

Abuse: Definitions, Dispositions, Investigations, and Records

The Department of Human Services (DHS) is charged with receiving, investigating, and responding to reports of abuse against children, as well as elderly adults and persons with disabilities in regulated care facilities. During the 2023 session, the legislature considered several bills that changed the definitions of what constitutes abuse and expanded or modified the powers and responsibilities of DHS when responding to reports of abuse.

Definitions

The legislature considered several bills that modified, updated, or aligned statutory definitions related to abuse for the purposes of investigations carried out by DHS. [Senate Bill 93](#) is an omnibus bill that makes several changes to the powers and responsibilities of DHS, particularly statutes regarding restraint and involuntary seclusion of children in the care of foster homes and regulated care facilities which were originally enacted by [Senate Bill 710](#) (2021). These include changing statutory definitions to align processes for investigating reports of abuse of children in care and expanding requirements for child-caring agencies to report on instances of the use of restraint and involuntary seclusion. The bill also adds additional professions to the list of mandatory reporters of child abuse, clarifies DHS’s role in juvenile dependency cases, and restores DHS’s authority to regulate certain types of community-based structured housing

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See the **2023 Legislative Summary Report for [Human Services](#)**, which highlights policy measures that received a public hearing during the Oregon’s 2023 Regular Legislative Session.

facilities not already regulated by the Oregon Health Authority.

Laws governing restraint and seclusion are different for public education providers than they are for other types of care providers, and persons with intellectual and developmental disabilities (I/DD) may be enrolled in public education past the age of 18 when they are considered adults. To account for these differences, the legislature enacted [Senate Bill 105](#), which modifies the definition of abuse of adults with I/DD to include restraint, involuntary seclusion, or infliction of corporal punishment in violation of laws that regulate such uses in education settings. [Senate Bill 790](#) also makes this change for the general statutory definition of child abuse for persons under age 18, alongside broader changes to restraint and seclusion in educational environments (discussed on page two).

Dispositions

The federal Child Abuse Prevention and Treatment Act (CAPTA) requires child protective service agencies to notify individuals identified as responsible for child abuse or neglect. [Senate Bill 757](#) requires DHS and law enforcement agencies to give notice of a reasonable case (referred to as a founded disposition) of child abuse to the attorney of the person identified as the perpetrator as well. Oregon law requires individuals who have been the subject of a founded or substantiated report of child abuse to be enrolled in the Central Background Registry prior to providing child care. [Senate Bill 769 A \(not enacted\)](#) would have prohibited DHS from finding an individual unfit to serve as a volunteer, intern, employee, or licensee of any entity based on a substantiated or founded allegation of abuse if the incident occurred before the individual reached 18 years of age.

Investigations

DHS's Child Protective Services and law enforcement agencies have a shared legal responsibility for taking child abuse reports and responding to them. [Senate Bill 901](#) authorizes the Director of DHS to issue subpoenas for documents and records concerning child abuse investigations. [Senate Bill 1024](#) prohibits children's congregate care providers and public education programs from modifying or destroying photo, video, and audio evidence of incidents involving restraint or involuntary seclusion of a child and requires programs to make these records available upon request. [Senate Bill 790](#) allows education programs to be investigated and substantiated for abuse by DHS, rather than individual persons, as a result of improper or insufficient training on restraint and seclusion. The bill also requires quarterly reports to legislative committees in these instances.

Child-caring agencies are organizations that provide specialized care or treatment for children, including day treatment facilities for behavioral challenges, adoption placement agencies, residential care, and outdoor youth programs. DHS is required to respond to any report, allegation, or information pertaining to the suspected abuse of a child in the care of a child-caring agency and, following a screening, open an investigation to determine whether the suspected abuse is substantiated, unsubstantiated, or inconclusive (e.g., unable to determine). [House Bill 3333 A \(not enacted\)](#) would have directed the [System of Care Advisory Council](#) to study the use of a just culture model in DHS's investigations of child-caring agencies and would have created a grant program for training on the model.

Mandatory reporters are required by law to make reports of suspected child abuse or neglect to authorities. DHS employees are mandatory reporters of child abuse under [ORS 419B.010](#) (2021). [Senate Bill 210](#) creates exceptions regarding the confidentiality of identifying information of persons receiving public assistance in order to allow mandatory reporters to disclose information to report suspected abuse. Twenty-two states provide an electronic abuse reporting option; [Senate Bill 231](#) directs DHS to develop and maintain a centralized child abuse reporting system, including an abuse reporting hotline and a website.

