

## Restraint and seclusion provisions, current law vs. SB 1113 (Child in care restraint definitions)

### Prohibited restraints

Current Law ORS 418.521	SB 1113
Chemical Restraint	Chemical Restraint
Mechanical Restraint	Mechanical Restraint
Prone Restraint	Prone Restraint
Supine Restraint	Supine Restraint
Any restraint that includes the intentional and nonincidental use of a solid object, including the ground, a wall of the floor to impede a child's movement	Unless the restraint is necessary to prevent an imminent life-threatening injury or to gain control of a weapon, except as provided in section 10 of this 2025 Act, a restraint that: (a) is intended to impede the child in care's movement; (b) includes the intentional and non-incidental use of a solid object, including the ground, a wall or the floor; and (c) causes the child in care's body to be pressed between the person imposing the restraint and the object or to be pressed between an object or objects. (Note: The language regarding life threatening injury and a weapon is currently found in ORS 418.523(4)(a) and (c). The other language is intended to clarify that solid objects are only prohibited to the extent that a child is pressed against or between objects.)
Any restraint that places, or creates a risk of placing, pressure on a child in care's neck or throat	Any restraint that places, or creates a risk of placing, pressure on a child in care's neck or throat
Any restraint that places or creates a risk of placing, pressure on a child in care's mouth	Any restraint that places or creates a risk of placing, pressure on a child in care's mouth, <b>unless the restraint is necessary for the purpose of extracting a body part from a bite</b> (note: this language is currently in ORS 418.523 (4)(b))
Any restraint that impedes, or creates a risk of impeding, a child in care's breathing	Any restraint that impedes, or creates a risk of impeding, a child in care's breathing
Any restraint that involves the intentional placement of any object or a hand, knee foot, or elbow on a child in care's neck, throat, genitals or other intimate parts	Any restraint that involves the intentional placement of any object or a hand, knee foot, or elbow on a child in care's neck, throat, genitals or other intimate parts

Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on a child in care's stomach, chest, joints, throat or back by a knee, foot or elbow.	Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on a child in care's stomach, chest, joints, throat or back by a knee, foot or elbow.
Any other action, the primary purpose of which is to inflict pain.	Any other action, the primary purpose of which is to inflict pain.
	Any restraint used for discipline, punishment, retaliation or convenience. (Note: currently this language is in ORS 418.521 (1))

### Restraint and seclusion defined

Current Law ORS 418.519	SB 1113
Restraint means the physical restriction of a child in care's actions or movements by holding the child in care or using pressure or other means. ORS 418.519(15)(a)	Restraint means the physical restriction of a child in care's actions <b>by using physical force to hold</b> the child in care or by using pressure or other means <b>to restrict the ability of the child in care to voluntarily move the child in care's head, limbs, torso, neck, hands or feet.</b> ORS 418.519(15)(a)
Involuntary seclusion means the confinement of a child in care alone in a room or an enclosed space from which the child in care is prevented from leaving by any means. ORS 418.519(9)(b)	Involuntary seclusion means the confinement of a child in care alone in a room or an enclosed space from which the child in care is prevented from leaving by any means. ORS 418.519(9)(b)

### Things that are not restraint

Current Law	SB 1113
Holding a child in care's hand or arm to escort the child in care safely and without the use of force from one area to another. ORS 418.523 (3)(a)	Holding a child in care's hand or arm to escort the child in care safely and without the use of force from one area to another ORS 418.519(15)(b)(A)
Physically assisting a child in care to complete a task if the child in care does not resist the physical contact ORS 418.523 (3)(b)	Physically assisting a child in care to complete a task if the child in care does not resist the physical contact ORS 418.519(15)(b)(B)

<p>The intervention is necessary to break up a physical fight or to effectively protect a person from an assault, serious bodily injury or sexual contact</p> <p>ORS 418.523(3)(c)(A)</p>	<p>(This is all incorporated into the language of a child's current actions posing a reasonable risk of serious bodily injury. The threshold is about the risk of serious bodily injury, not about the precise way that injury would be imposed. Sexual assault, assault and serious bodily injury all hit this threshold.)</p>
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### When restraint can be used

