

SB 1024 A STAFF MEASURE SUMMARY

House Committee On Early Childhood and Human Services

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Meeting Dates: 4/19, 5/3

WHAT THE MEASURE DOES:

Requires child-caring agency, proctor foster home, or developmental disabilities residential facility ("program") to maintain records, including any photographs and audio or video recordings, immediately preceding, during, and following an incident in which a reportable injury arises from restraint or involuntary seclusion of a child in care. Prohibits program from destroying, editing, concealing, or altering records. Requires program to immediately provide written notification to Department of Human Services (DHS) of the incident and true copies of any records. Directs DHS to provide copies of records to child in care's attorney, court appointed special advocate, parents, or guardians upon request. Directs DHS to adopt rules regarding installation and use of video recording equipment in programs. Requires child-caring agency to provide true copies of records of incidents in order to receive or renew license issued by DHS. Modifies notification requirements for public education program to inform student's parent or guardian and public officials of incidents involving restraint and seclusion of student and records thereof. Requires public education program to immediately notify a student's parent or guardian in writing of existence of records following an incident involving the use of restraint or seclusion and to disclose records to the student's parent or guardian upon request. Requires public education program to preserve unaltered record of incidents and prohibits destruction of such records. Requires public education program to redact records to protect anonymity of other students if it does not alter the meaning of the record prior to disclosure to student's parent or guardian. Requires public education program to review records at debriefing meeting. Requires oral notification to student's parent or guardian and DHS of such incidents that result in student's injury or death. Requires written notification to Superintendent of Public Instruction within 24 hours of such incidents that result in employee's injury or death. Permits disclosure of specified records to DHS or DHS designee in suspected child abuse investigations.

REVENUE: *No revenue impact*

FISCAL: *Has minimal fiscal impact*

SENATE VOTE: *Ayes, 29; Excused, 1*

ISSUES DISCUSSED:

- Current laws and regulations regarding restraint in seclusion of children in care and in schools
- Importance of retaining potential evidence in investigations
- Interaction with federal law
- Utility of recordings for training staff
- Application to other facilities that care for children
- Installation of recording equipment in schools
- Confidentiality when records are released
- Applicability to early learning programs

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

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Oregon law prescribes strict limitations on the use of physical, mechanical, and chemical restraints and involuntary seclusion for children in the care of public education providers, child-caring agencies, proctor foster homes, and developmental disabilities residential facilities. The law prohibits providers from using restraint and seclusion as a form of discipline or for the convenience of staff but makes accommodations for instances such as breaking up a fight, interrupting impulsive behavior, separating children to allow them to regain self-control, preventing imminent risk of injury, and certain other instances that are necessary for medical needs or to protect a person's health and safety. Staff must be trained on proper usage of restraint and seclusion for children in their care.

Following an incident involving the use of restraint or seclusion, a public education program in Oregon must provide the following to a parent or guardian of the student: verbal or electronic notification of the incident by the end of the school day when the incident occurred and written documentation of the incident within 24 hours of the incident (ORS 339.294). The report of the incident must have a description of the restraint or seclusion, the date of the restraint or seclusion, the times when the restraint or seclusion began and ended, and location of the restraint or seclusion. The report must also include a description of the student's activity that prompted the use of restraint or seclusion, any efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted, and the names of the personnel of the public education program who administered the restraint or seclusion along with their training status. Similarly, child-caring agencies must have established procedures for children placed in a restraint or involuntary seclusion and maintain a record of each incident an injury occurs during the use of a restraint or involuntary seclusion (ORS 418.526). If a child is placed in a restraint or involuntary seclusion in violation of current law, the agency must provide notice of the incident to a child in care's attorney, court appointed special advocate, and parents or guardians and convene a debriefing meeting with involved personnel.

Senate Bill 1024 A requires child-caring agencies and public education programs to keep records of photographs, audio recordings, or video recordings of incidents involving restraint or involuntary seclusion, make these records available upon request, send immediate notifications of the incident, and prohibits child-caring agencies and public education programs from destroying, editing, concealing or altering in any way said records.