Records

DHS is only authorized to release child abuse and medical records under specific circumstances ([ORS 419B.035](#) [2021]). [Senate Bill 823 A \(not enacted\)](#) would have made completed abuse investigation reports confidential, except to certain persons if requested in writing.



Benefits and Assistance Programs

Eligibility

The Legislative Assembly passed bill [House Bill 2992](#) (2021), which increased the amount of compensation for members of State Boards and Commissions. For public-benefits-eligible participants on State Boards and Commissions, if these stipends are considered as taxable income, it can lead to loss of eligibility for public benefits. [Senate Bill 92 A](#) (*not enacted*) would have directed DHS to establish a liaison position to facilitate the participation of individuals appointed to boards, commissions, or other groups.

The Employed Persons with Disabilities program provides or continues medical coverage and long-term services to people with disabilities who are working or want to work. [Senate Bill 576 A](#) (*not enacted*) would have prohibited DHS from considering income and resources when making a determination of eligibility for Medicaid for employed individuals with disabilities.

Food Assistance

The legislature considered several bills that modified eligibility requirements for various food assistance programs. [Senate Bill 609](#) requires DHS to consider hours worked as a graduate assistant as employment for meeting work requirements in the Supplemental Nutrition Assistance Program. [Senate Bill 610 A](#) (*not enacted*) would have established the Food for All Oregonians Program to provide nutrition assistance to Oregon residents whose immigration status or lack of Social Security number inhibits them from qualifying for the federal Supplemental Nutrition Assistance Program. [Senate Bill 856](#) (*not enacted*) would have established the Compact of Free Association (COFA) Food Assistance Program

to provide food assistance to citizens from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. [House Bill 2728](#) (*not enacted*, but funded at \$4.2 million for the biennium through [House Bill 5026](#)) would have directed DHS to contract with a nonprofit organization to operate a benefit program that would assist Supplemental Nutrition Assistance Program recipients with purchasing locally grown fruits and vegetables from participating farmers' markets and other vendors.

Foster Care

Children in foster care are eligible to receive benefits from the Supplemental Security Income (SSI) or the Social Security program based on their disability or due to the retirement, disability, or death of an insured parent. [Senate Bill 556](#) prohibits DHS from using funds, benefits, payments, proceeds, settlements, awards, inheritances, wages, or any other money received on behalf of a child in its custody for maintenance costs. [Senate Bill 557](#) (*not enacted*) would have required DHS to establish and administer the Youth Support and Repayment Grant Program to award grants to persons whose Social Security benefits, death benefits, survivor benefits, crime victim impact payments, or any other benefits or resources intended for the individual, were seized and used by the state to pay for services provided to the person that would otherwise have been entitled or eligible through any state or federal agency or public or private program.

New Programs

Refundable tax credits reduce a taxpayer's tax liability, and the remaining credit amount is issued to the taxpayer as a tax refund. [House Bill 3235](#) creates a refundable income tax credit of \$1,200 for taxpayers with a qualifying dependent child under age six.



A traumatic brain injury (TBI) is an injury caused by a forceful bump, blow, or jolt to the head or body, or from an object that pierces the skull and enters the brain. Some types of TBIs can cause temporary or short-term problems with normal brain function, including problems with how the person thinks, understands, moves, communicates, and acts; while more serious TBIs can lead to severe and permanent disability, and even death. [Senate Bill 420](#) directs DHS to provide service coordination, resource navigation, advocacy, and options counseling to individuals with brain injuries.

The federal Americans with Disabilities Act of 1990 (ADA) governs how public and private entities that are open to the public must provide reasonable accommodations for people with disabilities. For individuals with communication disabilities, such as a disability affecting speech, vision, or hearing, the ADA requires both public and private entities to provide accommodations that enable effective communication. [Senate Bill 569](#) requires every place of public accommodation that provides a closed-captioned enabled television receiver in a public area to activate closed captioning on at least 50 percent of the receivers.

Child Welfare

Children in DHS Care

Children may be removed from their homes and placed in protective custody when law enforcement or DHS has determined that it is not safe for them to remain home. Children in foster care may experience several different placements throughout their time in the foster care system. [Senate Bill 548](#) requires DHS to provide luggage carriers to transport personal effects when a foster child is entering, transitioning within, or exiting foster care.

