

# DRAFT

## SUMMARY

Directs Oregon Youth Authority to adopt rules for the use of staff interventions on adjudicated youth.

Modifies definition of “abuse” for purposes of child abuse to include inappropriate use of restraint or seclusion of youth in custody of authority or juvenile department.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to prohibitions of certain treatments of youth in custody; creating  
3 new provisions; amending ORS 419B.005; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part**  
6 **of ORS 420A.005 to 420A.155.**

7 **SECTION 2. The Oregon Youth Authority shall adopt rules provid-**  
8 **ing guidance and direction on the use of staff interventions, including**  
9 **physical interventions, isolation, restraints and time-outs, consistent**  
10 **with state and federal law.**

11 **SECTION 3. ORS 419B.005, as amended by section 8, chapter 90, Oregon**  
12 **Laws 2022, is amended to read:**

13 419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-  
14 quires otherwise:

15 (1)(a) “Abuse” means:

16 (A) Any assault, as defined in ORS chapter 163, of a child and any phys-  
17 ical injury to a child which has been caused by other than accidental means,  
18 including any injury which appears to be at variance with the explanation

1 given of the injury.

2 (B) Any mental injury to a child, which shall include only observable and  
3 substantial impairment of the child's mental or psychological ability to  
4 function caused by cruelty to the child, with due regard to the culture of the  
5 child.

6 (C) Rape of a child, which includes but is not limited to rape, sodomy,  
7 unlawful sexual penetration and incest, as those acts are described in ORS  
8 chapter 163.

9 (D) Sexual abuse, as described in ORS chapter 163.

10 (E) Sexual exploitation, including but not limited to:

11 (i) Contributing to the sexual delinquency of a minor, as defined in ORS  
12 chapter 163, and any other conduct which allows, employs, authorizes, per-  
13 mits, induces or encourages a child to engage in the performing for people  
14 to observe or the photographing, filming, tape recording or other exhibition  
15 which, in whole or in part, depicts sexual conduct or contact, as defined in  
16 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving  
17 a child or rape of a child, but not including any conduct which is part of  
18 any investigation conducted pursuant to ORS 419B.020 or which is designed  
19 to serve educational or other legitimate purposes; and

20 (ii) Allowing, permitting, encouraging or hiring a child to engage in  
21 prostitution as described in ORS 167.007 or a commercial sex act as defined  
22 in ORS 163.266, to purchase sex with a minor as described in ORS 163.413  
23 or to engage in commercial sexual solicitation as described in ORS 167.008.

24 (F) Negligent treatment or maltreatment of a child, including but not  
25 limited to the failure to provide adequate food, clothing, shelter or medical  
26 care that is likely to endanger the health or welfare of the child.

27 (G) Threatened harm to a child, which means subjecting a child to a  
28 substantial risk of harm to the child's health or welfare.

29 (H) Buying or selling a person under 18 years of age as described in ORS  
30 163.537.

31 (I) Permitting a person under 18 years of age to enter or remain in or

1 upon premises where methamphetamines are being manufactured.

2 (J) Unlawful exposure to a controlled substance, as defined in ORS  
3 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-  
4 fined in ORS 475C.009, that subjects a child to a substantial risk of harm to  
5 the child's health or safety.

6 **(K) The use of restraint or involuntary seclusion of a youth in**  
7 **custody in violation of ORS 169.740, 169.750, 169.760, 419A.240 or 419A.245**  
8 **or the use of interventions on a youth in custody in violation of the**  
9 **rules adopted under section 2 of this 2023 Act.**

10 (b) "Abuse" does not include reasonable discipline unless the discipline  
11 results in one of the conditions described in paragraph (a) of this subsection.

12 (2) "Child" means an unmarried person who:

13 (a) Is under 18 years of age; or

14 (b) Is under 21 years of age and residing in or receiving care or services  
15 at a child-caring agency as that term is defined in ORS 418.205.

16 (3) "Higher education institution" means:

17 (a) A community college as defined in ORS 341.005;

18 (b) A public university listed in ORS 352.002;

19 (c) The Oregon Health and Science University; and

20 (d) A private institution of higher education located in Oregon.

