

Past, Present, Proposed Chart Summary – HB 3835A

The attached chart was created to support legislators and the public in understanding the changes in laws regarding children in care over time, including the proposed changes included in HB 3835A (2025).

The first column describes the legal definitions and prohibitions on restraint/seclusion and out of state treatment for foster children which were in place in Oregon prior to 2019. Oregon law was largely silent on these issues before that year.

In 2019, SB 710 was passed, creating statutes to identify when restraint or involuntary seclusion could be used, when it was abusive, and how it should be reported as child abuse to the Oregon Child Abuse Hotline. This important bill was passed in response to the death of a child in restraint at Lakeside Academy in Michigan. The stated legislative intent was to prevent a similar tragedy from taking the life of an Oregon child. The far-right column shows the proposed changes to current law, intended to maintain Oregon's high standards while making minor adjustments to current statutes.

In 2020, SB 1605 was passed to ensure out of state foster placements are held to all Oregon standards. This bill was created to end the harmful practice of sending Oregon foster children to out of state foster care placements without adequate safety protocols and without consistent oversight. The requirements to ensure out of state placements are held to all Oregon standards in contract has created the unintended consequence of children in the custody of Oregon's Child Welfare system lacking equal access to medically necessary treatment that children on OHP or private insurance are able to access. The center column identifies current law with regard to out of state placements. The far-right column shows the minor changes to current statute, to allow children in care who have medically necessary treatment needs that can't be met in Oregon, access to the care they need to heal. These policy changes will also bring Oregon into compliance with the Indian Child Welfare Act and provide regional access to care for children living in Eastern Oregon.

This lack of access to care, an unintended consequence of the complex natures of SB 710 and SB 1605, has led to the deaths of at least 2 Oregon children in 2024. In the past 30 years, 79 children have died in restraints across the United States. This is 79 deaths too many. It should be noted that no child has died as a result of restraint or seclusion in Oregon.

	2019	PRESENT	PROPOSED
Definition of Restraint	None	“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 (13)]	Unchanged
Definition of Seclusion	None	“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. (b) “Involuntary seclusion” does not include age-appropriate discipline, including, but not limited to, time-out if the time-out is in a setting from which the child in care is not prevented from leaving by any means. [ORS 418.519 (7)(a)]	Unchanged (b) is moved from the definition to the Section 14 regarding permissible restraints and limits this to foster home settings. [Section 14 (2)]
Abusive Restraint	(j) A wrongful use of a physical or chemical restraint of a child in care, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order. [ORS 418.257]	The use of restraint or involuntary seclusion of a child in care in violation of ORS 418.521 or 418.523. [ORS 418.257(1) (i)]	The responsible individual places or directs the placement of the child in a restraint and the restraint is used for discipline, punishment, retaliation or convenience; (b) The responsible individual administers or directs to be administered a chemical restraint to the child; or (c) The responsible individual restrains or directs the restraint of the freedom of movement of the child through the excessive or reckless use of force that results in, or is likely to result in, serious physical harm to the child. [Section 1 (3)(a)]
Abusive Seclusion	(i) Involuntary seclusion of a child in care for the convenience of a child-caring agency, caretaker, certified foster home or developmental disabilities residential facility or to discipline the child in care. [ORS 418.257]	The use of restraint or involuntary seclusion of a child in care in violation of ORS 418.521 or 418.523. [ORS 418.257(1) (i)]	A responsible individual places a child in abusive seclusion if the individual places the child in involuntary seclusion for discipline, punishment, retaliation or the convenience of one or more responsible individuals. [Section 1 (2)]

