



LC 266: FAMILY JUSTICE & CHILD WELFARE REFORM WORK GROUP

WEDNESDAY, JANUARY 14,
HOUSE COMMITTEE ON EARLY CHILDHOOD & HUMAN SERVICES

OFFICE OF REPRESENTATIVE ANNESSA HARTMAN, HD 40

AGENDA

- 1. Background on the Work Group**
- 2. Issues Identified by the Work Group**
- 3. Policy #1: Threatened Harm**
- 4. Policy #2: Substantiation Standard**
- 5. Policies #3 & #4: Investigations of Third-Parties**



SECTION 1:
BACKGROUND ON THE
WORK GROUP



WORK GROUP DEVELOPMENT

Chair Hartman convened the Work Group to support the Committee's oversight of Child Welfare and family justice and dependency systems, with the goals of:

- Building upon unresolved issues identified over the past three years, and
- Developing implementation-ready legislation for the 2026 Session without the need for additional funding.

We began with individual meetings with stakeholders to identify the issues most important to them and feasible for the Short Session.

The full Work Group has since convened seven times, with two additional meetings scheduled before session. Beginning with a broad review, the Work Group has narrowed its focus to four issues addressed by LC 266



WORK GROUP MEMBERSHIP HAS INCLUDED:

- Legislators: Rep. Hartman (Chair), Rep. Scharf, Rep. Chotzen, Rep. Walters
- DHS Representatives
 - Child Welfare Leadership
 - OTIS
- Youth, Rights & Justice
- Disability Rights Oregon
- Oregon Association of Chiefs of Police
- Project Family First
- OJD Representatives & Family Law Judges
- Prevent Child Abuse Oregon
- Oregon Child Abuse Solutions
- Oregon Criminal Defense Lawyers Association
- Sexual Assault Task Force
- Oregon Coalition Against Domestic and Sexual Violence
- Oregon Law Center
- Greater Oregon Behavioral Health Inc.
- Oregon District Attorneys Association



SECTION 2:
ISSUES IDENTIFIED BY
THE WORK GROUP



OREGON'S CHILD WELFARE SYSTEM IS UNDER STRAIN

99.9

referrals per 1,000 children
National: 70.5

48%

of reports screened in
National: 33%

21.5%

assessments substantiated
National: 16%

45.8%

CPS assessments overdue
as of Oct 2025

DECISION QUALITY & FAIRNESS

- Vague statutory standards for child abuse
- High subjectivity and inconsistency
- Disproportionate harm to domestic violence survivors, people with disabilities, families of color, and working families
- Weak determinations of child abuse that can be difficult to sustain on review or in court

SCOPE & CAPACITY

- CPS is required to investigate people it cannot regulate or support
- Thousands of investigations with no caregiving nexus
- Missed timelines and diluted attention to serious caregiving risk