For cases involving decisions regarding the placement of a child or ward in substitute care, juvenile courts work with DHS to determine a

suitable placement that is in the best interests of the child or ward. [Senate Bill 865](#) directs DHS to consider the current caretaker to have priority status as a prospective adoptive parent in specific circumstances. [House Bill 2711](#) (*not enacted*) would have directed DHS to attempt to place children or wards with previous substitute care providers when other preferred placement options are not available and provide documentation to the court on its efforts.

The Oregon Foster Children's Bill of Rights was established by the legislature in 2013 to emphasize the fundamental rights of foster children to appropriate care, services, and basic needs. Oregon law requires DHS to enforce these rights through administrative rulemaking, which may be reviewed periodically. [House Bill 2664 A](#) (*not enacted*) would have required DHS to provide culturally and linguistically affirmative child welfare services to individuals who are deaf and hard of hearing, and it also would have modified the Oregon Foster Children's Bill of Rights to grant additional rights to foster children.

Oregon law permits the disclosure of the sexual orientation and gender identity or gender expression information of children in DHS's care in court proceedings. [Senate Bill 209](#) makes such information exempt from disclosure unless failing to disclose the record is likely to jeopardize the child's safety or well-being. Oregon law states that young adults ages 18 to 21 must remain wards of the court in order to receive services in foster care. [Senate Bill 202](#) requires DHS to develop and administer a voluntary placement program to support the transition into adulthood for young adults during this age period.

Oregon law authorizes a parent to leave their infant child lawfully and anonymously at an authorized facility within 30 days of the infant's date of birth. [House Bill 3626](#) extends the period for a parent to anonymously leave their infant in the physical custody of a person at an authorized facility to 60 days and requires



authorized facilities to post informational signage.

Supported Care Settings

Intellectual and Developmental Disabilities

Programs exist in other states to connect eligible adults with potential roommates who act as caregivers, allowing for increased independence and continuous access to care without the need to live in an adult foster home or residential facility. [Senate Bill 759](#) requires DHS to investigate options for compensating roommates if an adult who receives developmental disability services chooses to receive services from roommates in the home that the adult owns or rents.

[House Bill 3234](#) prohibits a court from ordering the involuntary commitment of a minor child with intellectual disabilities to DHS without the consent of the child's parent or guardian. The bill also requires a person to have been determined eligible for developmental disability services as a condition of commitment, and modifies processes related to commitments.

Older Adults

The Oregon LGBTQ+ Older Adult Survey was conducted in 2021 and found that 50 percent of people aged 55 or older who identify as LGBTQ+ have service needs that are not met. [Senate Bill 99](#) establishes the Bill of Rights for LGBTQIA2S+ Older Adult Residents of Long Term and Community-Based Care Facilities and establishes the LGBTQIA2S+ Subcommittee of the [Governors' Commission on Senior Services](#).

Parents Providing Attendant Care

In January 2021, DHS implemented processes to allow parents of minor children to be paid caregivers. Under normal circumstances, parents of minor children in Oregon are considered their child's representative as part of their parenting role. The Centers for Medicare and Medicaid Services (CMS) approved an 1135 waiver of [42 CFR § 441.505](#) to temporarily allow payment for attendant services and supports provided by an individual's representative if the state makes a reasonable assessment that the caregiver is capable of rendering such services. [Senate Bill 91](#) directs DHS to compensate parents for providing attendant care services to minor children who have very high medical or behavioral needs. The bill also directs DHS to initiate an application for approval of a new waiver.

[House Bill 3256](#) allows a child who resides in a developmental disabilities child foster home to be attended by their parent or guardian only with approval from DHS. The bill also allows a child up to age 26 to reside in a developmental disabilities child foster home with approval from DHS.

Workforce and Providers

Parents who are experiencing a crisis may, through a properly executed power of attorney, temporarily delegate responsibility for caring for a child to a respite service provider. [House Bill 2599](#) waives fees for enrollment in the Central Background Registry for individuals affiliated with respite service providers.

Recruiting and retaining the large number of professionals required to provide high quality care for aging Oregonians is a major challenge. [Senate Bill 602](#) (*not enacted*) would have directed the Commissioner of the Bureau of Labor and Industries to appoint a long term care



wage board to study challenges to recruiting and retaining long term care employees.

Direct support professionals work closely with people who have intellectual and developmental disabilities to support their needs and ability to live in their communities. [House Bill 2457 A](#) (*not enacted*) would have required DHS to reimburse provider agencies for the cost of care provided by direct support professionals that would be sufficient to compensate them at least 150 percent of the Portland-area minimum wage as adjusted for inflation.