Current Law	SB 1113	Proposed Amendments
<p>Except as otherwise provided in this section, a child-caring agency, proctor foster home or developmental disabilities residential facility may only place a child in care in a restraint or involuntary seclusion if the child in care's behavior poses a reasonable risk of imminent serious bodily injury to the child in care or others and less restrictive interventions would not effectively reduce that risk.</p>	<p>Restraint may be used on a child in care only if the child in care's current actions pose a reasonable risk of imminent, serious bodily injury to the child in care or others and: (A) All other efforts to address the current actions have been unsuccessful;</p> <p>ORS 418.523 (1)(a)</p>	
	<p>(A) All other efforts to address the current actions have been unsuccessful;</p> <p>ORS 418.523 (1)(a)(A)</p>	
	<p>(B) A less restrictive intervention would not be effective at preventing the imminent serious bodily injury;</p> <p>ORS 418.523 (1)(a)(B)</p>	
<p>The restraint or involuntary seclusion is performed in a manner that is safe,</p>	<p>The restraint is imposed with the minimum amount of physical force necessary to</p>	

<p>proportionate and appropriate, taking into consideration the child in care's chronological and developmental age, size, gender identity, physical, medical and psychiatric condition and personal history, including any history of physical or sexual abuse.</p> <p>ORS 418.523 (5)(d)</p>	<p>prevent serious bodily injury and the use of force is consistent with the size, age, development and known trauma history of the child in care</p> <p>ORS 418.523 (1)(a)(C)</p>	
	<p>(D) The restraint ends immediately when the risk of imminent serious bodily injury has resolved or a less restrictive intervention becomes practicable; and</p> <p>ORS 418.523 (1)(a)(D)</p>	
	<p>Except as provided in section 10 of this 2025 Act, the restraint is not prohibited under ORS 418.521</p> <p>ORS 418.523 (1)(a)(E)</p>	<p>Amendment will remove Section 10 which is specific to SCIP and SAIP</p>

#### Serious bodily injury definition

Current Law	SB 1113
<p>Serious bodily injury means any significant impairment of the physical condition of an individual, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.</p>	<p>Serious bodily injury means bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, unconsciousness, extreme pain or permanent or protracted loss or impairment of the function of a bodily member, organ or mental faculty.</p>
<p>Note: Definition of “significant impairment of the physical condition” is defined as a substantial loss or abnormality in the body's structure or function, impacting daily activities and potentially leading to a disability. Examples of significant impairments of physical condition</p>	

include conditions that limit an individual's ability to perform daily activities, such as loss of a limb, paralysis, severe arthritis, or conditions affecting mobility, vision, or hearing.	
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### Who can impose restraint on a child in care

Current Law	SB 1113	Proposed amendments
The individuals placing the child in care in the restraint or involuntary seclusion are certified as described in ORS 418.529 in the use of the type of restraint used (ORS 418.523 (5)(b))	Only staff or contractors of a child-caring agency, proctor foster home or developmental disabilities residential facility who have current certification as described in ORS 418.529 in the restraint used <b>ORS 418.523 (2)(a)(A)</b>	
	The child in care must be receiving care or services from the child-caring agency, proctor foster home or developmental disabilities residential facility at the time the restraint is used <b>ORS 418.523 (2)(a)(B)</b>	
Not currently in 418 but consistent with current law, rule and practice	If the child in care is receiving developmental disability services, the restraint must also be consistent with the child in care's individualized service plan developed pursuant to ORS 427.154 <b>ORS 418.523 (2)(a)(C)</b>	
Not currently in 418	The child's foster parent to prevent an imminent suicide attempt or unlawful use of force upon another person that is likely to result in the death or life-threatening injury to the child in care or others. <b>ORS 418.523 (2)(b)(A)</b>	A certified foster parent, a DHS employee or any other person not explicitly authorized by ORS 418.XXX to impose a restraint upon a child in care is not prohibited

		from using the least amount of force necessary upon a child in care in an emergency to protect oneself or others from an imminent unlawful assault as described in xxx, sexual contact as described in xxx or to interrupt a suicide attempt in as long as a prohibited restraint is not utilized.
Not currently in 418	The foster parent did not provoke the incident <b>ORS 418.523 (2)(b)(B)</b>	(Delete this line)
The restraint uses the least amount of physical force and contact possible 418.523 (3)(c)(B)	The restraint is imposed with the minimum amount of physical force necessary to prevent the child in care's current actions from resulting in the death or life-threatening injury to the child in care or others <b>ORS 418.523 (2)(b)(C)</b>	
Not currently in 418	The foster parent summons assistance from an emergency responder, which may include but need not be limited to a mobile crisis response team, law enforcement or ambulance, immediately upon it becoming physically safe to do so. <b>ORS 418.523 (2)(b)(D)</b>	(Delete this line)
Not currently in 418	The restraint ends immediately upon the resolution of the threat, even if the emergency responder has not yet arrives; and <b>ORS 418.523 (2)(b)(E)</b>	(Delete this line)

Not currently in 418	The foster parent notifies ODHS as soon as it is safe to do so. ORS 418.523 (2)(b)(F)	(Delete this line)
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