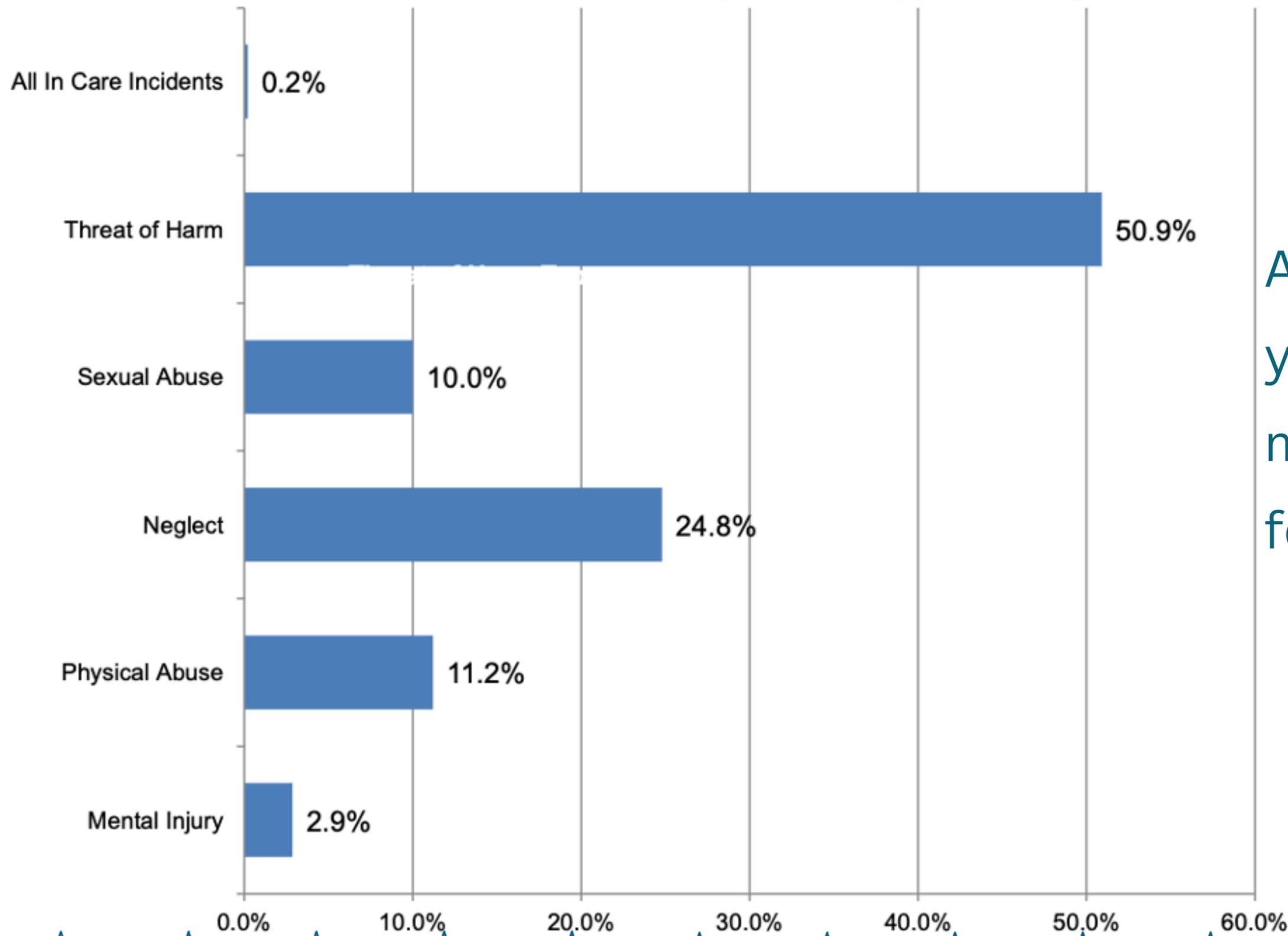


POLICY #1

**REFINING “THREATENED HARM” AS
A CHILD ABUSE CATEGORY**



Percent of Incidents of Child Abuse by Abuse Type during FFY 2024



After growing steadily for years, “threat of harm” now makes up over half of founded incidents of abuse.



It also now makes up the highest percentage of overturned dispositions. Overturning dispositions can be very difficult for parents, due to complexity of the review process, short deadlines, and more.

Table 14: Number & Percentage of Abuse Types of the Dispositions Overturned or Changed by Central Office, by Year

Abuse type	2020	2021	2022	2023	2024	Total	Abuse type	2020	2021	2022	2023	2024	Total
Mental Injury	7	5	3	6	11	32	Mental Injury	4%	5%	3%	7%	13%	6%
Neglect	91	32	37	24	21	205	Neglect	57%	33%	35%	29%	26%	39%
Physical Abuse	11	7	6	6	6	36	Physical Abuse	7%	7%	6%	7%	7%	7%
Sexual Abuse	7	8	15	7	8	45	Sexual Abuse	4%	8%	14%	8%	10%	9%
Threat of Harm	43	44	33	38	31	189	Threat of Harm	27%	46%	31%	46%	38%	36%
Involuntary Seclusion CIC					1	1	Involuntary Seclusion CIC	0%	0%	0%	0%	1%	0.2%
Neglect CIC			3	1	1	5	Neglect CIC	0%	0%	3%	1%	1%	1%
Physical Abuse CIC			7		2	9	Physical Abuse CIC	0%	0%	7%	0%	2%	2%
Verbal Abuse CIC			1	1	1	3	Verbal Abuse CIC	0%	0%	1%	1%	1%	1%
Total	159	96	105	83	82	525	Total	100%	100%	100%	100%	100%	100%

Source: Central Office Founded Disposition Review Results Data, Statewide, Jan. 2020 – Sept. 2024



THREATENED HARM ORS 419B.005(1)(A)(G):

“Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child’s health or welfare.”

