TO: **Rep. Annessa Hartman, Chair**
Rep. Anna Scharf, Vice-Chair
Rep. Jules Walters, Vice-Chair
Members of the House Committee on Early Childhood and Human Services

FR: **Oregon District Attorney's Association**

RE: **OR District Attorneys Association Concerns – HB 4059**

February 5, 2026

Thank you for the opportunity to share the Oregon District Attorneys Association concerns with HB 4059. We want to thank staff and committee counsel for their facilitation of this important conversation during the interim and very much appreciate the Chair's objective with the policy. We have offered similar feedback over the past few months and in the workgroup process, however, we did feel it was important to reiterate specific concerns to HB 4059 as we continue to believe that as drafted the bill creates large gaps in the network of services protecting children from harm.

While many government actors and partner organizations have a role in protecting Oregon's children from harm, DHS and law enforcement are the primary responders to reports of child abuse. We are concerned that HB 4059 will significantly limit the scope of harm investigated by DHS, and the people who DHS may investigate, potentially leaving instances of child abuse uninvestigated and gaps in essential services unaddressed.

Our specific concerns are as follows:

1. **Section 1 of HB 4059 restricts the definition "Threat of Harm" to dramatically reduce the instances in which they can intervene in child abuse.**

HB 4059 proposes a definitional change to what constitutes a threat of harm that will limit DHS's existing authority to protect children from a wide range of harms. At present, "threatened harm" is defined as "subjecting a child to a substantial risk of harm to the child's health or welfare." HB 4059 redefines threat of harm to be "subjecting a child to an imminent

risk of severe harm," and defines "severe harm" as "significant or acute injury to a person's physical, sexual or psychological functioning."[1]

The definitional change not only raises the severity of harm required to be present for DHS intervention but creates the additional burden that the harm must be imminent for a report to be substantiated. For a threat to be "imminent" it has to be in the near future—a general threat without a timeline (express or implied) is not "imminent."[2]

As a result, under HB 4059, the following examples of abuse may not meet the definition of threatened harm due to the imminency requirement in (Section 1(1)(a)(G)):

- An adult threatening to withhold food or subject a child to physical or sexual abuse may be insufficient to allow DHS intervention if that threat is made without being clear that the harm will be perpetrated in the near future;
- A parent tells a child that poor grades on their next report card will result in being locked in the child's bedroom for three days without food.

HB 4059 also applies this heightened definition of harm to reports of potential abuse of a child.[3]

Another harm that does not fit into this proposed definition is children subjected to domestic violence. Unquestionably, living in a home with domestic violence harms children—children who witness domestic violence are 15 times more likely to be physically or sexually abused than the national average.[4] However, this particular category of harm does not fit into the new definition proposed in HB 4059. Accordingly, DHS would no longer have the authority to intervene in these cases. HB 4059 will severe another opportunity for intervention and access to resources for children living in a domestic violence situation.

2. Section 7 of HB 4059 will make it more difficult for DHS to involve themselves in a family by raising the standard for a founded accusation from needing "reasonable cause to believe the abuse occurred" to requiring "a preponderance of the evidence."

Increasing the standard of proof necessary for a "Founded" finding will introduce complication and reduce the number of children who are protected through various DHS actions. This change will also create those issues without increasing objectivity in findings. At present, OAR 413-015-1010 outlines three possible case dispositions that may result after assessment of an allegation of abuse.

Per the OAR, the allegation of abuse is:

1. "Unfounded" if there is "no evidence the abuse occurred,";

[1] Section 1(1)(a)(G).
[2] *M. A. B. v. Buell*, 366 Or 553, 560-62, 466 P3d 949, 954 (2020)
[3] Section 1(1)(a)(B).
[4] Olivia Harrison, The Long-Term Effects of Domestic Violence on Children, 41 CHILD. LEGAL RTS. J. 63 (2021).

2. "Unable to determine" if there is "some indication the abuse occurred, but there is insufficient evidence" for a founded finding; and
3. "Founded" if "there is reasonable cause to believe the abuse occurred."

The reasonable cause standard is defined as "a subjectively and objectively reasonable belief, given all of the circumstances and based on specific and articulable facts."[5] The current standard for a "founded" finding already requires that the finding be objectively reasonable—i.e., unbiased and not subjective. The changing of standards and definitions in HB 4059 does nothing to address bias and subjectivity—in fact it will introduce subjectivity into "unfounded" determinations. Rather than directly addressing subjectivity and bias, HB 4059 simply makes it more difficult for DHS to intervene to protect children, thereby preventing DHS from investigating, creating in-home plans, requiring parenting classes, and more. Concerns with subjectivity and bias are issues more appropriately addressed with assessment training and review.

HB 4059 also changes the standard for an "unfounded" determination to a preponderance of the evidence, undermining the value of the DHS determination that the abuse was "unfounded." At present, an "unfounded" determination carries significant weight because it means that there was no evidence of abuse and an allegation with that determination can be disregarded. However, if the standard is changed to a preponderance of the evidence, then an "unfounded" determination only means that the child was probably not abused—an unconvincing finding. A situation is which there is some evidence of abuse, but not enough for a "founded" finding should remain "unable to determine."

3. Section 4 of HB 4059 will prohibit DHS from investigating child abuse if the abuser falls outside of certain classifications.

Presently, DHS is empowered to investigate child abuse regardless of the status of the abuser or the role that the abuser plays in the child's life. HB 4059 omits neighbors, minor family members (siblings, cousins, etc.), classmates, and more.

By limiting DHS's ability to investigate child abuse based on the position of the abuser, HB 4059 deprives DHS of the ability to intervene in the child's life to keep them safe. Even if the abuse is occurring outside of the home, notifying parents or making changes within the home can help keep children safe. Additionally, while an abuser, like a neighbor, might not be a qualifying relationship for a particular child, they may be teacher at a nearby school, a coach, or a parent with access to other children or directly at risk in their own home.

Reducing DHS's ability to investigate child abuse based on the relationship that person has with the child will seriously undermine the safety of Oregon's children.

[5] *Calderon v. Or. Dep't of Hum. Servs.*, 330 Or App 24, 26, 543 P3d 126, 127 (2024).