

HB 3835 Amendment Comparison

SOCAC Amendments (-8) v. Alternative Amendment (-11)

Section	SOCAC (-8)	ALTERNATIVE (-11)
1: New Section Abusive restraint and abusive seclusion	Creates new definitions for “abusive restraint”, “abusive involuntary seclusion” and “corporal punishment”	Deleted section. No proposed change to current law.
8: ORS 418.241 Secure Transportation APPENDIX 1: SECURE TRANSPORTATION	Removes definitions of medical transportation provider; adds additional rulemaking authority to the Department; allows restraint at a lower threshold than other settings; removes language clarifying that secure medical transportation providers do not need to be licensed by ODHS	Modifies to definitions related to nonmedical transport services to better differentiate from medical transportation services. Includes population served, destinations and vehicle type; Creates clear distinction between medical and nonmedical secure transport; Explicitly states medical transport providers are not required to be licensed through ODHS unless they ALSO provide nonmedical transport.
Section 9: Technical language	<ul style="list-style-type: none"> • Adds Section 10 to series 	<ul style="list-style-type: none"> • Adds Section 10 to series
10: New Section Abuse of a Child in Care APPENDIX 2: ABUSE DEFINITIONS AND SCOPE	<ul style="list-style-type: none"> • Converts language regarding abuse of a child in care to substantive provisions, rather than definitions • Narrows application of child in care abuse statute to: <ul style="list-style-type: none"> ○ Organizations ○ Employees ○ Operators ○ Contractors ○ Agents ○ Volunteers ○ Person with formal caregiving responsibility to child in care 	<ul style="list-style-type: none"> • Converts language regarding abuse of a child in care to substantive provisions, rather than definitions • Narrows application of child in care abuse statute to: <ul style="list-style-type: none"> ○ Organizations ○ Employees ○ Operators ○ Contractors ○ Agents ○ Volunteers ○ Person with formal caregiving responsibility to child in care

	<ul style="list-style-type: none"> • Narrows circumstances in which a program or agency can be substantiated for abuse instead of an individual. • Removes unlawful use of restraint or involuntary seclusion from abuse statute • Modifies list of criminal acts that constitute abuse. <p>(See Appendix for differences)</p>	<ul style="list-style-type: none"> ○ Individuals over the age of 18 residing in the facility or home ○ Individuals that have access to the child in care due to their relationship with one of the other individuals described above • Adds language prohibiting an individual covered by the “child in care” abuse statute from facilitating or encouraging another person to have sexual contact with a child in care • Modifies list of criminal acts that constitute abuse. <p>(See Appendix for differences)</p>
11: ORS 418.257 Definitions General alignment, with slight difference in definition of “Child in Care.”	Child in care means a person under 21 years of age who is residing in or receiving care or services from....	Child in care means a person under 21 years of age who is in the physical or legal custody of the department or is residing in or receiving care or services from...
12: ORS 418.519 Definitions APPENDIX 3: RESTRAINT AND INVOLUNTARY SECLUSION	<p>“Chemical restraint means a drug or medication that is administered to a child in care to control behavior or restrict freedom of movement.</p> <p>Leaves “serious physical harm” undefined.</p>	<p>‘Chemical restraint’ means a drug or medication that is administered by any means to a child in care to control behavior or restrict freedom of movement and that is not:</p> <ul style="list-style-type: none"> • Prescribed by a licensed physician or other qualified health professional acting within the professional’s scope of practice for standard

		<p>treatment of the child in care's medical or psychiatric condition; and</p> <ul style="list-style-type: none"> • Administered as prescribe by a licensed physician or other qualified health professional acting within the professional's scope of practice <p>Defines serious physical harm</p>
<p>13: ORS 418.521 Unlawful restraints</p> <p>APPENDIX 3: RESTRAINT AND INVOLUNTARY SECLUSION</p>	See Appendix for side by side comparison	See Appendix for side by side comparison
<p>14: ORS 418.523 Allowable use of restraint and seclusion</p> <p>APPENDIX 3: RESTRAINT AND INVOLUNTARY SECLUSION</p>	<p>Allows restraint and involuntary seclusion to be used for discipline under circumstances to be defined by the Department by rule.</p> <p>Allows restraint to be imposed to protect animals.</p> <p>Allows individuals to intervene without using a restraint (immobilizing a child in care) to break up a fight or protect a person from assault, other serious physical harm or sexual contact.</p> <p>Prohibits use of restraint or involuntary seclusion in certified foster care and adjudicated youth foster care.</p>	<p>Requires imposition of restraint on a child receiving developmental disabilities services to be consistent with all state and federal requirements for DD services.</p> <p>Prohibits involuntary seclusion in DD residential facilities.</p> <p>Prohibits use of restraint or involuntary seclusion in certified foster care and adjudicated youth foster care.</p> <p>Allows individuals to intervene without using a restraint (immobilizing a child in care) to separate individuals engaged in a fight or to protect a person from an assault or sexual contact</p>

		Allows foster parent, ODHS employee and any other person to impose restraint with least amount of force in an emergency to protect an individual from imminent assault or sexual contact or to interrupt a suicide attempt in progress. An unlawful restraint may not be used.
14a: Technical language	This section is not in the SOCAC version	Adds Section 15 to statute
15: SOCAC (ORS ORS 418.526): Access to records related to restraints that result in injury SGB: (New Section) SCIP/SAIP	Requires permission from parent or guardian, or youth, for records relating to restraints that result in an injury to be disclosed to CASAs and the child's attorney. Allows "access" to review rather than allowing a physical copy	Provides for use of supine restraint in the SCIP and the SAIP (this is current statute, but broken into a new section to make the statute easier to read)
16: ORS 418.529 Training programs	Removes limit on number of restraint training programs approved by department Requires ODHS to work with SOCAC to convene an advisory committee that includes individuals with lived experience to make recommendations regarding training Adds language regarding the elimination or reduction of restraint	Maintains limit on number of restraint programs that can be approved Requires at least one program to be approved by ODDS for use in HCBS settings for children and youth with IDD Prohibits programs selected from teaching restraints that are unlawful in Oregon Requires Department to convene an advisory committee that includes individuals with lived experience to make recommendations regarding training

		Clarifies that entities are not restricted in utilizing additional training curricula designed to prevent crisis and to respond to crisis with methods that don't include the use of force
17: ORS 418.532 Notifications to youth	Changes notifications to youth due to change in practice resulting from removal of unlawful restraints from the definition of abuse of a child in care.	Deleted section. No proposed change to current law because unlawful restraints remain included in definition of abuse.
18: ORS 419A.205 Hard restraints in secure transportation.	Repeals restriction on use of mechanical restraints (handcuffs, shackles, belly chains, etc) in certain circumstances during transportation of a ward or a child in the custody of ODHS. Also removes requirement for a transportation plan for secure transport that may involve the use of a physical restraint.	Deleted. No proposed change to current law.
19: ORS 418.992 Civil penalties and corrective actions APPENDIX 4: CIVIL PENALTIES AND CORRECTIVE ACTIONS	Explicitly allows ODHS to impose a corrective action or civil penalty on a child-caring agency, including for failure to comply with licensing standards for the use of restraint and involuntary seclusion.	Explicitly allows ODHS to impose a corrective action or civil penalty, or both, on child-caring agencies, including for failure to comply with licensing standards for the use of restraint and involuntary seclusion. Adds a civil penalty (assessed against CCA) for repeated incidents of physical restraint imposed by individuals that are not qualified to impose the restraints.
20: ORS 418.994 Civil penalty caps	This section is deleted	Increases maximum civil penalty from \$500 to \$1500 (has not been updated in decades).

21: ORS 419B.005 Child abuse	<p>Adds involuntary servitude or trafficking to 419b.005 definition of abuse.</p> <p>Adds “abusive restraint or abusive seclusion” of a child in care to the 419B.005 definition of abuse.</p>	Adds involuntary servitude or trafficking to 419b.005 definition of abuse.
22: ORS 419B.005 Sunset on school provisions	This section operationalizes the sunset on school restraint and seclusion investigations in 2028 as negotiated during the 2023 session	This section operationalizes the sunset on school restraint and seclusion investigations in 2028 as negotiated during the 2023 session.
23: DELETED	Deleted. No proposed change to current law.	Deleted. No proposed change to current law.
24: ORS 418.205 Definitions related to licensing	Adds definition of managers.	<p>Adds definition of managers.</p> <p>Includes the DD residential facility definition.</p>
25: ORS 418.210 Applicability of requirement to be licensed by ODHS	No substantive changes.	<p>Adds ORS 418.241 to the list of referenced licensing statutes.</p> <p>Clarifies that certified foster homes are subject to the child in care abuse definition (Page 43, line 20).</p> <p>Deletes reference to shelter care home (it is redundant to other references).</p> <p>Clarifies that adjudicated youth foster homes are subject to the child in care abuse definition (Page 44, line 4).</p>
26: ORS 418.215 Application of CCA licensing requirements by provider type	Narrows restriction on secure transportation to allow transport of a child to a developmental disabilities residential facility in another state if that DD residential facility is not required to be	Clarifies that a provider that provides nonmedical secure transportation must be licensed by ODHS to provide nonmedical secure transportation services, regardless of whether the provider also holds a license or certificate

