



Disability Rights Oregon

TO: Senate Committee on Human Services
FROM: Disability Rights Oregon
DATE: February 7, 2024
RE: **SB 1521 - Support**

Chair Gelser Blouin, Vice-Chair Robinson, and Members of the Committee,

My name is Tom Stenson, I am the Deputy Legal Director for Disability Rights Oregon. Disability Rights Oregon wants to thank Chair Gelser Blouin for bringing forward this important piece of legislation. Currently, people with disabilities living in residential placements do not receive the services they need because the place where they live is insufficiently staffed. Further, too many children experience abuse and maltreatment in sites where that maltreatment goes uninvestigated because of loopholes in the definitions of sites that the state will scrutinize.

Providing Appropriate Staffing Levels is Essential to Ensuring the Success of People with Disabilities

Section 1 of SB 1521 would require that all DHS-regulated facilities under Chapter 443 maintain adequate staffing, using an appropriate acuity-based staffing tool to assess how many staff are needed to support a resident's needs. The section goes on to explain how DHS should respond to various scenarios: an inadequately staffed facility that doesn't use the acuity-based staffing tool; the inadequately staffed facility that uses the tool but still doesn't maintain adequate staff; or the inadequately staffed facility that uses a tool inappropriately. The statutory changes would provide further teeth to ensure that facilities that are inadequately staffed actually change their patterns of behavior and that people with disabilities get the services they need.

Inadequate or half-hearted enforcement of the staffing requirements for residential facilities does not protect people with disabilities, nor ensure that appropriate care is provided. Adequate staffing is essential for obtaining the benefits of these supports for people with disabilities. Adequate staffing is also essential for maintaining safety for residents, staff, and the community. Adequate staffing requirements also ensure that Oregon taxpayers get the services they are paying for.

Closing Loopholes in the Definition of "Child in Care" Is Essential to Ensure that Youth Are Not Being Abused in State Custody and Care

DRO has a special role in investigating abuse of people with disabilities, including youth in state custody or care. Too often, we find that agencies tasked with investigating abuse, like the Office of Training, Investigations, and Safety (OTIS), have to navigate a complex web of regulatory language just to find out if they are *allowed* to investigate abuse of children in state care. Too often, we find that the answer to that question is “no.”

Each time Oregon finds itself struggling to identify appropriate placements for children in care, it picks unorthodox and inappropriate sites, whether that outcome is an out-of-state, for-profit congregate care facility or hotel rooms and AirBnBs. One of the side effects of selecting these inappropriate sites is that, in many cases, no one has described how or under what conditions those sites should be regulated or how abuse allegations should be investigated in those sites. The gap in the law is not because legislators intended that those sites should not be scrutinized, but because the legislature never intended that youth should be housed in those sites at all. Paradoxically, the youth in the most precarious situations who most need regulatory scrutiny of such placements for safety and appropriate care receive the least scrutiny.

At DRO, we have been engaged in a long-term project to monitor these unorthodox placements. In recent years, DHS has increasingly moved from placing youth with its own staff in hotel rooms to using contractors to stay with youth in semi-permanent facilities. These facilities are often rented out as AirBnBs, but for whom Oregon DHS is the only customer. These sites function as foster care facilities, but are not technically defined as “child caring agencies [CCA]” because of how their contracts are structured.

Gaps in the law mean allegations of abuse at these sites go uninvestigated. For instance, on numerous occasions in 2022, an employee at one of these sites was alleged to have used excessive, inappropriate, or unnecessary force on a child. When OTIS received one report (that a staffer continued using restraints on a child after being advised not to do so), OTIS could not investigate, because “the program is not a licensed CCA, [so] wrongful restraint allegations could not be considered.” A similar report received by OTIS was also screened out—meaning a full investigation did not take place—because the program “is not a CCA or other program that is overseen by a regulatory agency.” A third, fourth, and fifth such report similarly were rejected—not for lack of merit, but because the program “is a contracted service and not a licensed CCA,” meaning that OTIS could not investigate whether holds used were appropriate or inappropriate. A contractual program that is not licensed or overseen by any agency should receive more scrutiny, not less, when it uses force against youth in Oregon’s care. Yet loopholes in Oregon law prevent OTIS and other authorities from appropriately investigating these matters, needlessly exposing youth to inappropriate holds and restraints—even when repeated such complaints occur again and again.

Bona fide allegations of abuse against youth in Oregon’s custody and care should be fully investigated, regardless of how contracts are structured. SB 1521 provides an improved catch-all definition to ensure that abuse of youth by providers will be investigated.

About Disability Rights Oregon

Since 1977 Disability Rights Oregon has been the State's Protection and Advocacy System.¹ We are authorized by Congress to protect, advocate, and enforce the rights of people with disabilities under the U.S. Constitution and Federal and State laws, investigate abuse and neglect of people with disabilities, and "pursue administrative, legal, and other appropriate remedies".² We are also mandated to "educate policymakers" on matters related to people with disabilities.³

If you have any questions regarding DRO's position on this legislation, please call Ben Gurewitz at 971-806-7908 or email him at bgurewitz@droregon.org.

¹ See ORS 192.517.

² See 42 U.S.C. § 15041 et seq; 42 U.S.C. § 10801 et seq.

³ See 42 U.S. Code § 15043(a)(2)(L).