annually instead of once every three years as a result of the 2015 incident. Although obtaining these records required a public records request, many of

⁷ *Id.*

⁸ Jessica Miller, *Since 2017, Police Have Been Called to Red Rock Canyon School in St. George 72 Times, Often for Child Abuse Complaints*, Salt Lake Tribune, Jun. 23, 2019, available at <https://www.sltrib.com/news/2019/06/23/heres-look-s-violent/>

⁹ Jessica Miller, *Charges Dropped Against Ex-Red Rock Canyon School Employee Accused of Child Abuse*, Salt Lake Tribune, Jan. 8, 2020, available at <https://www.sltrib.com/news/2020/01/08/charges-dropped-against/>

¹⁰ Jessica Miller, *Police Say a Staffer at This Utah School for Troubled Youth Fathered a Child with a Former Student*, Salt Lake Tribune, Oct. 1, 2019, available at https://www.sltrib.com/news/2019/10/01/police-say-staffer-this/?fbclid=IwAR1Xvirv2bLsaLjuGnwjhcXj_E1kvbb3jmJZnvk5OO7HWd-s4ISB3jp1oPo

¹¹ Utah Dep't of Hum. Servs., Dec. 17, 2015 Letter to UHS of Provo Canyon / Provo Canyon School, at <https://hslic.utah.gov/notices-of-agency-action>

¹² *Id.*

the difficulties of the facility were also extensively covered in the media from 2014 to 2018.¹³ The media reports were accessible by anyone searching the internet for the name of the school. Oregon no longer houses children at Clarinda, though it does house children at Forest Ridge Academy nearby, run by the same organization.

Oregon DHS also sent Oregon children to three Michigan facilities: Detroit Capstone, Lakeside Academy, and Starr Commonwealth. Michigan authorities repeatedly put Detroit Capstone on provisional licensure status, in February 2014, in 2015, in July 2016, and again in July 2017 for repeated violations of basic licensing requirements and staff violence towards children. Over that time, the facility had to submit dozens of plans of correction. A 2016 renewal of Capstone's provisional license notes multiple substantiated staff assaults, including allegations of staff choking a child and biting his finger, an attack that left a child with marks on his face and scratches on his neck, and an improper restraint that resulted in injury to a child. The 2017 renewal reports a substantiated claim of staff having sex with a recently released youth and a substantiated claim of physical abuse, for staff punching a child in the head. As of January 2020, Oregon no longer has any youth at Detroit Capstone, but a more substantial investigation of Capstone's regulatory problems might have caused Oregon DHS to reconsider sending youth there in the first place.

Oregon continues to place children at Starr Commonwealth and Lakeside Academy, who also have significant regulatory red flags. Michigan investigated Lakeside Academy more than 20 times from 2016 to 2019. Michigan found that Lakeside staff inappropriately put a youth in physical holds four times in June 2018, each time using either excessive force or using the hold inappropriately. Michigan also repeatedly found that Lakeside was understaffed on multiple occasions. It further found on multiple occasions that staff repeatedly provoked, cursed at, and taunted youth, rather than de-escalating crises with youth. Media reports indicate that police were called to Lakeside 78 times in 2018 and 2019, including for 7 reports of child abuse and neglect, 16 reports of assaults, and 15 reports of sexual assault.¹⁴ Michigan's

¹³ Lee Rood, *Police Reports Detail Fights, Sex Crimes at Iowa Academy for Troubled Youth*, Des Moines Register, Nov. 26, 2018, available at <https://www.desmoinesregister.com/story/news/investigations/readers-watchdog/2018/11/26/clarinda-academy-iowa-begins-probe-fights-sex-crimes-found/2057894002/>; Mackenzie Ryan, *Felony Charge Dismissed, Teacher Keeps License*, Des Moines Register, Feb. 27, 2018, available at <https://www.desmoinesregister.com/story/news/education/2018/02/27/former-clarinda-academy-teacher-keeps-license-after-sexual-exploitation-charge-dismissed/363665002/>; Jason Clayworth, *17 Iowa Child Sex Offenders who Avoided Prison Despite State Law*, Des Moines Register, Feb. 6, 2017, available at <https://www.desmoinesregister.com/story/news/investigations/2017/02/06/17-iowa-child-sex-offenders-who-should-have-gone-prison-under-state-law/97399460/>; Clark Kauffman, *Clarinda Academy Treatment Criticized*, Des Moines Register, Aug. 16, 2014 available at <https://www.desmoinesregister.com/story/news/investigations/2014/08/16/clarinda-academy-treatment-criticized/14151963/>.