<p>APPENDIX 1: SECURE TRANSPORTATION</p>	<p>licensed under Oregon statute as a child caring agency OR or if it is an adult facility (Page 45, line 18).</p> <p>Exempts adult DD foster homes and adult DD residential programs serving Child Welfare children from CCA licensing requirements</p> <p>Exempts secure medical transport companies from CCA licensure.</p> <p>Exempts ambulance services from CCA licensure.</p>	<p>to provide secure medical transportation through OHA.</p> <p>Exempts secure medical transport companies from CCA licensure.</p> <p>Exempts ambulance services from CCA licensure.</p> <p>Clarifies that a county youth detention facility receiving services provided and coordinated by the DOC is not required to be a child caring agency.</p>
<p>27: ORS 418.240 Licensing requirements</p> <p>APPENDIX 5: LICENSING REGULATION AND ENFORCEMENT</p> <p>APPENDIX 6: INVESTIGATIONS AND ASSESSMENTS</p>	<p>Allows LLCs to operate child caring agencies in Oregon.</p> <p>Adds compliance with requirements related to restraint and involuntary seclusion to licensing standards.</p> <p>Modifies requirements related to suspension, revocation and conditions on a license.</p> <p>Required department to “assess” circumstances if law enforcement or other government agency is investigating key persons related to a Child Caring Agency or a child caring agency.</p> <p>Requires director to take action if there are circumstances that are assessed to pose serious endanger the health, safety or welfare of a child.</p>	<p>Adds compliance with requirements related to restraint and involuntary seclusion to licensing standards.</p> <p>Modifies requirements related to suspension, revocation and conditions on a license.</p> <p>Adds the Children’s Advocate to list of individuals to be notified if agency intends to rescind a notice of revocation or suspension to an agency.</p> <p>Requires that ODHS include description of evidence provided by the CCA demonstrating ability to maintain regulatory compliance that supports the decision to rescind a notice to suspend or revoke.</p> <p>Eliminates language that prohibits charging application or reapplication fees to CCAs.</p>

		Requires complete and thorough assessment of the circumstances if law enforcement or other government agency is investigating key persons related to a Child Caring Agency. The director must determine if there are risks to safety, and if so take immediate action.
28: ORS 418.248 Proctor care	Technical change as part of realignment of definitions.	Technical change as part of realignment of definitions.
29: ORS 418.255 CCA finance and inspection	Eliminates financial disclosures for entities that do not receive public funds.	Clarifies that revenue of an agency includes revenue from inside and outside of Oregon. Clarifies that annual financial statements must be provided to department at least once each year in addition to at the time of application for a license. Adds nonmedical secure transport agencies specifically to this statute.
30: ORS 418.256 Nondisclosure agreements	Amends non-disclosure regulations. Limits prohibition from interfering with a good faith disclosure to attempting to prevent the disclosure. Removes prohibition on disclosing mistreatment that is not abuse. Allows immunity to staff for making reports of actions or omissions by CCAs.	Section deleted. No proposed change to current law.
31: ORS 418.258 Abuse investigations	Eliminates requirement for ODHS to investigate all allegations and concerns of suspected abuse:	Maintains current requirement for ODHS to investigate abuse of a child in care regardless of whether the information comes through

<p>regarding children in care</p> <p>APPENDIX 6: INVESTIGATIONS AND ASSESSMENTS</p>	<ul style="list-style-type: none"> • Limits obligation only to circumstances where the information is received through the child abuse hotline. • Limits mandatory response only to allegations that involve an employee, operator, contractor, agent or volunteer of a child-caring agency, developmental disabilities residential facility, adjudicated youth foster home, certified foster home or proctor foster home or any other person responsible for the provision of care or services to the child in care. 	<p>the hotline, a direct report to the director, through a public meeting or otherwise.</p> <p>Ensures investigations also occur if abuse is imposed by persons over the age of 18 who live in the household and others that have access to the child in care because of their relationship to a person with formal responsibilities to the child.</p>
<p>32: ORS 418.259 Notifications and interviews</p>	<p>Makes changes to quarterly report contents</p>	<p>Adds child's DD services coordinator to the list of individuals notified about a report of abuse</p> <p>Requires interview to be conducted with the victim identified in a child abuse investigation; if the child can't be interviewed the investigator must document the reason.</p> <p>Adds CASA to list of persons a child may request to have present during an interview with investigators.</p> <p>Explicitly states abuse may not be substantiated solely because an individual imposed a restraint without current certification.</p>

		<p>Adds Children’s Advocate to list of individuals receiving notification of a substantiated allegation of abuse.</p> <p>Makes changes to quarterly report contents.</p>
<p>33: ORS 418.260</p> <p>Monitoring and enforcement of CCA license compliance</p> <p>APPENDIX 7: OBLIGATIONS OF ODHS</p>	<p>Requires ODHS to “assess” situation if ODHS becomes aware of an allegation that there is a lack of regulatory compliance at a CCA.</p> <p>Narrows ODHS obligation to take action only to those abuses, deficiencies, violations or failures that seriously endanger the health, safety or welfare of any child or the public or threatens to do so.</p> <p>Relieves the Director of ODHS of the ultimate obligation to ensure appropriate assessments are completed for complaints of noncompliance and to ensure appropriate action is taken to ensure CCA compliance. Ultimate responsibility for this is shifted to the licensing staff.</p> <p>Penalty of official misconduct shifts from Director of ODHS to licensing staff.</p> <p>Adds that employee duty to report licensing violations is in addition to obligation to make mandatory abuse reports.</p>	<p>Reorganizes this section for better readability.</p> <p>Requires ODHS to conduct a “complete and detailed assessment” to determine whether the agency is in compliance if it receives information about an actual or alleged violation of CCA regulations.</p> <p>Requires ODHS to take immediate and appropriate action if a CCA is not in compliance.</p> <p>Lists a variety of types of regulatory actions ODHS can take to bring an agency back into compliance.</p> <p>Prohibits ODHS from suspending or revoking a license, certification or authorization unless there is imminent risk, the violation is part of a pattern of frequent or repeated noncompliance, the department first tried less punitive actions that were unsuccessful OR the suspension or revocation is required by state or federal law.</p> <p>Adds parents or guardians of privately placed children to the list of individuals that must be</p>

		<p>notified when there is a suspension or revocation of a CCA license.</p> <p>Removes requirement to notify Legislature when CCA fails to comply with plan of correction in a timely way; adds such notification to the licensing website and parents of children privately placed in the CCA.</p> <p>Requires agency to post license actions on its licensing website.</p> <p>Requires ODHS to report to OHA CMS survey team if the noncompliance is at a PRTF and regards use of restraint or involuntary seclusion or emergency preparedness plan.</p> <p>Adds that employee duty to report licensing violations is in addition to obligation to make mandatory abuse reports.</p>
34: ORS 418.327 Technical changes	Technical changes related to realignment of definitions	Technical changes related to realignment of definitions
35: ORS 418.995 Civil penalty considerations	Aligns civil penalty considerations with other sectors	Aligns civil penalty considerations with other sectors
36: ORS 418.321 Out of state placements APPENDIX 8: OUT OF STATE PLACEMENTS	<p>Amends statute to allow ODHS to delegate all of its obligations to license, visit, inspect, investigate or supervise out of state placements/facilities to out of state adoption agencies and foster care agencies.</p> <p>Waives all statutory requirements for contracting with the out of state agency, including provisions related to</p>	<p>Clarifies out of state placement provisions in this statute apply only to congregate care residential settings.</p> <p>Adds secure transport reference to the series of licensing statutes included for out of state placement.</p> <p>Eliminates staffing ratio requirements from statutory</p>

	<p>psychotropic medications, conversion therapy, nondisclosure agreements, disclosure of other placement sources, child abuse reporting and agency access to youth and facility.</p> <p>Waives existing statutory requirements related to the rights and supervision of children with IDD in out of state placements.</p> <p>Waives requirement that Oregon Developmental Disabilities Service be engaged in any placement decision regarding a child with IDD in an out of state placement.</p> <p>Waives requirement that ODHS may not place youth in programs designed for juvenile offenders.</p> <p>Waives requirement that the out of state facility have site specific accreditation by a nationally recognized organization (such as the Joint Commission).</p> <p>Waives requirement that the out of state placement be a Qualified Residential Treatment Program.</p> <p>Allows ODHS to place a child in an out of state placement without licensing the agency AND without entering a contract with provisions</p>	<p>standards for contract with out of state facility.</p> <p>Clarifies that contract must specify that out of state program may not provide or facilitate provision of conversion therapy.</p> <p>Ensures that for a child with an intellectual or developmental disability, ODDS must be part of any multidisciplinary review team.</p> <p>Ensures children with ID/D are only placed in out of state facilities that comply with all rights and protections extended to people with IDD in Oregon.</p> <p>Prohibits placement of a child with IDD in an ICF.</p> <p>Requires ODHS child welfare staff to accompany the child to the out of state residential program and to any change of out of state residential program placement.</p> <p>Clarifies that ODHS is not prohibited from placing children in facilities that serve children who have a history as juvenile offenders. Clarifies that the provision is prohibits ODHS from placing non-juvenile offenders in programs designed to provide detention or alternative to detention services or supervision.</p> <p>Clarifies ODHS may not place a child who is a juvenile offender in a closed custody juvenile detention facility in another state.</p>
--	---	---

