

2017 LEGISLATIVE CHANGES TO SB 1515 (2016)

Bill #	Bill §	SB 1515 §	Statutory Change
SB 243	1	36	<p>By amending the definition of "child in care" for purposes of sections 36 to 38 of SB 1515, subjects certified foster homes and developmental disabilities (DD) residential facilities to a new, expanded definition of abuse, which applies in addition to current definition in ORS 419B. Highlights of new definition:</p> <ul style="list-style-type: none"> <li>• Expanded definition of neglect to include failure to provide care, supervision or services necessary to maintain the physical and mental health of a child in care or failure to make a reasonable effort to protect a child in care from abuse</li> <li>• Abandonment</li> <li>• Willful infliction of physical pain or injury</li> <li>• Verbal abuse</li> <li>• Financial exploitation</li> <li>• Expanded definition of sexual abuse</li> <li>• Involuntary seclusion</li> <li>• Wrongful use of a physical or chemical restraint</li> </ul>
SB 243	1	36	<p>Clarifies that "child in care does not include a person under 21 years of age who is residing in any of the entities listed in paragraph (a) of this subsection when the care provided is in the home of the child by the child's parent." In other words, this definition of abuse does not apply to biological children of certified foster homes or proctor foster homes. (Note ORS 419B.005 was not amended and therefore that definition of abuse will apply to biological children of a proctor foster parent who are 18-21 years of age.)</p>
SB 243	1	36	<p>Adds some clarity to what constitutes "involuntary seclusion", i.e. that it means "the confinement of a child in care alone in a room from which the child in care is physically prevented from leaving"...but "does not include age-appropriate discipline, including but not limited to a time-out."</p>
SB 243	2	37	<p>Requires the Department to do the following things when a report of abuse is received regarding a child in care:</p> <ul style="list-style-type: none"> <li>• Immediately notify "appropriate personnel within the department" including, but not limited to, licensing and certification staff for certified foster homes and DD residential facilities</li> <li>• Immediately notify any governmental agency that has a contract with the...certified foster home or DD residential facility" to provide care or services to the child in care</li> <li>• Immediately commence an investigation to determine whether the report of abuse is substantiated, unsubstantiated, or inconclusive</li> <li>• Immediately report to law enforcement (in addition to regular cross reporting under ORS 419B) any suspected crime, even if unrelated to the report of abuse</li> </ul>

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SB 243	2	37	<p>The Department must require as a condition of licensure or certification that foster homes and DD residential facilities (<i>unless the home does not have any employees, staff, or volunteers</i> ) have procedures and protocols that:</p> <ul style="list-style-type: none"> <li>• Require employees to immediately report suspected abuse to the Department;</li> <li>• Provide annual training and written materials about the hotline;</li> <li>• Advise and educate employees of the duty to report abuse under SB 243 and ORS 419B.005; and</li> <li>• Inform employees that the responsibility is personal to the employee</li> </ul>
SB 243	2	37	<p>Gives the Department the authority to suspend or revoke certification for a certified foster home or DD residential facility for “interference or hindering an investigation of abuse of a child in care.”</p>
SB 243	2	37	<p>Provides immunity from civil and criminal liability and employment-related discipline for good-faith abuse reporting and allows disclosure of otherwise confidential information.</p>
SB 243	3	38	<p>Applies disposition terminology (substantiated, unsubstantiated, and inconclusive) to investigations conducted under this section to certified foster homes and DD residential facilities.</p>
SB 243	3	38	<p>In addition to the immediate notification requirements in section 37, requires the Department to notify the following "when a report is received...alleging that a child in care may have been subjected to abuse...that a report has been received":</p> <ul style="list-style-type: none"> <li>• Case managers for the child</li> <li>• Attorney for the child</li> <li>• Child's CASA</li> <li>• Parents or guardians of the child</li> <li>• Any attorney representing a parent or guardian of the child;</li> <li>• Any governmental agency or unit that has a contract with the DD residential facility to provide care or services to the child</li> </ul>

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SB 243	3	38	Allows the Department to interview a child in care and witnesses without the presence of employees of the DD residential facility, provider of services at a certified foster home, or department personnel.
SB 243	3	38	Requires the Department to inform the child in care that the child may have the child's parent or guardian (if the child has not been committed to the custody of the Department or OYA) or attorney present during the interview.
SB 243	3	38	<p>Requires the Department to notify the following when a report of abuse is substantiated in a certified foster home or DD residential facility</p> <ul style="list-style-type: none"> <li>• Director of DHS</li> <li>• Personnel responsible for licensing, certification or authorization of CCAs (drafting error; should be read to apply to certified foster homes and DD residential facilities)</li> <li>• Director of CW</li> <li>• With respect to the child in care: <ul style="list-style-type: none"> <li>• Case managers</li> <li>• Attorney</li> <li>• CASA</li> <li>• Attorney</li> <li>• Parents or guardians</li> <li>• Any governmental agency that has a contract with the CCA to provide care or services to the child (drafting error: only applies to CCAs and conflicts with subsequent section)</li> <li>• Parents or guardians of the child, if the child is not in DHS or OYA custody and limited to the fact that a report has been substantiated) (drafting error: duplicative of previous parental notification, but in conflict because limited to children not in DHS or OYA custody and limitation on what information can be shared)</li> <li>• Any governmental agency that has a contract with the CCA to provide care or services to a child in care (drafting error: only applies to CCAs and is duplicative of previous requirement, but broader because applies to "a" child, not just "the" child.)</li> </ul> </li> <li>• CRB</li> </ul>

