

Chair Bowman, vice-chairs and members,

My name is Annette Smith, and I am a dependency attorney representing children or their parent in child welfare proceedings. I have spent the last 14 years representing foster children both in private practice and as a full-time public defender. I am also a law professor teaching Children and the Law at the University of Oregon School of Law for the past couple of years. These comments are my own, and not on behalf of any organization or institution. I have represented hundreds of children, some of whom have been placed in congregate care in and out of Oregon. In addition to my full-time job as a public defender, and my part-time job as a law professor, I am also a national advocate for children's rights and safety as it pertains to institutional placements for our most vulnerable youth. I helped advocate for passage of the Stop Institutional Child Abuse Act in Washington D.C., which was signed into law in last year. I have met hundreds of survivors of institutional child abuse, and their families through this work. I have also personally visited children placed in facilities ranging from BRS placements (Behavioral Rehabilitation Services), QRTP placements (Qualified Residential Treatment Placements), hospitals, the SACU (Stabilization and Crisis Unit), and Sub-Acute settings.

My experience representing children in these places informs my perspective, and the things that I have personally seen while visiting these facilities highlights the need for oversight of such programs. I understand that there are many children in need of placement, and in need of highly skilled mental health care. I represent children that cannot safely remain in their homes with their families, for their own safety and the safety of others. However, the desperation for services cannot drive policy that allows unqualified and dangerous placements like those seen when Oregon was sending children out-of-state to places in Utah, Michigan, Texas, Montana, and others. It is absolutely imperative that Oregon develop quality programs within our own state.

Sending kids out of state decreases their natural supports, the supervision level provided on the case, and the child's connection to their community. "Out of sight, out of mind" is more than a catchy phrase, but the best way to describe the situation when kids are warehoused in facilities far away. It also creates undue burdens on bringing kids home when things are not going well, because to do so requires so much more coordination, time and resources. It places children at risk because their families and their attorneys are not able to quickly access them, and ensure their safety.

When I have a child placed out of state, I have to find several days on my calendar where I am available for travel. I have to apply for Non-Routine Expenses to the Oregon Public Defense Commission, and wait for approval. I then have to book air travel through Corporate Travel Management, and then pay for a rental car and hotel myself, which I can submit later for reimbursement. The process of applying for funding, finding time to travel, booking tickets and going can take several weeks. If I had a child placed anywhere in Oregon, I could simply drive to the facility and submit mileage later. It is still time consuming, but much more manageable and faster.

When kids are kept close to home, supportive family members or advocates can observe their children in person, rather than by phone or through video chats. I have personally observed clients in conditions that raised alarm bells for me including a girl with dilated pupils, a boy with shocking weight loss, kids with new facial ticks or stress-responses. I once observed a teenager to have a broken foot that was only wrapped in an ace bandage while he waited weeks for an appropriate referral to an orthopedist. I have observed conditions that lead me to advocate for more immediate medical attention. These types of things are harder to catch when kids are placed far from home.

It is also important that children's attorneys have access to our clients, because it is not enough for OTIS to oversee complaints alone. I have personally reported several incidences to OTIS who investigated and found no wrongdoing where a judge has made a finding of "not in the child's best interest" to remain placed in a particular facility. In another instance, a client reported being placed in a violent hold involving more than half a dozen adults, but OTIS found no wrongdoing with the hold because while it was caught on camera, there were so many adults involved in the hold that the footage was difficult to see exactly what happened to the child during the restraint. His statements about how bad it hurt, that it restricted his breathing, or the marks it left on his body were apparently not enough. It is important that attorneys for children have access, as well as Protection and Advocacy agents such as those from Disability Rights Oregon.

I have so very much more to say about the risk of institutional placements, so I invite anyone with additional questions to contact me so we can discuss the extensive concerns raised by HB 3835. I urge you to vote no to protect Oregon youth.