	<p>established in statute in the following circumstances:</p> <ul style="list-style-type: none"> • No CCA placement suitable for the child is available in Oregon and the agency has services and treatments approved by the child's CCO. The placement is not required to be licensed, certified or authorized as a health care facility by the health authority in the state in which it is located. The facility is not required to be under the direction of a physician. Placement must be approved by Child Welfare Director, or any other person to whom the Child Welfare Director delegates this authority, and by Oregon Medicaid Director or any other person to whom the Oregon Medicaid Director delegates this authority. • Allows ICWA placements without licensure or contract requirements. Placement must be approved by Child Welfare Director, or any other person to whom the Child Welfare Director delegates this authority. • It is a facility located in any state that a child is placed with an adoption 	<p>Waives requirements for licensure and contract provisions for placement made in compliance with ICWA.</p> <p>Allows 60-day provisional license and waiver of corporation requirements for placement in the following placement types if they have active provider agreement with the Oregon Medicaid agency and the Medicaid agency in the state in which the facility is located (and other requirements):</p> <ul style="list-style-type: none"> • SUD Residential Treatment • Psychiatric Residential Treatment Facility • Physician directed eating disorder treatment <p>Ensures face to face contact with ODHS personnel at least once every 15 days.</p> <p>Requires multidisciplinary team to monitor the child and placement.</p> <p>Requires ODHS to ensure child has access to unmonitored telephone communications with the child's CASA, case worker, attorney, ODHS licensing personnel, the Children's Advocate, the child abuse hotline in Oregon and the state in which the facility is located and law enforcement.</p> <p>Requires ODHS to ensure child's attorney, CASA, the Children's advocate and unless otherwise restricted by the court, the child's parent or siblings, have access to unmonitored in person visits with</p>
--	--	---

	<p>agency or foster care agency or in any state neighboring that state. The placement must provide the types of services or treatment considered medically necessary or medically appropriate for the child. Medical necessity and medical appropriateness is determined to be present if it is consistent with the OCYSN special needs program. Placement is not required to be funded with Medicaid dollars. The placement is not required to be licensed, certified or authorized as a health care facility by the health authority in the state in which it is located. The facility is not required to be under the direction of a physician. Placement must be approved by Child Welfare Director, or any other person to whom the Child Welfare Director delegates this authority and by the Oregon Medicaid Director or any other person to whom the Oregon Medicaid Director delegates this authority.</p> <ul style="list-style-type: none"> • The out of state placement is approved by an out of state adoption agency or 	<p>the child. Access must include ability to access all areas where the child sleeps, receives education or treatment, eats or engages in hygiene.</p>
--	--	--

	<p>foster care agency in the state where the facility is located. This does not require the placement to be medically necessary or medically appropriate for the child and does not require approval from OHA, Medicaid Director or a CCO. The placement is not required to be licensed, certified or authorized as a health care facility by the health authority in the state in which it is located. The facility is not required to be under the direction of a physician. Placement must be approved by Child Welfare Director, or any other person to whom the Child Welfare Director delegates this authority.</p> <ul style="list-style-type: none"> • The facility is in Washington, Idaho, California or Nevada and placement is closer to the child's community. The services or treatment must be consistent with OHA rules for the Children and Young Adults with Special Health Needs Program. Placement must be approved by Child Welfare Director, or any other person to whom the Child Welfare Director delegates this 	
--	---	--

	<p>authority. and by Oregon Medicaid Director or any other person to whom the Oregon Medicaid Director delegates this authority.</p> <p>For all of these placement situations:</p> <ul style="list-style-type: none"> • Department must verify placement is in good standing with licensing authority in state in which placement will provide services or treatment. Does not specify who must carry this out, nor does it describe what constitutes “good standing.” Does not specify whether this includes both the agency that licenses CCAs and the agency that certifies or approves health care facilities, or just the CCA authority. • Licensing staff must visit facility to verify the placement is safe and in “significant” alignment with Oregon licensing requirements. Does not define what constitutes significant alignment or which standards may be waived. <p>Other requirements:</p>	
--	--	--

	<p>Requires OHA to establish via contract “basic standards” for the CCO to monitor an out of state placement for quality and oversight.</p> <p>Prohibits placement of a child with IDD in an intermediate care facility, and allows ODHS to define an intermediate care facility.</p> <p>Requires a member of the multidisciplinary team to travel with the child to the out of state placement and to visit the child at least once every 15 days. (MDT is not defined, unclear if this includes ODHS personnel or a person that is familiar to the child)</p> <p>ODHS must ensure the child’s rights are in “significant alignment” with rights in Oregon. There is no definition of “significant alignment” or what rights the Department can waive (ie, HCBS rights? Reproductive health care rights? Rights to consent for treatment? Right to decline the placement? Right to an attorney when being interviewed in an abuse investigation or criminal investigation? Right to use telephone? Etc)</p> <p>Requires youth is informed about their rights under the Oregon Foster Children’s Bill of Rights and how to report</p>	
--	---	--

	<p>violations of those rights to Oregon.</p> <p>Requires multidisciplinary to determine how to respond if a child's rights have been violated or abuse occurs in the out of state placement.</p>	
36a: Technical change	Technical amendment, adding 36b to the 418.205 to 418.327 series.	Not included in this amendment.
36b: New section Assigns duties to SOCAC	<p>Defines "foster care ombudsman" as an individual within the Governor's Advocacy Office (which is located within ODHS).</p> <p>Requires ODHS to file notice of placement with the Court.</p> <p>Requires ODHS to provide written notice of placement to the Governor, foster care ombudsman and the SOCAC</p> <p>Requires ODHS to provide quarterly narratives to the SOCAC describing the circumstances to justify exceptions to statutory requirements for placements of children in state and out of state including placements in adult settings and extensions to placements in non-QRTP/non-clinical settings.</p>	Not included in this amendment.

	<p>Requires SOCAC to submit quarterly reports to the Legislature analyzing the Department's report from prior quarter, including appropriateness of the exceptions, extensions and trends.</p> <p>Requires SOCAC to submit annual report to the Legislature summarizing the reports from the prior year.</p> <p>Makes all materials provided to SOCAC by ODHS exempt from public exception and requires discussion of the records to occur in executive session; these records will not be available to the Legislature or to youth whose circumstances are described in the reports.</p>	
<p>37: ORS 418.322 Placement of children, generally</p> <p>APPENDIX 9: CONGREGATE CARE PLACEMENTS</p>	<p>Allows ODHS child welfare to place children in congregate care residential facilities for adults that are licensed by ODDS</p> <p>Allows ODHS to place children in any adult setting that is licensed by the Oregon Department of Human Services or the Oregon Health Authority. The Federal Family First Services and Prevention Act process requirements for placement in congregate care would not apply to these placements. No approval is required from the Child Welfare Director or designee or the Medicaid Director or designee</p>	<p>Clarifies that the residential care facility described in this section is a Psychiatric Residential Treatment Facility (3)(d)(A).</p> <p>Allows ODHS to place a child or ward who is at least 18 in an SUD residential treatment setting that primarily serves individuals who are 21 years of age or older.</p> <p>Allows ODHS to extend length of stay at a CCA that is not a QRTP but is licensed by ODHS to provide short term stabilization and assessment services by up to 90 cumulative days if:</p> <ul style="list-style-type: none"> • The youth is at least 16 and does not object to the extension

	<p>Allows ODHS to place a child in any congregate care setting that the CCO finds to be medically necessary or medically appropriate, disregarding the requirements of the Federal Family First Act.</p> <p>Allows ODHS to extend placements of children beyond statutory restrictions (60 consecutive or 90 cumulative days in a 12-month period) by 30 consecutive or 30 cumulative days in a short-term assessment and stabilization facility if ODHS deems it in the child's best interest or if the child requests it. No court oversight is required, but must be approved by the Child Welfare Director or by any person to whom the Child Welfare Director delegates this authority.</p>	<ul style="list-style-type: none"> • The child is attending school and moving from the placement would disrupt the academic success of the student • The court approves the extension <p>This extension could continue to be extended through the same process if necessary.</p>
<p>38: ORS 418.500 Purchase of out of state care APPENDIX 10: PRTFs AND IMDs</p>	<p>Allows ODHS to make all placement exceptions that are permitted for in-state congregate care placement (including placement in adult settings) in out-of-state public institutions and private institutions without including the provisions in ORS 418.321.</p> <p>These settings include:</p> <ul style="list-style-type: none"> • Adult and child substance use treatment • Any adult facility with medically necessary or appropriate services 	<p>Prohibits ODHS from placing a child or youth in an out of state 'Institution for mental disease.'</p> <p>Clarifies that a Psychiatric Residential Treatment Facility (PRTF) that is in compliance with all federal requirements is not an IMD.</p> <p>(Medicaid will not pay for a placement in an IMD)</p>

	<ul style="list-style-type: none"> • Short term stabilization and assessment • Homeless, runaway and transitional shelters for up to 60 consecutive/90 cumulative days with potential for 30 day extension • Psychiatric Residential Treatment Facility • A hospital • An independent residence facility • CSEC facility • Program providing prenatal, postpartum or parenting supports • Proctor care • Residential treatment facility or residential home for individuals 18 year of age and older 	
39: ORS 419B.335 Public website regarding out of state placements	<p>Removes existing requirement to provide name of cities in which out of state facilities are located.</p> <p>Removes existing requirement to report on demographics for out of state placements, including age, gender, race, ethnicity, tribal status and, if disclosed by ward, sexual orientation.</p> <p>Removes existing requirement to report number of children or wards with intellectual or developmental disabilities currently placed in out of state facilities</p>	Requires existing website to be updated within 5 days of each new placement of a child in an out of state facility.