¹⁴ Tom Scheck & Curtis Gilbert, *Minnesota County Sending At-Risk Kids to Other States Despite Concerns about Care*, American Public Media, Aug. 23, 2019, available at

investigations of Starr Commonwealth found five different inappropriate restraints of youth by staff from November 2017 to April 2019, including one that resulted in a broken finger to the youth. Starr Commonwealth staff were also implicated in sending youth sexually explicit letters and in providing them with liquid THC during the same time period. Oregon continues to hold foster children at both Starr Commonwealth and Lakeside.

Arkansas authorities investigated large numbers of staff assaults at the Millcreek facility. Just in the calendar year 2018, Arkansas authorities reviewed twelve staff assault allegations at the site, not including those that resulted in an unfounded conclusion. In one case, a youth presented at the hospital with a broken jaw, alleged by staff to have occurred in a “fall.” Once medical authorities examined the injury and determined it was inconsistent with a fall, authorities discovered a staffer had come in on his day off and punched the child in the face. Another report alleged a staff dragged a youth by her hair across the floor and grabbed her by the throat. Five of the twelve reports indicated the assaults resulted in termination of staff, and a sixth staffer quit. The remaining six reports state that the accused staff were put on leave without describing any formal determination. Oregon DHS continued to house youth at the Millcreek facility through at least August 2019.

During the last three years, multiple sites formerly holding Oregon foster children have closed in the wake of serious criticism or scandal. Acadia Montana, Red Rock in Utah, Mount Pleasant in Utah, Kingston Academy in Tennessee, and Resource Residential Treatment in Indiana have all closed in the last 15 months. At some point, Oregon committed our foster children to each of those facilities. The placement of youth at troubled facilities is a natural consequence of not inquiring into whether those facilities are appropriate.

DHS officials appear to have relied solely on whether these facilities were licensed in their home states when sending Oregon youth out of state. Even basic review of media coverage or easily accessed public records would have revealed serious troubles at many of these sites. SB 1566 is an important step to restoring accountability for and adequate supervision over out-of-state placements. Particularly, SB 1566 requires an out-of-state facility to make reports to Oregon regarding founded charges of abuse and neglect and requiring the facility to report changes to licensure status will be important reforms. Likewise, the bill requires DHS to report out any substantiated allegations of abuse or neglect to the legislature.

Increased supervision of the operation of out-of-state facilities is essential, since many of these facilities routinely do not serve any children coming from the state in which the facility is. Regardless of whether this is a calculated choice, the net effect is that the state where the

<https://www.apmreports.org/story/2019/08/23/hennepin-county-law-breaking-youth-increasingly-sent-out-of-state>.

facility is located has no local constituency to advocate for the children's rights, while many in-state jobs depend on the continued operation of the facility. The effect is disastrous for the rights of vulnerable children.

The bill also would substantially improve the rights of foster children in other ways, such as by requiring greater scrutiny of whether out-of-state placement is appropriate and whether in-state services should be preferred, prohibiting chemical and mechanical restraints on children wherever they go, and otherwise requiring the facility to meet the same regulatory standards required as if the facility were located in Oregon.

Oregon foster children need better protections, better supports, and services designed to get them into a family-like home. Shipping Oregon children hundreds or thousands of miles away to flawed and troubled facilities furthers no one's interests except the for-profit corporations who have monetized our children. If Oregon does not maintain its own standards for its own children, the foster care system will see a race to the bottom, as for-profit groups rush to find the states with the lowest standards for residential placements.

Disability Rights Oregon supports SB 1566. Although it is not a comprehensive fix for the many problems facing the child welfare system in Oregon, it is a vitally necessary step. I urge the committee to recommend the passage of SB 1566.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Cornett". The signature is fluid and cursive, with a large initial "J" and "C".

Jake Cornett
Executive Director
Disability Rights Oregon