VAGUE STANDARD

Substantial risk of any harm



RESULT

Subjective interpretation

Same facts, different outcomes: One worker may substantiate based on parental substance use or poverty; another might screen out identical facts.

The Disparity Evidence

Black and Native American children are substantiated at far higher rates than white children, despite similar maltreatment rates.

Who Bears the Cost?

Survivors of domestic violence

Penalized for their abuser's behavior

People with disabilities

Accommodation needs misread as risk

Families of color

Cultural practices viewed as unsafe

Working families in poverty

Poverty conflated with neglect when families need support



HOW OTHER STATES ADDRESS THIS ISSUE

- Washington defines “negligent treatment” to include exposing a child to a risk of harm, but requires that the risk be “clearly imminent and substantial.”
- Idaho, Iowa, Oklahoma, and Minnesota treat “threatened harm” as a risk factor guiding service referrals, not a separate abuse type.



THREATENED HARM IN LC 266 (SEC 1-2, P.3,7):

Threatened harm to a child, which means subjecting a child to an **imminent** risk of **severe** harm, as defined in ORS 419B.150, to the child's health or welfare.

DEFINING IMMINENCE & SEVERITY

OAR 413-015-0425 **Imminent**: The family behavior, condition, or circumstance is likely to occur in the immediate to near future.

ORS 419B.150 **Severe harm**: (a) Life-threatening damage; or (b) Significant or acute injury to a person's physical, sexual, or psychological functioning.



POLICY #2

**MATCHING THE STANDARD FOR ABUSE
SUBSTANTIATIONS TO SERVICE PROVISION**



SUBSTANTIATION DETERMINES LIFELONG CONSEQUENCES

YET OREGON USES THE LOWEST EVIDENTIARY STANDARD IN THE NATION

- Child abuse reports that DHS investigates must result in a determination that the report was founded, unfounded, or unable to determine.
- Findings of child abuse influence future DHS decisions; prior reports (even unsubstantiated) increase the likelihood of future substantiation.
- Substantiated findings also appear on child abuse background checks, and can affect employment, childcare licensing, foster care certification, school volunteering, and even custody decisions.
- Oregon substantiates 21.47% of assessments (national average \approx 16%)



WHAT DOES A SUBSTANTIATION ACTUALLY DO?

FFY 2024 OUTCOMES

71.8%

of children in founded abuse cases remained in their homes with no court-mandated services

83.8%

remained at home

11.9%

remained home with safety plan

A founded disposition does NOT necessarily mean:

- There is enough evidence to require services
- The child is safer
- The family engages in services

What it DOES mean:

- Parents are labeled as child abusers for up to 30 years
- Barriers to employment, licensing, foster certification
- Increased scrutiny in future reports



THE SUBSTANTIATION STANDARD DISCONNECT

To Substantiate for Child Abuse

Reasonable Cause to Believe

A reasonable person could believe abuse occurred

Limited, incomplete, or circumstantial evidence allowed

Same standard used to screen in cases to begin with

To Obtain Court Jurisdiction / Require Services

Preponderance of the Evidence

More than 50% likelihood + weighing of the factors in support and against

Used by 36 states for substantiation

The Critical Question

If the evidence is not strong enough to require services or sustain court review...

Why should it be strong enough to label someone a child abuser for 30 years?



CHILD ABUSE SUBSTANTIATION STANDARDS

REASONABLE CAUSE TO BELIEVE

A reasonable person could believe abuse occurred, allows limited, incomplete, or circumstantial evidence.

CREDIBLE EVIDENCE

Specific and reliable facts supporting abuse.