<p>Permissible Restraint/Seclusion</p>	<p>None</p>	<p>(1) 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>(2) A certified foster home may not place a child in care in a restraint or involuntary seclusion.</p> <p>(3) Notwithstanding subsection (1) or (2) of this section, a child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility may use the following types of restraints on a child in care:</p> <p>(a) 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;</p> <p>(b) Assisting the child in care to complete a task if the child in care does not resist the physical contact; or</p> <p>(c) Using a physical intervention if:</p> <p>(A) 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>(B) The intervention uses the least amount of physical force and contact possible; and</p> <p>(C) The intervention is not a prohibited restraint described in ORS 418.521 (2).</p> <p>(4) Notwithstanding ORS 418.521 (2):</p> <p>(a) The restraint described in ORS 418.521 (2)(e) may be used if the restraint is necessary to gain control of a weapon.</p> <p>(b) The restraint described in ORS 418.521 (2)(g) may be used if the restraint is necessary for the purpose of extracting a body part from a bite.</p> <p>(c) If a program is a secure children’s inpatient treatment program or secure adolescent inpatient treatment program, the program may</p>	<p>Mostly Unchanged. Reorganized for readability.</p> <ul style="list-style-type: none"> • "Serious bodily injury" changed to "serious physical harm" • Actions of animal abuse clarified to be included. • Reasonable and prudent parent standard added to ensure foster parents are not subject to report typical parenting practices such as holding a young child in a tantrum or using a play pin are considered reportable restraint or seclusion. • Clarification that non-immobilizing physical interventions are permissible to break up a physical fight or protect someone from assault, other serious physical harm or sexual contact. • Aligned with SB 1113 by removing prescriptive requirement for access to water and bathroom to allow for more nuance in OAR. [Section 14]
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		<p>place a child in care in a restraint described in ORS 418.521 (2)(d) or (e) only if:</p> <p>(A) The child in care is currently admitted to the program;</p> <p>(B) The restraint is authorized by an order written at the time of and specifically for the current situation by a licensed medical practitioner or a licensed children’s emergency safety intervention specialist;</p> <p>(C) The restraint is used only as long as needed to prevent serious physical injury, as defined in ORS 161.015, and while no other intervention or form of restraint is possible;</p> <p>(D) A licensed medical practitioner, children’s emergency safety intervention specialist or qualified mental health professional, who is certified in the use of the type of restraint used, continuously monitors the use of the restraint and the physical and psychological well-being of the child in care at all times while the restraint is being used;</p> <p>(E) Each individual placing the child in care in the restraint is certified as described in ORS 418.529 in the use of the type of restraint used and the individual’s training is current;</p> <p>(F) One or more individuals with current cardiopulmonary resuscitation training are present for the duration of the restraint;</p> <p>(G) The program has written policies that require a licensed children’s emergency safety intervention specialist or other licensed practitioner to evaluate and document the physical, psychological and emotional well-being of the child in care immediately following the use of the restraint; and</p> <p>(H) The program is in compliance with any other requirements under ORS 418.519 to 418.532, and the use of the restraint does not otherwise violate any applicable contract requirements or any state or federal law related to the use of restraints.</p> <p>(5) In addition to the restraints described in subsection (3) of this section, a program may place a child in care in a restraint or involuntary seclusion if:</p> <p>(a) The restraint or involuntary seclusion is used only for as long as</p>	