21 (4)(a) "Investigation" means a detailed inquiry into or assessment of the  
22 safety of a child alleged to have experienced abuse.

23 (b) "Investigation" does not include screening activities conducted upon  
24 the receipt of a report.

25 (5) "Law enforcement agency" means:

26 (a) A city or municipal police department.

27 (b) A county sheriff's office.

28 (c) The Oregon State Police.

29 (d) A police department established by a university under ORS 352.121 or  
30 353.125.

31 (e) A county juvenile department.

1 (6) "Public or private official" means:

2 (a) Physician or physician assistant licensed under ORS chapter 677 or  
3 naturopathic physician, including any intern or resident.

4 (b) Dentist.

5 (c) School employee, including an employee of a higher education insti-  
6 tution.

7 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's  
8 aide, home health aide or employee of an in-home health service.

9 (e) Employee of the Department of Human Services, Oregon Health Au-  
10 thority, Early Learning Division, Department of Education, Youth Develop-  
11 ment Division, Office of Child Care, the Oregon Youth Authority, a local  
12 health department, a community mental health program, a community de-  
13 velopmental disabilities program, a county juvenile department, a child-  
14 caring agency as that term is defined in ORS 418.205 or an alcohol and drug  
15 treatment program.

16 (f) Peace officer.

17 (g) Psychologist.

18 (h) Member of the clergy.

19 (i) Regulated social worker.

20 (j) Optometrist.

21 (k) Chiropractor.

22 (L) Certified provider of foster care, or an employee thereof.

23 (m) Attorney.

24 (n) Licensed professional counselor.

25 (o) Licensed marriage and family therapist.

26 (p) Firefighter or emergency medical services provider.

27 (q) A court appointed special advocate, as defined in ORS 419A.004.

28 (r) A child care provider registered or certified under ORS 329A.030 and  
29 329A.250 to 329A.450.

30 (s) An elected official of a branch of government of this state or a state  
31 agency, board, commission or department of a branch of government of this

1 state or of a city, county or other political subdivision in this state.

2 (t) Physical, speech or occupational therapist.

3 (u) Audiologist.

4 (v) Speech-language pathologist.

5 (w) Employee of the Teacher Standards and Practices Commission directly  
6 involved in investigations or discipline by the commission.

7 (x) Pharmacist.

8 (y) An operator of a preschool recorded program under ORS 329A.255.

9 (z) An operator of a school-age recorded program under ORS 329A.255.

10 (aa) Employee of a private agency or organization facilitating the pro-  
11 vision of respite services, as defined in ORS 418.205, for parents pursuant to  
12 a properly executed power of attorney under ORS 109.056.

13 (bb) An employee of a public or private organization providing child-  
14 related services or activities:

15 (A) Including but not limited to an employee of a:

16 (i) Youth group or center;

17 (ii) Scout group or camp;

18 (iii) Summer or day camp;

19 (iv) Survival camp; or

20 (v) Group, center or camp that is operated under the guidance, super-  
21 vision or auspices of a religious, public or private educational system or a  
22 community service organization; and

23 (B) Excluding an employee of a qualified victim services program as de-  
24 fined in ORS 147.600 that provides confidential, direct services to victims of  
25 domestic violence, sexual assault, stalking or human trafficking.

26 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional  
27 or professional athlete, if compensated and if the athlete is a child.

28 (dd) Personal support worker, as defined in ORS 410.600.

29 (ee) Home care worker, as defined in ORS 410.600.

30 (ff) Animal control officer, as defined in ORS 609.500.

31 (gg) Member of a school district board, an education service district board

1 or a public charter school governing body.

2 (hh) An individual who is paid by a public body, in accordance with ORS  
3 430.215, to provide a service identified in an individualized written service  
4 plan of a child with a developmental disability.

5 (ii) Referral agent, as defined in ORS 418.351.