	Creates new quarterly reporting requirements from ODHS to SOCAC regarding the circumstances in which the out of state placement was determined to be in the best interests of the child or ward.	
Section 39a: ORS 419B.351 Out of state court oversight	<p>Adds out of state placements to statute regarding oversight from court for QRTPs.</p> <p>Clarifies the independent assessment may not be required for an out of state placement as required by Family First.</p> <p>Allows child to be placed out of state prior to the court hearing.</p> <p>Requires court to make finding that the placement meets the criteria described in ORS 418.321 (7).</p>	There is no Section 39a in the -A7 amendment. However, these provisions are included in Section 40 of the -A7 amendment
Section 40 SOCAC: ORS 418.475 Independent living Payments Alternate Amendment: ORS 419B.351 Court oversight OOS placements	Waives requirement for older youth participating in independent living programs to make payments for housing costs	<p>Adds out of state placements to the statute regarding court approval of placement in QRTPs.</p> <p>Independent medical oversight is maintained in the -11 because it only allows ODHS to place a child in an out of state facility under the expedited terms of this measure if it is:</p> <ul style="list-style-type: none"> • A QRTP • An SUD treatment facility • An Eating Disorder residential treatment facility

		<ul style="list-style-type: none"> • A PRTF the requirement to have independent medical assessment of the child's need is already preserved. <p>Each of these settings requires an assessment by a licensed medical provider. That provider's report will assist the court in meeting its requirement to make a finding that placement is medically necessary and medically appropriate.</p>
41: ORS 418.016 Waives criminal background check requirements	Allows ODHS to adopt a rule to waive statutory requirement to conducting a criminal records check on individuals over the age oof 18 that will be in a foster home, relative foster home, adoptive home or any other placement serving a child or ward if the individual was placed in the home by ODHS— regardless of whether the individual was placed in the home before or after the age of 18.	Deleted
Section 42	Deleted	Deleted
Section 43	Deleted	Deleted
Section 44	Deleted	Deleted
Section 45	Deleted	Deleted
Section 46	Deleted	Deleted
Section 47: Establishes study and reporting duties for SOCAC	Requires SOCAC to study the implementation by ODHS and OHA of the implementation of HB 3835. Requires SOCAC to submit two reports to the Legislature that includes this analysis- in September of 2026 and 2027. Authorizes SOCAC to make recommendations for legislation.	Deleted

Section 48: Due dates for SOCAC reports	Adds due dates for quarterly reports from ODHS to SOCAC, and SOCAC to the Legislature	Deleted
Section 49: Repeal of SOCAC reporting	Repeals the study requirement in Section 47 on January 2, 2028.	Deleted
Sections 50-60	Conforming amendments	Conforming amendments
Section 61		Captions are not part of the law
Section 62	Captions are not part of the law	Emergency Clause
Section 63	Emergency clause	No section 63 in this amendment

APPENDIX 1: SECURE TRANSPORTATION

Appendix Secure Transports

SB 846, 2017

79th OREGON LEGISLATIVE ASSEMBLY--2017 Regular Session

Enrolled
Senate Bill 846

Sponsored by Senators CELSER, FREDERICK, MANNING JR, THATCH, BYNUM, LININGER, POST, STARK, WILLIAMSON

CHAPTER _____

AN ACT

Relating to restraint of youth in custodial circumstances.

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

SECTION 1 Sections 2 and 3 of this 2017 Act are added to and made a part of ORS chapter 419A.

SECTION 2 During any juvenile court proceeding under this chapter and ORS chapters 419B and 419C regarding a youth, youth offender or young person:

(1)(a) Instruments of physical restraint, such as handcuffs, chains, irons, straitjackets, cloth restraints, leather restraints, plastic restraints and other similar items, may not be used during the juvenile court proceeding and must be removed prior to the youth, youth offender or young person being brought into the courtroom unless the court finds that the use of restraints is necessary due to an immediate and serious risk of dangerous or disruptive behavior and there are no less restrictive alternatives that will alleviate the immediate and serious risk of dangerous or disruptive behavior.

(b) If the means do not exist to remove instruments of physical restraint as described in paragraph (a) of this subsection prior to the youth, youth offender or young person being brought into the courtroom, such restraints shall be removed prior to commencement of the proceeding.

(c) Instruments of physical restraint removed under this subsection must remain removed for the duration of the proceeding.

(2) In determining whether an immediate and serious risk of dangerous or disruptive behavior exists, the court may consider:

(a) Whether the youth, youth offender or young person has a history of dangerous or disruptive behavior that has placed the youth, youth offender or young person or others in potentially harmful situations as evidenced by recent behavior;

(b) Whether the youth, youth offender or young person presents a substantial risk of inflicting physical harm on himself or others; and

(c) Whether the youth, youth offender or young person presents a substantial risk of flight from the courtroom or courtroom premises.

(3) In determining whether a less restrictive alternative will alleviate the immediate and serious risk of dangerous or disruptive behavior, the court may consider the presence of court personnel, law enforcement officers, juvenile department staff or counselors, or bailiffs.

Passed House
5/25/17
Ayes: 94
Excused: 0
Absent: 1
Present: 94
Enrolled for Enactment at the House, 1 - Speaker Kiper

Passed Senate
4/13/2017
Ayes: 28
Excused: 1 - Hansell

Enrolled Senate Bill 846 (SB 846-A)

Page 1

(4) When the use of restraints is requested by a law enforcement agency, the juvenile department or other party to the juvenile court proceeding, the request must be made in writing and presented to the court and other parties prior to the youth, youth offender or young person's appearance in the courtroom for the juvenile court proceeding. The request must describe discrete, recent, concrete and observable examples of behaviors or risk factors that justify the use of restraints.

(5) The court shall provide the attorney for the youth, youth offender or young person an opportunity to be heard prior to ordering the use of restraints. If restraints are ordered, the court shall make written findings of fact in support of the order.

(6) Any restraints used must allow the youth, youth offender or young person limited movement of the hands to read and handle documents and writings necessary to the juvenile court proceeding. Under no circumstances should a youth, youth offender or young person be restrained to a stationary object or another person.

(7) Restraints may not be used as punishment, for convenience or as a substitute for staff supervision.

SECTION 3 During the transportation of a youth, youth offender, young person, ward or child by the Department of Human Services, the Oregon Health Authority or an agent of the department or authority:

(1) Instruments of physical restraint, such as handcuffs, chains, irons, straitjackets, cloth restraints, leather restraints, plastic restraints and other similar items, may not be used unless:

(a) The transportation is secure transportation to a detention facility, youth correction facility, secure hospital, secure intensive community inpatient facility or other secure facility; or

(b) Restraints are necessary due to an immediate and serious risk of dangerous or disruptive behavior and there are no less restrictive alternatives that will alleviate the immediate and serious risk of dangerous or disruptive behavior.

(2) Prior to the use of restraints during transportation, a transportation safety plan, including documentation of the need for restraints, must be created. The transportation safety plan must address intervention strategies designed to modify behavior without the use of restraints and recommend the least restrictive effective alternative.

(3) Only staff who have been adequately trained in restraint device usage may use and apply restraints during transportation.

(4) Restraints during transportation may not be used as punishment, for convenience or as a substitute for staff supervision.

(5) This section applies to all circumstances of transportation of a ward or child by the Department of Human Services, the Oregon Health Authority or an agent of the department or authority, including but not limited to transportation between placements with child-caring agencies, foster homes, shelter homes, treatment and residential facilities or any other type of placement destination for a ward or child in the custody of the Department of Human Services.

(6) As used in this section:

(a) "Detention facility" has the meaning given that term in ORS 419A.004.

(b) "Youth correction facility" has the meaning given that term in ORS 420.005.

Enrolled Senate Bill 846 (SB 846-A)

Page 2

From: Tina DeSouza
Sent: Monday, September 19, 2016 7:41 PM
To: 'bruce.m.baker@state.or.us'; 'Sen.SaraGelser@state.or.us'
Cc: Seth Johnson; 'Mindy Christiansen'
Subject: Im very concerned

Hello,

It has come to my attention that a child that I support with behavioral services in her foster placement is being transported to Children's Farm Home on Wednesday September 21st. I am very concerned that she has no prior knowledge of this transition and will be picked up by strangers who will not be able to provide her with any information on a 3+ hour drive.

