

SB 1024 A STAFF MEASURE SUMMARY**Carrier:** Rep. Elmer**House Committee On Early Childhood and Human Services****Action Date:** 05/17/23**Action:** Do Pass the A-Eng bill.**Vote:** 9-0-1-0**Yeas:** 9 - Andersen, Elmer, Hartman, Hieb, Nelson, Neron, Nguyen H, Reynolds, Scharf**Exc:** 1 - Cramer**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Matthew Perreault, LPRO Analyst**Meeting Dates:** 4/19, 5/17**WHAT THE MEASURE DOES:**

Prohibits child-caring agency, proctor foster home, or developmental disabilities residential facility ("program") from destroying, editing, concealing, or altering records immediately preceding, during, and following an incident in which a reportable injury arises from restraint or involuntary seclusion of a child in care. Requires program to retain photographs in addition to audio and video recordings related to incident. 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 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 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 during investigation of incidents as child abuse.

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:

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

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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 in a school, the school must notify and provide documentation to a student's parent or guardian within 24 hours (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, including any video or audio recordings (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 prohibits children's congregate care providers and public education programs from modifying or destroying recorded evidence of incidents involving restraint or involuntary seclusion of a child and requires programs to make these records available upon request to parents or guardians and the Department of Human Services.