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		<p>the child in care’s behavior poses a reasonable risk of imminent serious bodily injury;</p> <p>(b) 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 or are trained, as required by the department by rule, in the use of the involuntary seclusion used;</p> <p>(c) The program staff continuously monitor the child in care for the duration of the restraint or involuntary seclusion; and</p> <p>(d) The restraint or involuntary seclusion is performed in a manner that is safe, 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>(6) In addition to the requirements described in subsection (5) of this section, if a program places a child in care in a restraint or involuntary seclusion for more than 10 minutes:</p> <p>(a) The program must provide the child in care with adequate access to the bathroom and water at least every 30 minutes; and</p> <p>(b)(A) Every five minutes after the first 10 minutes of the restraint or involuntary seclusion, a program supervisor who is certified as described in ORS 418.529 in the use of the type of restraint being used or trained, as required by the department by rule, in the use of the involuntary seclusion being used must provide written authorization for the continuation of the restraint or involuntary seclusion.</p> <p>(B) If the supervisor is not on-site at the time the restraint is used, the supervisor may provide the written authorization electronically.</p> <p>(C) The written authorization must document why the restraint or involuntary seclusion continues to be the least restrictive intervention to reduce the risk of imminent serious bodily injury in the given circumstances. ORS 418.523</p>	
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<p>Threshold</p>	<p>None</p>	<p>"Serious bodily injury" means any significant impairment of the physical condition of an individual, as determined by a qualified medical personnel, whether self-inflicted or inflicted by someone else. [ORS 418.519(16)]</p>	<p>"Serious physical harm" – Aligns with Joint Commission guidance with no legal definition – moving to the common meaning of the words, consistent with approved crisis intervention trainings.</p>
<p>Regulation of Out-of-State Treatment</p>	<p>If the Department of Human Services determines that need exists for care and treatment of a child who is eligible for such care and treatment that is not available through any public or private agency or facility in this state, it may enter into an agreement with a public or private agency outside this state for the purchase of care for the child. Such agreements shall contain the matter described in ORS 418.495 and shall apply to children described therein. [ORS 418.500]</p>	<p>(1) Subject to ORS 418.322, the Department of Human Services may place a child in an out-of-state child-caring agency only if: (a) The out-of-state child-caring agency is licensed to provide or engage in the provision of care or services by the department under ORS 418.205 to 418.327 and complies with the licensing requirements under ORS 418.215; (b) The department has a current contract with the child-caring agency; and (c) The department’s contract with the child-caring agency meets the criteria under subsection (3) of this section.</p> <p>(2)(a) The department shall license an out-of-state child-caring agency pursuant to the same licensure requirements the department would impose if the out-of-state child-caring agency was located in this state. (b) Notwithstanding paragraph (b) of Article V of the Interstate Compact on the Placement of Children and ORS 417.230, the department may not delegate the department’s licensing, visitation, inspection, investigation or supervision of an out-of-state child-caring agency licensed by the department to provide care or services to an Oregon child.</p> <p>(3)(a) The department shall review the department’s contract with an out-of-state child-caring agency prior to placing a child with the child-caring agency. (b) The contract must, at a minimum, meet the following criteria: (A) At the time the contract is executed, the child-caring agency must provide the department with a current list of every entity for which the child-caring agency is providing placement services.</p>	<p>Unchanged and adds (7) – (10) for limited exception for medically necessary treatment and services with significant sideboards of authorization, oversight and accountability of every exception.</p> <p>Medically Necessary Treatment (A)(i) No child-caring agency placements are available in this state that are suitable for the child and that provide the services and treatments that are medically necessary and medically appropriate for the child; and (ii) The services and treatments are approved by the responsible Medicaid entity for coverage by Medicaid;</p> <p>Indian Child Welfare Act Compliance (B)(i) There is reason to know, as described in ORS 419B.636, that the child is an Indian child, as defined in ORS 419B.603; (ii) The placement complies with the placement preferences under ORS 419B.654; and (iii)(I) The out-of-state placement is a youth regional treatment center operated or funded by the Indian Health Service and serves the needs of Indian children or youth; or (II) The Indian child’s tribe has affirmatively requested that the child be placed in the out-of-state placement;</p> <p>Child Living with Relatives or Pre-adoptive Family Out-of-State Needing Medically Necessary Treatment (C)(i) The out-of-state placement is an out-of-state child-caring agency;</p>