6 **(7) “Youth in custody” means a child in the physical custody of a**  
7 **county juvenile department or the Oregon Youth Authority.**

8 **SECTION 4.** ORS 419B.005, as amended by section 58, chapter 631,  
9 Oregon Laws 2021, section 16, chapter 27, Oregon Laws 2022, and section 7,  
10 chapter 90, Oregon Laws 2022, is amended to read:

11 419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-  
12 quires otherwise:

13 (1)(a) “Abuse” means:

14 (A) Any assault, as defined in ORS chapter 163, of a child and any phys-  
15 ical injury to a child which has been caused by other than accidental means,  
16 including any injury which appears to be at variance with the explanation  
17 given of the injury.

18 (B) Any mental injury to a child, which shall include only observable and  
19 substantial impairment of the child’s mental or psychological ability to  
20 function caused by cruelty to the child, with due regard to the culture of the  
21 child.

22 (C) Rape of a child, which includes but is not limited to rape, sodomy,  
23 unlawful sexual penetration and incest, as those acts are described in ORS  
24 chapter 163.

25 (D) Sexual abuse, as described in ORS chapter 163.

26 (E) Sexual exploitation, including but not limited to:

27 (i) Contributing to the sexual delinquency of a minor, as defined in ORS  
28 chapter 163, and any other conduct which allows, employs, authorizes, per-  
29 mits, induces or encourages a child to engage in the performing for people  
30 to observe or the photographing, filming, tape recording or other exhibition  
31 which, in whole or in part, depicts sexual conduct or contact, as defined in

1 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving  
2 a child or rape of a child, but not including any conduct which is part of  
3 any investigation conducted pursuant to ORS 419B.020 or which is designed  
4 to serve educational or other legitimate purposes; and

5 (ii) Allowing, permitting, encouraging or hiring a child to engage in  
6 prostitution as described in ORS 167.007 or a commercial sex act as defined  
7 in ORS 163.266, to purchase sex with a minor as described in ORS 163.413  
8 or to engage in commercial sexual solicitation as described in ORS 167.008.

9 (F) Negligent treatment or maltreatment of a child, including but not  
10 limited to the failure to provide adequate food, clothing, shelter or medical  
11 care that is likely to endanger the health or welfare of the child.

12 (G) Threatened harm to a child, which means subjecting a child to a  
13 substantial risk of harm to the child's health or welfare.

14 (H) Buying or selling a person under 18 years of age as described in ORS  
15 163.537.

16 (I) Permitting a person under 18 years of age to enter or remain in or  
17 upon premises where methamphetamines are being manufactured.

18 (J) Unlawful exposure to a controlled substance, as defined in ORS  
19 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-  
20 fined in ORS 475C.009, that subjects a child to a substantial risk of harm to  
21 the child's health or safety.

22 **(K) The use of restraint or involuntary seclusion of a youth in**  
23 **custody in violation of ORS 169.740, 169.750, 169.760, 419A.240 or 419A.245**  
24 **or the use of interventions on a youth in custody in violation of the**  
25 **rules adopted under section 2 of this 2023 Act.**

26 (b) "Abuse" does not include reasonable discipline unless the discipline  
27 results in one of the conditions described in paragraph (a) of this subsection.

28 (2) "Child" means an unmarried person who:

29 (a) Is under 18 years of age; or

30 (b) Is under 21 years of age and residing in or receiving care or services  
31 at a child-caring agency as that term is defined in ORS 418.205.

1 (3) “Higher education institution” means:

2 (a) A community college as defined in ORS 341.005;

3 (b) A public university listed in ORS 352.002;

4 (c) The Oregon Health and Science University; and

5 (d) A private institution of higher education located in Oregon.

6 (4)(a) “Investigation” means a detailed inquiry into or assessment of the  
7 safety of a child alleged to have experienced abuse.

8 (b) “Investigation” does not include screening activities conducted upon  
9 the receipt of a report.

10 (5) “Law enforcement agency” means:

11 (a) A city or municipal police department.

12 (b) A county sheriff’s office.

13 (c) The Oregon State Police.

14 (d) A police department established by a university under ORS 352.121 or  
15 353.125.

16 (e) A county juvenile department.

