

SB 105 A STAFF MEASURE SUMMARY

Carrier: Rep. Andersen

House Committee On Early Childhood and Human Services

Action Date: 05/15/23

Action: Do Pass the A-Eng bill.

Vote: 6-2-2-0

Yeas: 6 - Andersen, Hartman, Nelson, Neron, Nguyen H, Reynolds

Nays: 2 - Elmer, Hieb

Exc: 2 - Cramer, Scharf

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Matthew Perreault, LPRO Analyst

Meeting Dates: 5/10, 5/15

WHAT THE MEASURE DOES:

Adds unlawful restraint, seclusion, or infliction of corporal punishment on adult with developmental disability by public education program to definition of "abuse" for purposes of investigations conducted by Department of Human Services.

ISSUES DISCUSSED:

- Alignment of definitions of "abuse" to include individuals both over and under age 18 in the same setting
- Laws and regulations governing restraint and seclusion
- Training of school staff who work with students with disabilities
- Variety of application of special education services
- Enforcement and investigations of abuse by various state agencies
- Allowable uses of restraint and seclusion
- Definition of restraint and seclusion
- Interaction with other proposed legislation

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2011, the Legislative Assembly enacted House Bill 2939, which limited the allowable uses of restraint and seclusion of students in public education settings. That bill expressly prohibited the use of chemical, mechanical, and prone restraints and specified that physical restraint is only allowed when less restrictive interventions are not possible to protect against imminent harm. The law was later modified by Senate Bill 963 (2019), which prohibited supine restraint and further specified the allowable and prohibited actions in such situations. Only trained staff may engage in restraint and seclusion of a student, and public education providers are required to report annually to the Oregon Department of Education and notify the Department of Human Services (DHS) of instances that result in serious injury or death.

DHS is empowered to investigate reports of suspected abuse of vulnerable adults, such as adults with developmental disabilities (ORS 430.731 to 430.768). Current law prohibits involuntary seclusion for a caregiver's convenience or as discipline and prohibits wrongful physical or chemical restraint that is not performed by a medical professional. An adult over age 18 with a developmental disability may be enrolled in an education program alongside those under age 18. In these education settings, restraint and seclusion are allowed in certain circumstances and must be performed by trained staff.

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Senate Bill 105 A modifies the definition of "abuse" to allow DHS to investigate wrongful uses of restraint, seclusion, and corporal punishment against adults with disabilities in public education programs.