PREPONDERANCE OF THE EVIDENCE

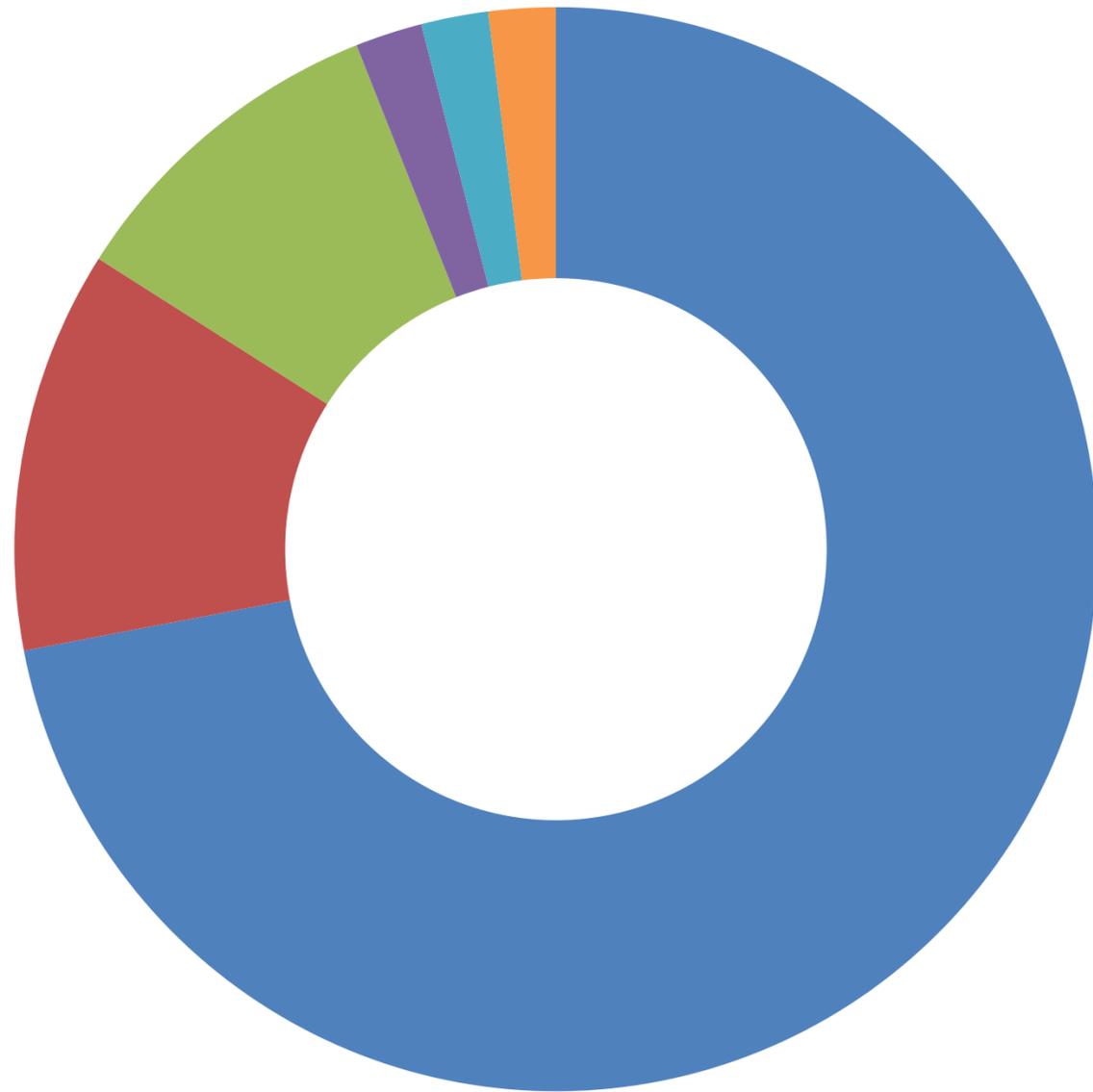
More than 50% likelihood and a weighing of the factors in support and against; most common.

CLEAR & CONVINCING

Strong, convincing evidence; high burden.
Required for ICWA cases



OTHER STATES' SUBSTANTIATION STANDARDS



Preponderance of the evidence	36
Reasonable cause to believe	6
Credible evidence	5
Substantial evidence	1
Credible evidence + reasonable cause to believe	1
Preponderance of credible evidence	1

Recent Movement Toward Preponderance

New York (2022): Raised from some credible evidence to preponderance after litigation documented due process violations and racial disparities

Arizona (2024): Raised from probable cause to preponderance, citing the need for clear, fair decisions

Vermont (2024): Replaced reasonable person test with preponderance to address disproportionate impact on families in poverty



LC 266 SOLUTION: RAISE THE STANDARD TO PREPONDERANCE OF THE EVIDENCE

“A report of child abuse is founded when, by a preponderance of the evidence, the abuse of the child occurred.”