Attached is a redacted letter with background information provided to DHS workers and her attorney.

This is a child with IDD who has a complicated history of past trauma, sexual and physical abuse and neglect. Transitioning her in this way WILL be traumatizing and damage the trust and stabilization that she has experienced with her current placement. She has been responding well to her new medication and current Foster providers. ***At the very least she should be informed of this transition and reassured by those people she trusts that she is safe and going to a place where they are trying to help her.***

Please think of this child and place yourself in her position. How scary and re-traumatizing this will be for her. This is sending a message of hopelessness and reinforcing that it is her fault and that it will not matter if she does well in the future- She will be waiting and looking behind her back for the next black van with strangers to show up and take her away.

I have heard that you both are strong advocates for children in the IDD field
Let's get it right for this child and those in the future.

Sincerely,

Tina DeSouza

Tina DeSouza
tdesouza@opportunityfound.org
Behavior Services Director
Opportunity Foundation of Central Oregon
835 E. Hwy 126 / PO Box 430
Redmond, OR 97756
541-604-8768 Fax: (541) 548-9573

This electronic message transmission, including any attachments, contains information from which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that disclosure, copying, distribution or use of the contents of this information is prohibited.

If you have received this electronic transmission in error, please notify the sender immediately by "reply to sender only" message and destroy all electronic and hard copies of the communication, including attachments. Thank you.

APPENDIX 2:

ABUSE DEFINITIONS AND SCOPE

Two Definitions of Abuse in Existing Statute: How do they compare?





General Child Abuse (ORS 419b.005)	Abuse of a Child in Care (ORS 418.259)
Any assault , as defined in ORS chapter 163, of a child	
Any physical injury to a child that has been caused by other than accidental means, including any injury that appears to be at variance with the explanation given of the injury	Any physical injury to a child in care caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.
Any mental injury to a child, which shall include only cruel or unconscionable acts or statements made, or threatened to be made, to a child if the acts, statements or threats result in severe harm to the child's psychological, cognitive, emotional or social well-being and functioning.	Verbal abuse means to threaten significant physical or emotional harm to a child in care through the use of derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.
Rape of a child , which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163	Sexual abuse which means sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language; any sexual contact between a child in care and an employee of a child-caring agency, proctor foster home, certified foster home, developmental disabilities residential facility, caretaker or other person responsible for the provision of care or services to a child in care; any sexual contact between a person and a child in care that is unlawful under ORS chapter 163 and not subject to a defense under that chapter; or any sexual contact that is achieved through force, trickery, threat or coercion.
Sexual abuse, as described in ORS chapter 163	An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467, or 163.525

Sexual exploitation, including but not limited to: Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, an any other conduct that allows, employes, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition that, in whole or in part, depicts sexual conduct or contact, as defined in ORS 177.002 or described in ORS 419B.020 or that is designed to serve educational or other legitimate purposes;	
Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008	
Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.	Neglect of a child in care which includes the failure to provide the care, supervision or services necessary to maintain the physical and mental health of a child in care; or the failure of a child-caring agency, proctor foster home, certified foster home, developmental disabilities residential facility, caretaker or other person to make a reasonable effort to protect a child in care from abuse.
Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.	
Buying or selling a person under 18 years of age as described in ORS 163.537	
Permitting a person under 18 years of age to enter or remain in or upon	

premises where methamphetamines are being manufactured	
Unlawful exposure to a controlled substance , as defined in ORS 475.005 or to the unlawful manufacturing of a cannabinoid extract , as defined in ORS 475C.009, that subjects a child to a substantial risk of harm to the child's health or safety.	
The restraint or seclusion of a child in violation of ORS 339.285, 339.288, 229.291, 339.303 or 339.308	The use of restraint or involuntary seclusion in violation of ORS 418.521 or ORS 418.523
The infliction of corporal punishment on a child in violation of ORS 330.250 (9)	Willful infliction of physical pain or injury upon a child in care
	Abandonment , including desertion or willful forsaking of a child in care or the withdrawal or neglect of duties and obligations owed a child in care by a child-caring agency, caretaker, certified foster home, developmental disabilities residential facility or other person.
	Financial exploitation , which means wrongfully taking the assets, funding or property belonging to or intended for the use of a child in care; alarming a child in care by conveying a threat to wrongful take or appropriate moneys or property of the child in care if the child would reasonable believe that the threat conveyed would be carried out; misappropriating, misusing or transferring without authorization any moneys from any account held jointly or singly by a child in care; or failing to use the income or assets of a child in care effectively for the support and maintenance of the child in care.

Who can be investigated for abuse of a child in care?

Comparison by Allegation Type: Current, SOCAC (-8) and Alternative (-11)

Allegation	Version	Entity providing care	Agent of an entity providing care	Other person with formal caretaker responsibilities	Other person over 18 in the household	Other person over 18 with access to child due to relationship with others in this section
Fails to make a reasonable effort to protect the child in care from abuse	Current	✓	✓	✓	✓	✓
	SOCAC	✓	✓	✓	✓	✓
	Alternative	✓	✓	✓	✓	✓
Fails to provide care, supervision or services	Current	✓	✓	✓	✗	✗
	SOCAC	✗	✓	✓	✗	✗
	Alternative	✓	✓	✓	✗	✗
Abandons the child in care	Current	✓	✓	✓	✗	✗
	SOCAC	✗	✓	✓	✗	✗
	Alternative	✓	✓	✓	✗	✗
Assaults the child in care	Current	✓	✓	✓	✓	✓
	SOCAC	✗	✓	✓	 Only if child under 18	 Only if child under 18
	Alternative	✓	✓	✓	✓	✓
Causes physical injury that is nonaccidental or at variance with explanation of cause	Current	✓	✓	✓	✓	✓
	SOCAC	✗	✓	✓	 Only if child under 18	 Only if child under 18
	Alternative	✓	✓	✓	✓	✓

Allegation	Version	Entity providing care	Agent of an entity providing care	Other person with formal caretaker responsibilities	Other person over 18 in household	Other person over 18 with access to child due to relationship with others in this section
Imposes restraint or seclusion in violation of statute	Current	✓	✓	✓	✓	✓
	SOCAC	✗	✗	✗	✗	✗
	Alternative	✓	✓	✓	✓	✓
Willfully inflicts pain or physical injury	Current	✓	✓	✓	✓	✓
	SOCAC	✗	✓	✓	✗	✗
	Alternative	✓	✓	✓	✓	✓
Commits specified act that constitutes a crime against a child	Current	✓	✓	✓	✓	✓
	SOCAC	✗	✓	✓	✗	✗
	Alternative	✓	✓	✓	✓	✓
Verbal Abuse	Current	✓	✓	✓	✓	✓
	SOCAC	✗	✓	✓	✗	✗
	Alternative	✓	✓	✓	✓	✓
Financial Exploitation	Current	✓	✓	✓	✓	✓
	SOCAC	✗	✓	✓	✗	✗
	Alternative	✓	✓	✓	✓	✓
Sexual Abuse	Current	✓	✓	✓	✗	✓
	SOCAC	✗	✓	✓	 Only if child under 18	 Only if child under 18
	Alternative	✓	✓	✓	✓	✓
Sex with child in care	Current	✓	✓	✓	✗	✗
	SOCAC	✓	✓	✓	 Only if child under 18	 Only if child under 18
	Alternative	✓	✓	✓	✓	✓
Directing or encouraging someone to engage in sexual contact with a child in care	Current Law	✗	✗	✗	✗	✗
	SOCAC	✗	✗	✗	✗	✗
	Alternative	✓	✓	✓	✓	✓

Acts constituting a crime included in definition of abuse of a child in care

“Yes” means the act is included in the definition of abuse under the child in care abuse statute.

“No” means the act is not included in the definition of abuse under the child in care abuse statute.

Criminal Act	SOCAC (-8)	Alternative (-11)
ORS 163.263 and 163.264: Subjecting another person to involuntary servitude in the first and second degree	Yes	Yes
ORS 163.266: Trafficking in persons	Yes	Yes
ORS 163.375: Rape in the first degree	Yes; Also included in provisions of Section 10 (4)(h)	Included in provisions of Section 10(4)(H) and (I)
ORS 163.405: Sodomy in the first degree	Yes; Also included in provisions of Section 10 (4)(h)	Included in provisions of Section 10(4)(H) and (I)
ORS 163.411: Unlawful sexual penetration in the first degree	Yes; Also included in provisions of Section 10 (4)(h)	Included in provisions of Section 10(4)(H) and (I)
ORS 163.413: Purchasing sex with a minor	Included in provisions of Section 10 (4)(h)	YES
ORS 163.415, 163.425 and 163.427: Sexual abuse in the first, second and third degree	Yes; Also included in provisions of Section 10 (4)(h)	Included in provisions of Section 10(4)(H) and (I)
ORS 163.435: Contributing to sexual delinquency of a minor ¹	Included in provisions of Section 10 (4)(h)	Included in provisions of Section 10(4)(H) and (I)
ORS 163.465: Public indecency ²	YES	YES
ORS 163.467: Private indecency ³	YES	YES
ORS 163.525: Incest	Yes; Also included in provisions of Section 10 (4)(h)	Included in provisions of Section 10(4)(H) and (I)
ORS 163.535: Abandonment of a child ⁴	NO	YES
ORS 163.537: Buying or selling a person under 18 years of age	NO	YES
ORS 163.547: Child neglect in the first degree ⁵	NO	YES

¹ Contributing to the sexual delinquency of a minor means a person over the age of 18 engages in sexual intercourse, oral or anal intercourse or causes that person to engage in oral or anal sexual intercourse.