Operators of adult foster homes are licensed by DHS and may receive reimbursement payments from the department for residents who are enrolled in Medicaid. [House Bill 2495](#) (*not enacted*) would have directed DHS to restructure its methodology for calculating Medicaid reimbursement rates to adult foster care providers by increasing base rates and adopting an acuity-based payment method to reduce the need for exceptional payments by January 1, 2024. The bill also would have directed DHS to increase base rates and add-on payments by 50 percent over amounts paid until a restructured methodology is adopted.

Current law requires the [Oregon Home Care Commission](#) to operate a program that allows individuals to hire the services of in-home care workers who are employed and paid by the Commission via its statewide registry. The program sets standard payment rates for workers and charges consumers for the cost of employing the workers and administering the program. [House Bill 2500 A](#) (*not enacted*) would have directed DHS, the Oregon Health Authority, and the Home Care Commission to develop processes for home care workers, personal support workers, and personal care attendants to receive mileage reimbursement when working in homes that are 25 miles or more from an available provider.

Programs of All-Inclusive Care for the Elderly (PACE) is a model of service delivery that provides comprehensive health services for

older adults. [House Bill 2589 A](#) (*not enacted*) would have directed DHS to conduct studies to determine sufficient staffing and compensation for case workers who perform enrollment and eligibility services for programs of all-inclusive care for the elderly to process enrollment applications within a 45-day window.

Long term care facilities provide inpatient medical, nursing, rehabilitation, and other health-related care and services to people with disabilities and medical needs. Long term care facilities include nursing facilities, assisted living and residential care facilities, and adult foster homes. [House Bill 2954 A](#) (*not enacted*) would have directed the Department of Early Learning and Care, in consultation with DHS and subject to available funding, to establish a pilot program to provide financial assistance for child care costs to long term care facility employees.

Systems of Care

Agency With Choice

Agency With Choice allows people with disabilities and/or their representatives to select their own support service professionals. The program provides these individuals and/or their designated employer the opportunity to manage some or all of their services in their home and other community settings. [Senate Bill 104](#) directs DHS to contract with one or more organizations to deliver Agency With Choice services, including varied administrative and employment-related supports, by July 1, 2024. [Senate Bill 570 A](#) (*not enacted*) would have directed DHS to contract with up to two consumer-directed employers to provide the Agency With Choice services, including varied administrative and employment-related supports, and specified criteria employers must meet.



Aging

Oregonians over age 65 are an increasingly large proportion of the state's population. [House Bill 2869 A](#) (*not enacted*) would have established a 25-member workgroup to develop a framework for a multi-sector plan for aging to be administered by DHS, and required the workgroup to report to legislative committees.

Community Information Exchange

A community information exchange (CIE) is a network of health care and social service partners that uses a digital platform that allows authorized access to a shared resource directory, “closed loop” referrals, reporting, social needs screening, and other features designed to connect people to multiple supports and social services efficiently. [House Bill 4150](#) (2022) directed the Health Information Technology Oversight Council within the Oregon Health Authority to convene a workgroup that made recommendations and produced a report on how the state could leverage CIEs to improve social and health outcomes. [House Bill 2440](#) (*not enacted*) would have established privacy restrictions for entities that participate in a community information exchange by specifying conditions under which personally identifying information may be accessed, disclosed, and retained. [House Bill 3303 A](#) (*not enacted*) would have established the Community Information Exchange Board (Board), specified the Board’s membership and duties, and charged the Board with studying community information exchanges (CIEs) and making recommendations on best practices. [HB 3303 A](#) (*not enacted*) would have required the Oregon Health Authority to evaluate CIEs in Oregon and publish a list of CIEs that align with board-identified best practices.

System of Care Advisory Council

The [System of Care Advisory Council](#) was established in 2019 by [Senate Bill 1](#), which emerged out of a 2018 workgroup convened by the Governor, President of the Senate, and Chief Justice of the Supreme Court to address systemic challenges in meeting the needs of children with mental or behavioral health conditions across the state's juvenile justice, child welfare, and health care systems. [Senate Bill 968](#) modifies the duties and membership of the System of Care Advisory Council by allowing council members under age 25 to continue serving past that age and clarifying the Council’s reporting requirements and interagency collaboration.

Workforce

DHS is the largest state agency in terms of workforce size, with roughly 10,200 full-time equivalent positions. [House Bill 2804](#) requires DHS to use workload models to assess the capacity and needs of its workforce in every program or administrative unit and biennially report to legislative committees.



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