17 (6) “Public or private official” means:

18 (a) Physician or physician assistant licensed under ORS chapter 677 or  
19 naturopathic physician, including any intern or resident.

20 (b) Dentist.

21 (c) School employee, including an employee of a higher education insti-  
22 tution.

23 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s  
24 aide, home health aide or employee of an in-home health service.

25 (e) Employee of the Department of Human Services, Oregon Health Au-  
26 thority, Department of Early Learning and Care, Department of Education,  
27 Youth Development Division, Office of Child Care, the Oregon Youth Au-  
28 thority, a local health department, a community mental health program, a  
29 community developmental disabilities program, a county juvenile department,  
30 a child-caring agency as that term is defined in ORS 418.205 or an alcohol  
31 and drug treatment program.



- 1 (f) Peace officer.
- 2 (g) Psychologist.
- 3 (h) Member of the clergy.
- 4 (i) Regulated social worker.
- 5 (j) Optometrist.
- 6 (k) Chiropractor.
- 7 (L) Certified provider of foster care, or an employee thereof.
- 8 (m) Attorney.
- 9 (n) Licensed professional counselor.
- 10 (o) Licensed marriage and family therapist.
- 11 (p) Firefighter or emergency medical services provider.
- 12 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 13 (r) A child care provider registered or certified under ORS 329A.250 to
- 14 329A.450.
- 15 (s) An elected official of a branch of government of this state or a state
- 16 agency, board, commission or department of a branch of government of this
- 17 state or of a city, county or other political subdivision in this state.
- 18 (t) Physical, speech or occupational therapist.
- 19 (u) Audiologist.
- 20 (v) Speech-language pathologist.
- 21 (w) Employee of the Teacher Standards and Practices Commission directly
- 22 involved in investigations or discipline by the commission.
- 23 (x) Pharmacist.
- 24 (y) An operator of a preschool recorded program under ORS 329A.255.
- 25 (z) An operator of a school-age recorded program under ORS 329A.255.
- 26 (aa) Employee of a private agency or organization facilitating the pro-
- 27 vision of respite services, as defined in ORS 418.205, for parents pursuant to
- 28 a properly executed power of attorney under ORS 109.056.
- 29 (bb) An employee of a public or private organization providing child-
- 30 related services or activities:
- 31 (A) Including but not limited to an employee of a:

- 1 (i) Youth group or center;
- 2 (ii) Scout group or camp;
- 3 (iii) Summer or day camp;
- 4 (iv) Survival camp; or
- 5 (v) Group, center or camp that is operated under the guidance, super-  
6 vision or auspices of a religious, public or private educational system or a  
7 community service organization; and

8 (B) Excluding an employee of a qualified victim services program as de-  
9 fined in ORS 147.600 that provides confidential, direct services to victims of  
10 domestic violence, sexual assault, stalking or human trafficking.

11 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional  
12 or professional athlete, if compensated and if the athlete is a child.

13 (dd) Personal support worker, as defined in ORS 410.600.

14 (ee) Home care worker, as defined in ORS 410.600.

15 (ff) Animal control officer, as defined in ORS 609.500.

16 (gg) Member of a school district board, an education service district board  
17 or a public charter school governing body.

18 (hh) An individual who is paid by a public body, in accordance with ORS  
19 430.215, to provide a service identified in an individualized written service  
20 plan of a child with a developmental disability.

21 (ii) Referral agent, as defined in ORS 418.351.

22 **(7) “Youth in custody” means a child in the physical custody of a**  
23 **county juvenile department or the Oregon Youth Authority.**

24 **SECTION 5. Section 2 of this 2023 Act and the amendments to ORS**  
25 **419B.005 by sections 3 and 4 of this 2023 Act apply to incidents involv-**  
26 **ing intervention or the use of restraint or seclusion occurring on or**  
27 **after the effective date of this 2023 Act.**

28 **SECTION 6. This 2023 Act being necessary for the immediate pres-**  
29 **ervation of the public peace, health and safety, an emergency is de-**  
30 **clared to exist, and this 2023 Act takes effect on its passage.**

31