² Public indecency means while in or in view of a public place the person performs an act of sexual, oral or anal intercourse, masturbation, or exposes their genitals with the intent of arousing the sexual desire of the person or another person.

³ Private indecency means exposing the genitals of the person to another person with the intent of arousing sexual desire when in a place where another person has a reasonable expectation of privacy, is in view of the other person, the exposure would be reasonable expected to alarm or annoy the other person and the person knows the other person did not consent to the disclosure.

⁴ Abandonment: A person lawfully charged with the care or custody of a child under 15 years of age, deserts the child in any place with the intention to abandon the child.

⁵ Neglect in first degree: (Summarized) Person with care or control of a child under 16 leaves or allows the child to remain in a vehicle or unlicensed premises where controlled substances or cannabinoid extracts are being processed, delivered or manufactured; In or near a premises where controlled substances are criminally delivered or manufactured for profit or where a chemical reaction involving one or more precursor

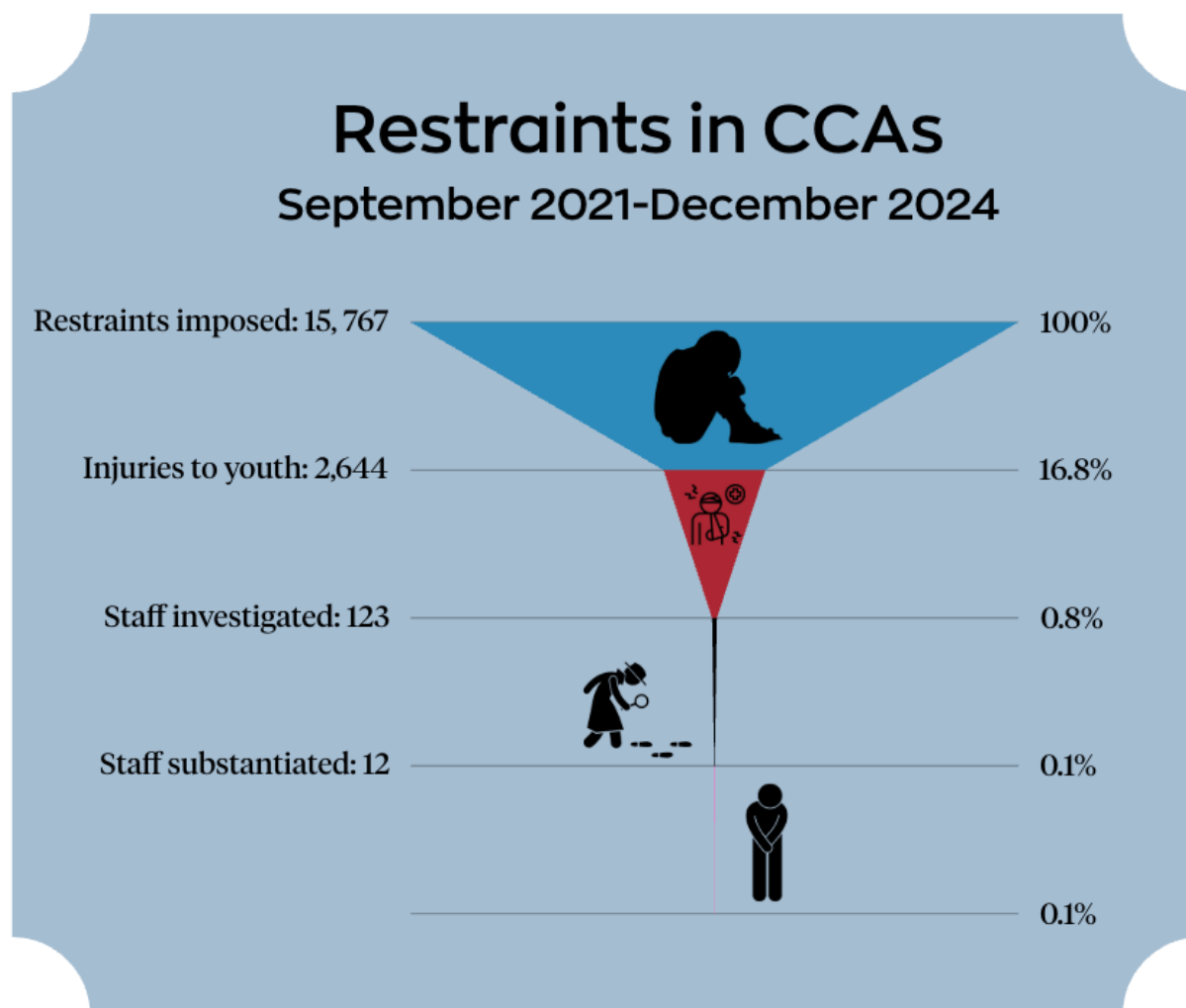
Criminal Act	SOCAC (-8)	Alternative (-11)
ORS 163.575: Endangering the welfare of a minor ⁶	NO	YES
ORS 163.670: Using a child in display of sexually explicit conduct	NO	YES
ORS 163.700 and 163.701: Invasion of personal privacy in the first and second degree ⁷	NO	YES

substances is occurring as part of unlawfully manufacturing a controlled substance or breaking down a precursor substance for the unlawful manufacture of a controlled substance; or in or upon a premises determined not fit for use due to contamination from the manufacture of controlled substances.

⁶ Endangering welfare of a minor: Induces, causes or permits an unmarried person under the age of 18 to witness sexual conduct or sadomasochistic abuse; allows a person under 18 to enter or remain in a place where unlawful activity involving controlled substances or cannabis is maintained or conducted; induces, causes or permits a person under 18 to participate in gambling; sells a person under 18 any device in which cannabis, cocaine or any controlled substance is burned for the purpose of delivering cannabis smoke, cocaine smoke or smoke from any controlled substance into the human body, including but not limited to pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes, corncob pipes, meerscham pipes and ceramic pipes, with or without screens, permanent screens, hashish heads, punctured metal bowls, carburetion tubes and devices including masks, bongs, chillums, ice pipes or chillers, rolling papers and rolling machines and cocaine free basing kits.

⁷ Invasion of personal privacy occurs when a person observes another person in a state of nudity without the consent of the other person for the purpose of arousing or gratifying their own sexual desire and the person is in a place where they have a reasonable expectation of privacy; or when the person records a photograph, motion picture, videotape or other visual recording of another person's intimate area without the consent of the other person in a place where the person had a reasonable expectation of privacy.

Restraint and involuntary seclusion since effective date of SB 710 (September 1, 2021)



APPENDIX 3.1:

RESTRAINT AND INVOLUNTARY SECLUSION: APPLICABILITY BY SETTING

Restraint and Seclusion applicability by setting: HB 3835 and proposed amendments

Setting	HB 3835A	HB with SOCAC Amendment (-8)	HB 3835 with Alternative Amendment (-11)	HB 3835 with proposed Alternative Amendment (-11) + Schools Alternative (-9)
Inpatient Hospitals	NO	NO	NO	NO
Emergency Rooms	NO	NO	NO	NO
Certified Foster Care	Yes	Yes	Yes	Yes
Proctor Foster Care	Yes	Yes	Yes	Yes
DD Foster Care	Yes	Yes	Yes	Yes
DD Children's Residential Programs	Yes	Yes	Yes	Yes
Adjudicated Youth Foster Care	Yes	Yes	Yes	Yes
Temporary Lodging	No	No	Yes	Yes
SCIP	YES	YES	YES	YES
SAIP	YES	YES	YES	YES
SACU (Children's)	YES	YES	YES	YES
PRTF	YES	YES	YES	YES
BRS Residential Programs	YES	YES	YES	YES
Non-BRS Residential Programs	YES	YES	YES	YES
Short Term Assessment and Stabilization Centers	YES	YES	YES	YES
Homeless, Runaway and Transitional Shelters	YES	YES	YES	YES
Secure Transportation	YES	YES	YES	YES
Wilderness programs	YES	YES	YES	YES
Academic Boarding Schools (Such as Oregon Episcopal School, Delphian, Milo Academy, etc.)	YES	YES	YES	YES
Therapeutic Boarding Schools (Such as Academy at Sisters, now closed)	YES	YES	YES	YES
Day Treatment Programs (early childhood through young adult)	YES	YES	YES	YES
Public Schools	YES	No	No	Yes
Early Intervention Programs	YES	No	No	Yes
Early Childhood Special Education Programs	YES	No	No	Yes

Prohibited Restraints (Current Law)

ORS 418.521 (2) Except as provided in ORS 418.523, the use of the following types of restraint of a child in care are prohibited:

- a. Chemical restraint.
- b. Mechanical restraint.
- c. Prone restraint.
- d. Supine restraint.*
- e. Any restraint that includes the intentional and nonincidental use of a solid object, including the ground, a wall or the floor, to impede a child in care's movement.*
- f. Any restraint that places, or creates a risk of placing, pressure on a child in care's neck or throat.
- g. Any restraint that places, or creates a risk of placing, pressure on a child in care's mouth.*
- h. Any restraint that impedes, or creates a risk of impeding, a child in care's breathing.
- i. 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.
- j. 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.
- k. Any other action, the primary purpose of which is to inflict pain.