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SB 243	3	38	<p>Quarterly legislative report must include:</p> <ul style="list-style-type: none"> <li>• Name of DD residential facility or (provided there are five or more homes in a county) the name of the county in which a certified foster home is located, where the Department substantiated a report of abuse during that quarter;</li> <li>• Approximate date of abuse;</li> <li>• Nature of abuse and brief narrative;</li> <li>• Whether physical injury, sexual abuse, or death resulted; and</li> <li>• Corrective actions taken or ordered by the Department and the outcome of the corrective actions.</li> </ul>
SB 243	3	38	<p>Although not in the actual bill language, it makes sense to read SB 243 as if it includes language in section (6) of HB 2903 relating to the prohibition on using the term "alleged perpetrator...during an investigation conducted under these laws..." See discussion in HB 2903, section 6, in this matrix.</p>
SB 244	1	1	<p>Defines governmental agency as "an executive, legislative or judicial agency, department, board, commission, authority, institution, or instrumentality of this state or of a county, municipality or other political subdivision of the state."</p>
SB 244	2	11	<p>Requires that all "appropriate personnel within the Department" be notified and "investigate and take appropriate action without undue delay" whenever any report or other concern is received regarding a CCA.</p>
SB 244	2	11	<p>Removes the requirement to immediately report any concerns in a CCA to "the state or governmental agency or unit, governing board, trustees, owners, managers or operators or other appropriate authorities responsible for the CCA...[and] any governmental agency or unit that has a contract with the CCA..."</p>
SB 244	2	11	<p>"If the CCA is known or found to serve children also served by the Oregon Youth Authority, county juvenile departments or developmental disabilities services within the Department, the Department shall notify those entities of the report or suspected or founded abuses, deficiencies, violations or failures."</p>
SB 244	2	11	<p>If the Department immediately suspends or revokes a license, they department must:</p> <ul style="list-style-type: none"> <li>• Notify any governmental agency that has a contract with the CCA of any suspension or revocation under this subsection (ORS 418.260(3)) and of any conditions placed pursuant to ORS 418.240.</li> <li>• Immediately report the alleged deficiencies or violations to the governmental agency and the governing board responsible for oversight of the CCA.</li> </ul>
SB 244	2	11	<p>If a CCA fails to comply with a plan of correction in the allotted time, the Department must immediately notify (among other entities in prior law) members of the governing board, instead of "state or governmental agency or unit, governing board, trustees, owners, managers or operators or other appropriate authorities."</p>

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Bill #	Bill §	SB 1515 §	Statutory Change
SB 244	3	37	Non-substantive technical changes.
SB 244	4	38	Adds notification to "case managers for the child" when the Department assigns a report of abuse for investigation.
SB 244	4	38	When a report is substantiated, the Department must notify any attorney representing a parent or guardian of the child (note drafting errors: notification to parents or guardians is repeated and limited; notification to government agencies that contract with a CCA is repeated.)
SB 244	4	38	Removes requirement to notify parents or guardians of other children in the CCA or proctor foster home.
SB 245	1	1	Defines "child" as an unmarried person under 21 years of age "who resides in or receives services from a CCA."
SB 245	1	1	Clarifies that a facility that exclusively serves individuals 18 years of age and older or that primarily serves both adults and children but requires that any child be accompanied at all times by a parent or guardian is not a CCA.
HB 2433	1	25	Clarifies definition and requirements for "independent residence facilities."
HB 2433	2	1	Makes non-substantive change to reference to independent residence facility.
HB 2903	1	4	Allows conditions to be immediately placed on a license in certain circumstances.
HB 2903	1	4	Allows the Director of DHS to rescind the notice of intent to suspend or revoke if the director determines, by agreement with the Director of OYA and OHA if applicable, that the concerns regarding the health and safety of children have been ameliorated and any conditions have been resolved.
HB 2903	1	4	Notice of rescinding the notice must be provided to the Governor and include: <ul style="list-style-type: none"> <li>• Circumstances that led to notice of intent to suspend or revoke</li> <li>• Actions taken in response</li> <li>• Penalties, fees, etc. levied against the CCA</li> <li>• Changes made at the CCA and reasons for the determinations that concerns have been ameliorated</li> </ul>
HB 2903	1	4	Decision must be based solely on health and safety of children; system-wide capacity may not be an element of the decision.

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HB 2903	1	4	For three years after rescission, the CCA must apply for a license renewal annually.
HB 2903	1	4	Notice of rescinding the notice must be provided to the Governor and legislative committee for child welfare.
HB 2903	1	4	Allows immediate conditions to be placed on a license and requires immediate notification to "any state or governmental agency or unit" that contracts with the CCA and "the governing board, trustees, owners, managers, operators or other appropriate authorities responsible for the CCA."
HB 2903	2	4	Removes requirement to obtain agreement from OYA and OHA prior to rescinding a notice of intent to suspend or revoke effective January 1, 2021.
HB 2903	3	NA	States that amendments in section 2 are effective January 1, 2021.
HB 2903	4	38	In compiling records, reports and other information during an investigation, the Department may not refer to the subject of an investigation as an "alleged perpetrator" but instead as the "respondent." NOTE this should be read as part of SB 243 and therefore applicable to CPS investigations because of the language "...an investigation conducted under these laws..." which, after January 1, 2018, will include CPS investigations in DHS certified foster homes and DD residential facilities.
HB 2903	5	NA	Requires report on deemed status by September 15, 2018
HB 2903	6	NA	Repeals section 5 on January 2, 2019
HB 2903	7	NA	Emergency clause