POLICIES #3 & 4:
THIRD-PARTY
INVESTIGATIONS



OREGON'S UNIQUE REQUIREMENT

Unlike most states in our research, ORS 419B.005 does not specify that child abuse only occurs where there is a caregiving nexus.

The Core Problem

Oregon law requires DHS to investigate and make findings about people CPS has no authority to:

Require participation in services from

Monitor for compliance

Support through child welfare services

What This Means in Practice

DHS must investigate even when law enforcement is the appropriate responder

Must make a founded/unfounded disposition even with no ability to address the perpetrator

Creates registry entries that serve no child protection purpose

Who This Captures

Adults: Strangers, non-household members, perpetrators of drive-by shootings, internet crimes, random assaults

Minors: Children with harmful behaviors who need treatment, fights and domestic violence between minors, gang violence

Historical Context

Until 2021, DHS had discretion over who was assessed. SB 155 (2019) required DHS to investigate all reports not investigated by law enforcement, expanding CPS scope dramatically.



IMPACTS OF THIS REQUIREMENT

48%

reports screened in
vs. 33% national average

5-10%

of assessments involve
non-caregiver perpetrators

~3,500

additional investigations/year
from minor perpetrators alone

45.8%

CPS assessments overdue
as of Oct 2025

Consequences - Adult Third Parties

Duplicative investigations with law enforcement

Staff uncertainty about roles and responsibilities

Resources diverted from cases CPS can actually help

Consequences - Minor Third Parties

Children labeled as abusers for up to 30 years

No Differential Response available

No distinction between developmentally expected
behavior and coercive or severe conduct

Treatment needs addressed through punishment, not
support

RESEARCH ON CHILDREN WITH HARMFUL SEXUAL BEHAVIORS

What Works

Family-based, voluntary treatment produces excellent outcomes. Multisystemic Therapy and similar approaches that address the family system

What Causes Harm

Labeling minors as abusers has no effect on recidivism

Registration increases suicide risk by 4x

Creates lifelong barriers without improving safety

KEY FINDING

95-97%

of youth with sexual offenses
never re-offend

With family-based treatment,
reoffense rates drop to 2-3%

Professional Consensus

Organizations opposed to juvenile registration: American Academy of Child and Adolescent Psychiatry, Association for Treatment of Sexual Abusers, Human Rights Watch, National Juvenile Defender Center



LC 266 SOLUTION: REQUIRE A CAREGIVING NEXUS FOR ADULTS AND ALLOW AN ALTERNATIVE RESPONSE FOR MINORS

HB 4086 JAC Recommendation (p. 36)

"Children who are reported for abuse be screened as part of a family system in which there needs to be an assessment regarding the parents' ability to supervise and protect the other children in the home, as well as secure appropriate services to address the issues."

POLICY 3: ADULT THIRD PARTIES

Limits CPS jurisdiction to persons responsible for the child's welfare

Parents, guardians, caregivers, those in positions of trust
Refers actions by other individuals to law enforcement

POLICY 4: MINOR THIRD PARTIES

Allows CPS to assess children without making a determination of whether child abuse occurred

Focus on parental supervision and access to services
Exceptions for minors in caretaking roles and trafficking

What These Changes Accomplish

Focuses CPS on cases where it can take action.
Eliminate duplicative investigations with law enforcement.

Connects families with treatment instead of labeling children.
Aligns Oregon with national standards and research.



HOW THE PIECES FIT TOGETHER

The Core Principle

CPS investigations exist to ensure children can safely remain with their families. Labeling a person a child abuser should reflect real risks that CPS can actually address.

POLICY 1

Threatened Harm

Focus on imminent, severe risk

POLICY 2

Substantiation

Match evidence to consequences

POLICIES 3 & 4

Third-Party Investigations

Require caregiving nexus for CPS jurisdiction

Together, These Reforms Aim to:

Focus resources on cases CPS can actually help.
Align Oregon with national best practices.

Reduce subjectivity in decision-making.
Address disparate outcomes for vulnerable families.



THANK YOU!



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