Exceptions (ORS 418.253):

- *Supine restraint and restraints that use a wall, floor or solid object may be used in the SCIP (Parry Center) and the SAIP (Farm Home).*
- *A restraint that uses a wall, floor or solid object may be used in any setting when necessary to gain control of a weapon.*
- *Pressure may be placed on the mouth as part of a restraint if necessary to extract a body part from a bite.*

APPENDIX 3.3:

RESTRAINT AND INVOLUNTARY SECLUSION: DEFINITIONS AND THRESHOLD FOR USE

Comparison of Current Law, HB 3835 with SOCAC Amendments(-8), HB 3835 with Alternative Amendment (-11)

Definition of Restraint

Current Law	HB 3835 with -8	HB 3835 with Alternative (-11)
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	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	Restraint means the physical restriction of a child in care's actions by using physical force to hold the child in care or by using pressure or other means to restrict the ability of the child in care to voluntarily move the child in care's head, limbs, torso, neck, hands or feet.

Threshold for Use of Restraint or Involuntary Seclusion

Current Law	HB 3835 SOCAC Amend (-8)	HB 3835 Alt Amend (-11)
Only when the child in care's behavior poses a reasonable risk of imminent serious bodily injury and less restrictive interventions would not effectively reduce that risk	Only when the child in care's behavior poses a reasonable risk of imminent serious physical harm to the child in care or others, including animals, as defined in ORS 167.310 and less restrictive interventions would not effectively reduce that risk; the least amount of physical force and contact necessary is used to prevent a reasonable risk of serious physical harm, it is not a prohibited restraint under 418.521 and it is not abusive seclusion.	Only if the child in care's current actions pose a reasonable risk of imminent serious physical harm to the child in care or others, and a less restrictive intervention would not be effective at preventing the imminent serious physical harm; the restraint is imposed with the minimum amount of physical force and contact necessary to prevent imminent serious physical harm; any use of force is consistent with the size, age, development and known trauma history of the child in care; the restraint ends immediately when the risk of imminent serious physical harm has resolved or a less restrictive intervention becomes practicable, and it is not a prohibited restraint.
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.	Serious physical harm is not defined	Serious physical harm means a serious impairment of the physical condition, such as burns, bone fractures, substantial hematoma, injuries to internal organs, loss of consciousness, concussion, protracted loss or impairment of function of any bodily member or organ, a would requiring extensive suturing, serious disfigurement, extreme pain or any physical injury that creates a serious risk of death.

**What is NOT Restraint or Involuntary Seclusion/Not Prohibited Restraint and
Exceptions (ie, what is on the YES list)**

Current Law	HB 3835 with SOCAC Amend - 8	HB 3835 with Alternate Amend (-11)
Holding the 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	A certified foster home may temporarily restrict a child in care's freedom of movement including by physically consoling the child in care (according to reasonable and prudent parenting standard)	Brief physical contact to promote the safety of a child in care that does not involve a use of force
Assisting the child in care to complete a task if the child in care does not resist the physical contact	Implement age-appropriate discipline as defined by the Department of Human Services by rule, including placing the child in care in a time-out (according to reasonable and prudent parenting standard)	Providing physical guidance to, cuing or prompting a child in care with a light touch when teaching a skill, engaging in play, redirecting attention or providing comfort if those actions do not include the use of force and the child in care does not resist the contact
To break up a physical fight or to effectively protect a person from an assault, serious bodily injury or sexual contact	Reasonable and prudent parent standard means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child in care while encouraging the emotional and developmental growth of the child in care.	Physically escorting the child in care by temporarily touching the child in care's hand, wrist, arm, or shoulder for the purpose of inducing the child in care to walk to a safe location if these actions occur without the use of force or taking control of the child in care's movement
	Physical intervention without immobilizing the child in care if the intervention is necessary to break up a physical fight or to effectively protect a person from an assault, other serious physical harm or sexual contact.	Briefly lifting or stopping a child in care with the least amount of force necessary to remove the child from immediate danger such as, but not limited to, running into a street or body of water, touching an object that may cause burns, scalds or other injuries or climbing on an unsafe play structure
		Physically assisting a child in care to complete a task if the child in care does not resist the physical contact.
		Reasonable and developmentally appropriate physical contact without

		the use of force involved in the typical care of an infant or young child, including but not limited to diapering, toileting, hygiene and comforting.
		Physically intervening to separate individuals engaged in a fight or to effectively protect a person from an assault or sexual contact if the physical intervention does not involve the immobilization of the child in care
		An individual who is a foster parent, employee of the department or any other person not explicitly authorized under this section to impose a restraint upon a child in care from using the least amount of force necessary upon a child in care in an emergency, as long as a restraint described in subsection (1) of this section is not used to protect the individual or any other person from an imminent unlawful assault as described in ORS chapter 163 or sexual contact as described in ORS 167.002 or to interrupt a suicide attempt in progress.

APPENDIX 3.4:

RESTRAINT AND INVOLUNTARY SECLUSION: WHICH RESTRAINTS CONSTITUTE ABUSE?

When is Restraint or Involuntary Seclusion Abuse?

ODHS Settings

Type/Circumstances of Restraint	Current Law	HB 3835 SOCAC Amendment (-8)	HB 3835 Alternate Amendment (-11)
Use of restraint or involuntary seclusion when there is no imminent risk serious bodily injury/serious physical harm	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Use of restraint with reckless or excessive force	Abuse/Mandatory Report required	Abuse/mandatory report required (Note: Applies only if it causes serious physical harm or is likely to cause serious physical harm)	Abuse/Mandatory Report required
Use of restraint or involuntary seclusion for convenience, discipline, retaliation or punishment	Abuse/Mandatory Report required	Abuse/Mandatory report required	Abuse/Mandatory Report required
Restraint imposed solely because a person did not have current certification	Abuse/Mandatory Report required	Not abuse/No report required	Not abuse/No report required
Restraint or involuntary seclusion imposed without appropriate order/reauthorization	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Access to water or bathroom not provided	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required (but timelines shifted out of rule and into statute)
UNLAWFUL RESTRAINTS			
Mechanical Restraint	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Chemical Restraint	Abuse/Mandatory Report required	Abuse/Mandatory Report required (note: definition of chemical restraint is narrow— drug must control behavior AND immobilize the child)	Abuse/Mandatory Report required
Mechanical Restraint	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Prone Restraint	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Supine Restraint (except in SCIP or SAIP)	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required

Type/Circumstances of Restraint	Current Law	HB 3835 SOCAC Amendment (-8)	HB 3835 Alternate Amendment (-11)
Use of wall, ground floor when pressure is placed on the child from the person and onto the object, or pressure placed between objects, unless to gain control of a weapon or prevent imminent life-threatening injury	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Pressure on neck or throat	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Pressure on mouth (unless to remove body part from bite)	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Impedes or creates risk of impeding breathing	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Intentional placement of object, hand, knee, foot or elbow on child's neck, throat, genitals or other intimate parts	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Pressure placed on stomach, chest, throat or back by a knee, foot or elbow	Abuse/Mandatory Report required	Not abuse/No report required	Abuse/Mandatory Report required
Restraint designed to inflict pain	Abuse/Mandatory Report required	Not abuse/No report required but other allegation types may apply	Abuse/Mandatory Report required

APPENDIX 3.5: PROHIBITED RESTRAINT EXAMPLES



Prone



Supine

Mechanical



Involuntary Seclusion



Regulatory standards requiring full compliance by child caring agencies

Details are prescribed by rule

Required regulatory standards established by statute
The agency ensures child and family rights.
The agency complies with abuse reporting and investigation requirements.
The agency engages in and applies appropriate behavior management techniques.
The agency provides adequate furnishings and personal items for children.
The agency provides appropriate food services.
The agency ensures the safety of children.
The agency utilizes approved procedures and protocols for use of medications for children receiving care or services from the agency.
The agency or the agency's employees or agents have not engaged in financial mismanagement.
The agency fully and timely corrects violations and maintains standards in accordance with any plan of correction imposed by the department.
The agency provides access as required under ORS 418.305 to a child or the agency's premises to the department or the department's employees, investigators, court appointed special advocates, attorneys for a child or other authorized persons or entities.
The agency provides the department with true copies of records relating to incidents involving the restraint or involuntary seclusion of children in care as required under ORS 418.526 (2).

