

Senator Sara Gelser
Senator James I. Manning, Jr.
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I am writing in support of this bill with amendments. I wholeheartedly support the philosophy of this bill to protect children in care. However, there are some unintended consequences of this bill as written.

I have taught Oregon Intervention System (O.I.S.) (a curriculum designed to teach people supporting individuals with intellectual/development disabilities how to prevent and respond to challenging situations) for 20 years. The overall focus of the training is how to prevent challenging situations and respond to them when they arise, because even with the most skilled staff, the people we support can have a difficult time managing their stresses. On rare occasions those incidents result in restraint. When a restraint is needed to protect a person from imminent harm (a practice O.I.S. has applied since I have been an instructor), I too want to protect everyone from harm.

Unfortunately, the following parts of this bill will cause more harm.

SECTION 2. Prohibitions on restraints and involuntary seclusion

1(e) Any restraint that includes the nonincidental use of a solid object, including the ground, a wall or the floor, to impede a child in care's movement.

Reason for amendment request: This should exclude the use of a solid object that provides support to maximize safety. The child should never be in a facedown position against the solid object or lying flat on the solid object. However, solid objects can increase the safety of a restraint. For example, using a wall to support the child and the restrainer's backs keeps everyone in an upright position which is much safer than attempting to manage a struggling child while standing in the middle of a room. The wall provides a point of contact, so the individuals involved in the restraint are less likely to lose balance during the restraint. The wall can be safely utilized in a standing position (while the child is facing away from the wall) and a seated position.

SECTION 4. Notices and reports required following use of restraints or involuntary seclusion.

(2) A program must maintain a record of each incident in which a reportable injury arises from the use of a restraint or involuntary seclusion. The record under this subsection must include any audio or video recording immediately preceding, during and following the incident.

Reason for amendment request: This would require audio or video recording of every restraint, as one would not know when a reportable injury would occur until after the event. To ensure the events immediately preceding a restraint was captured via audio or video recording, every escalation of the child would need to be recorded, as decisions to restrain a child are often made

in the moments prior to the restraint. These last-minute decisions ensure restraints are only used when a child's behavior poses a reasonable risk of imminent serious bodily injury to the child or others and less restrictive interventions would not effectively reduce that risk.

Recording every escalation is a monumental privacy violation. I have worked with children who during escalation strip naked, defecate and smear feces, scream racial slurs and vial profanities. After these ugly moments, children can have feelings of shame and regret. If this bill is passed as written, these moments will now be recorded with vivid playback. The bill does not address how long the recordings can be maintained or how they will be used. It is tragic enough that our system keeps and shares written information about a person that is 10, 20, even 40 years old but with the passage of this bill, there will be a more vivid record of the child's most vulnerable moments.

Recording a child's escalation and potential restraint also speaks to the inequities of living with a disability or mental health challenge. This bill targets children in care, often these are children who have a disability or a serious mental health challenge. Therefore, only these children are required to have their worst moments recorded, not just one or two moments of dysregulation but EVERY SINGLE TIME. This is just another way the system creates inequities for children with disabilities or mental health challenges.

Respectfully,

Carole Searle