Civil penalties established by statute

VIOLATION	CURRENT LAW	SOCAC (-8)	ALTERNATIVE (-11)
Violation of any terms or conditions of license, certificate or authorization	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$1500 per violation.
Violation of any rule or order adopted by ODHS	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$1500 per violation.
Violation of any final order by ODHS director that pertains to agency	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$1500 per violation.
Operating without a license	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$1500 per violation.
Failure of a secure transport provider to post required disclosures	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$500 per violation.	As determined by the director, but not to exceed \$1500 per violation.
Falsification of records, reports documents or financial statements	\$500	\$500	\$500
Violation of scope of license by accepting responsibility for a child knowing the child's needs exceed the license of the facility	\$250-\$500	\$250-\$500	\$250-\$500
First incident of restraint in 12-month period that involves one or more individuals not properly certified to impose restraint	Not specified	Not specified	Not specified
Second and third incident of restraint in 12-month period that involves one or more individuals not properly certified to impose restraint	Not specified	Not specified	\$500
Fourth and subsequent incident of restraint in 12-month period that involves one or more individuals not properly certified to impose restraint	Not specified	Not specified	\$1000




























Licensing actions/Sanctions for noncompliance prescribed by statute

Violation	Current Law	SOCAC (-8)	Alternative (-11)
Death of a child due to abuse or neglect by the agency or the agency's employees or agents	Issue notice to suspend or revoke license	Issue notice to suspend or revoke license	Issue notice to suspend or revoke license
There has been sexual or physical abuse or neglect of a child in the agency's care or custody that was known to the agency and the agency did not take immediate steps to report the abuse or neglect and to ensure the child's safety.	Issue notice to suspend or revoke license	Issue notice to suspend, revoke or place conditions on the license	Issue notice to suspend or revoke license
The agency failed to take reasonable action to remedy, prevent or end the abuse of any child in the agency's care or custody, despite having knowledge that sexual or physical abuse or neglect of a child in the agency's care or custody was occurring.	NA (new language)	NA (New language)	Issue notice to suspend or revoke license
The agency failed to cooperate fully with any local, state or federal regulatory entity's investigation of the agency or the agency's operations or employees.	Issue notice to suspend or revoke license	Issue notice to suspend, revoke or place conditions on the license	Issue notice to suspend or revoke license
The agency failed to provide financial statements as required under ORS 418.255.	Issue notice to suspend or revoke license		Issue notice to suspend, revoke or place conditions on the license
The agency failed to provide access to a child in the agency's care or custody as required by ORS 418.305.	NA (new language)	NA (new language)	Issue notice to suspend, revoke or place conditions on the license
The department may suspend, revoke or place conditions on a license, certificate or authorization of a child-caring agency if the department finds the agency is not in full compliance with any one or more of the full compliance requirements	The department may suspend, revoke or place conditions on a license, certificate or authorization of a child-caring agency if the department finds the agency is not in full compliance with any one or more of the full compliance requirements	The department may suspend, revoke or place conditions on a license, certificate or authorization of a child-caring agency if the department finds the agency is not in full compliance with any one or more of the full compliance requirements	The department may suspend, revoke or place conditions on a license, certificate or authorization of a child-caring agency if the department finds the agency is not in full compliance with any one or more of the full compliance requirements. (Note: New language prohibits ODHS from suspending or revoking license except in certain circumstances or following a progressive series of less punitive measures that were unsuccessful.

APPENDIX 8:

OUT OF STATE PLACEMENTS























Comparison of Requirements for Out of State Facilities

	Licensed or certified by state health authority	Facility is Physician Directed	Facility specific to children /youth	Med necessary/ Med appropriate	Assessment by licensed physician required	OR Medicaid Approval	Accreditation required
	SOCAC (-8) Placements						
SOCAC- ICWA							
SOCAC- CCA							
SOCAC- Approved by OOS Adoption or Foster Agency							
SOCAC- Child's state of placement							
SOCAC- ID/WA/ CA/NV and closest to child							
	Alt. Amend (-11) Placements						
ICWA							
PRTF							
SUD							
Eating Disorder							

Out of State Placements: Who Must Approve

	Court	Child's Tribe	Child's Physician	CW Director	Medicaid Director	CCO	Must be enrolled w OR MA	ODDS
SOCAC (-8) Placements								
ICWA		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>				
CCA	<input checked="" type="checkbox"/>	Per ICWA/ORICWA		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Approved by OOS Adoption or Foster Agency	<input checked="" type="checkbox"/>	Per ICWA/ORICWA						
Facility in child's state of placement	<input checked="" type="checkbox"/>	Per ICWA/ORICWA		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
ID/WA/CA/NV and closest to child	<input checked="" type="checkbox"/>	Per ICWA/ORICWA			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Child with I/DD	<input checked="" type="checkbox"/>	Per ICWA/ORICWA		<input checked="" type="checkbox"/>	Depends on exception type	Depends on exception type		
Alt. Amend (-11) Placements								
ICWA		<input checked="" type="checkbox"/>						
PRTF	<input checked="" type="checkbox"/>	Per ICWA/ORICWA	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	If child is DD Eligible
SUD	<input checked="" type="checkbox"/>	Per ICWA/ORICWA	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	If child is DD Eligible
Eating Disorder	<input checked="" type="checkbox"/>	Per ICWA/ORICWA	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	If child is DD Eligible
Child with I/DD	<input checked="" type="checkbox"/>	D Per ICWA/ORICWA	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>	

Out of State Placements: Placement Types Permitted

Placement type	SOCAC (-8)	Alternative (-11)
Hospital		
PRTF		
QRTP		
SUD Facility		
Eating Disorder Facility		
BRS Program		
Juvenile offender program		
Non-medical residential care program/facility		
Segregated facility for children with intellectual or developmental disabilities		
Homeless, runaway and transitional shelter		
Short term evaluation and assessment		

PRTF = Psychiatric Residential Treatment Facility
















QRTP = Qualified Residential Treatment Program


































SUD = Substance Use Disorder






BRS = Behavioral Rehabilitation Services

APPENDIX 9: CONGREGATE CARE PLACEMENTS

In State Placement Options for Child Welfare/Time Limits

Facility Type	Current Law	SOCAC (-8)	Alternative (-11)
PRTF	 No time limit	 No time limit	 No time limit
QRTP	 Assessment must be complete within 30 days and court approval in 60; After initial approval reevaluation must occur once every 6 months for youth under 12; ever 12 months for older youth	 Assessment must be complete within 30 days and court approval in 60; After initial approval reevaluation must occur once every 6 months for youth under 12; ever 12 months for older youth	 Assessment must be complete within 30 days and court approval in 60; After initial approval reevaluation must occur once every 6 months for youth under 12; ever 12 months for older youth
Adolescent SUD Residential	 No time limit	 No time limit	 No time limit
BRS Residential	 If not a QRTP, limited to 60 consecutive or 90 cumulative days in each 12-month period.	 If not a QRTP, limited to 60 consecutive or 90 cumulative days in each 12-month period but ODHS can issue 60-day extension if ODHS finds it to be in child's best interest.	 If not a QRTP, limited to 60 consecutive or 90 cumulative days in each 12-month period but if child is consistently attending school and does not object, court may approve a 90-day extension.
Non-BRS Residential	 If not a QRTP, limited to 60 consecutive or 90 cumulative days in each 12-month period.	 If not a QRTP, limited to 60 consecutive or 90 cumulative days in each 12-month period but ODHS can issue 60 day extension if ODHS finds it to be in child's best interest.	 If not a QRTP, limited to 60 consecutive or 90 cumulative days in each 12-month period but if child is consistently attending school and does not object, court may approve a 90-day extension.

Facility Type	Current Law	SOCAC (-8)	Alternative (-11)
Homeless, runaway and transitional shelter	 Limited to 60 consecutive or 90 cumulative days in each 12-month period. The time limit does not apply to stays initiated by the youth.	 Limited to 60 consecutive or 90 cumulative days in each 12-month period. The time limit does not apply to stays initiated by the youth.	 Limited to 60 consecutive or 90 cumulative days in each 12-month period. The time limit does not apply to stays initiated by the youth.
Short term assessment and stabilization	 If not a QRTP, limited to 60 consecutive or 90 cumulative days in each 12-month period.	 If not a QRTP, limited to 60 consecutive or 90 cumulative days in each 12-month period but ODHS can issue 60 day extension if ODHS finds it to be in child's best interest.	 If not a QRTP, limited to 60 consecutive or 90 cumulative days in each 12-month period but if child is consistently attending school and does not object, court may approve a 90-day extension.
Proctor Care	 No time limit.	 No time limit.	 No time limit.
Prenatal/Postnatal and Parenting supports	 No time limit.	 No time limit.	 No time limit.
CSEC	 No time limit.	 No time limit.	 No time limit.
SACU (child)	 No time limit.	 No time limit.	 No time limit.
ODDS Child Foster Care	 No time limit.	 No time limit.	 No time limit.
ODDS 24-hr Child Residential	 No time limit.	 No time limit.	 No time limit.
Adult SUD Residential	 	 No time limit.	
ODDS/APD or OHA Adult Foster Care	 	 No time limit.	
ODDS/APD or OHA Adult Congregate Care	 	 No time limit.	

Facility Type	Current Law	SOCAC (-8)	Alternative (-11)
Nursing home		 No time limit.	
Assisted Living Facility		 No time limit.	