	<p>(B) No later than 15 days after accepting placement of a child from a new entity, the child-caring agency must notify the department in writing of the child-caring agency’s association with the new entity. The notice must include the name and contact information of the new entity and the name and contact information of an individual associated with the new entity.</p> <p>(C) The child-caring agency must make mandatory reports of child abuse, as defined in ORS 418.257 and 419B.005, involving Oregon children both to the centralized child abuse reporting system described in ORS 418.190 and as required under the laws of the state in which the child-caring agency is located.</p> <p>(D) The child-caring agency must allow the department full access to the child-caring agency’s facilities, residents, records and personnel as necessary for the department to conduct child abuse investigations and licensing activities or investigations.</p> <p>(E) The child-caring agency must notify the department in writing no later than three business days after any state determines that an allegation of child abuse or a license violation involving the child-caring agency is founded, regardless of whether the child abuse or violation involves an Oregon child.</p> <p>(F) The child-caring agency must notify the department in writing no later than three business days after the child-caring agency receives notice from any other state imposing a restriction on placement of children with the child-caring agency, suspending or revoking the child-caring agency’s license with that state or indicating the state’s intent to suspend or revoke the child-caring agency’s license with that state.</p> <p>(G) The child-caring agency must notify the department immediately, verbally and in writing:</p> <p>(i) Any time a child from any state who is in the care of the child-caring agency dies, is sexually assaulted or suffers serious physical injury; or</p> <p>(ii) When the child-caring agency becomes aware of any criminal investigation, arrest or criminal charges involving an agency staff member if the alleged offense involved a child or could have</p>	<p>(ii) The child resides in a placement subject to the Interstate Compact on the Placement of Children that is located in the same state as or a neighboring state to the child-caring agency; and</p> <p>(iii) The child-caring agency provides the types of treatment or services that are medically necessary and medically appropriate for the child, consistent with rules adopted by the Oregon Health Authority for the administration of the authority’s program providing benefits for children and young adults with special health needs;</p> <p>Placement with Relatives or Pre-Adoptive Family Through Non-Governmental Entity</p> <p>(D) The out-of-state placement is approved by an adoption agency or foster care agency, or provider of similar services, in the state of placement and the adoption agency or foster care agency provides licensing services in compliance with paragraph (b) of Article V of the Interstate Compact on the Placement of Children and ORS 417.230; or</p> <p>Medical Treatment in Neighboring State</p> <p>(E)(i) The provider that is nearest to the child’s community and able to provide the treatment or services that are medically necessary and medically appropriate for the child is located in a neighboring state;</p> <p>(ii) Accessing services or treatment in the neighboring state maintains the child’s connection to the child’s community; and</p> <p>(iii) The services or treatment are consistent with rules adopted by the Oregon Health Authority for the administration of the authority’s program providing benefits for children and young adults with special health needs.</p> <p>External Accountability and Oversight</p> <p>(c) The out-of-state placement is subject to court approval under ORS 419B.351.</p> <p>(d) The department may not place a child in an out-of-state placement under this subsection unless the department has</p>
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	<p>reasonably posed a risk to the health, safety or welfare of a child.</p> <p>(H) Except with respect to protected information described in ORS 418.256 (5), the child-caring agency may not ask or require an employee or volunteer to sign a nondisclosure or other agreement prohibiting the employee or volunteer from the good faith disclosure of information concerning the abuse or mistreatment of a child who is in the care of the child-caring agency, violations of licensing or certification requirements, criminal activity at the child-caring agency, violations of state or federal laws or any practice that threatens the health and safety of a child in the care of the child-caring agency.</p> <p>(I) The child-caring agency must ensure staffing ratio and staff training and education requirements that meet, at a minimum, the standards set by the department by rule for intensive behavioral support services.</p> <p>(J) The child-caring agency must meet all of the program, discipline, behavior support, supervision and child rights requirements adopted by the department by rule for behavioral rehabilitation services provided in this state.</p> <p>(K) The child-caring agency may not practice conversion therapy, as defined in ORS 675.850.</p> <p>(L) The child-caring agency must identify a child by the child’s preferred name and pronouns and may not implement a dress code that prohibits or requires clothing on the basis of biological sex.</p> <p>(M) Genetic testing, including testing for psychopharmacological purposes, must be approved by a court and may not be included as a standing order for a child in care.</p> <p>(N) Neither the child-caring agency nor its contractors or volunteers may use chemical or mechanical restraints on a child, including during secure transport.</p> <p>(O) The child-caring agency must ensure that the use of any psychotropic medications for a child placed with the child-caring agency by the department is in compliance with ORS 418.517 and any rules regarding psychotropic medications adopted by the department.</p>	<p>verified that the placement is in good standing with the licensing authority in the state in which the placement will provide services or treatment to the child.</p> <p>(e) The department may not place a child in an out-of-state placement under this subsection unless the department has conducted an in-person inspection and has verified that the placement is safe and in significant alignment with the licensure requirements that would apply if the out-of-state placement was located in this state. The inspection under this paragraph must be conducted by department staff who perform licensing functions under ORS 418.262.</p> <p>(f) All approvals of the exceptions in this subsection must be made by the director of the division of the department that administers the state child welfare program or the director’s designee. In addition, the exceptions under paragraph (a)(A), (C) and (E) of this subsection must also be approved by the director of the division of the authority that administers the state medical assistance program or the director’s designee.</p> <p>(g) The department and the Oregon Health Authority shall collaborate to establish rules for the approval process under paragraph (f) of this subsection.</p> <p>Minimum Standards for CCOs</p> <p>(h) The authority shall establish, under contract with coordinated care entities, basic standards for quality assurance and oversight prior to and during the child’s medically necessary and appropriate treatments and services for out-of-state providers under this section.</p> <p>Prohibitions</p> <p>(8) The department may not place a child in an out-of-state placement under this section if:</p> <p>(a) The child has an intellectual disability or a developmental disability; and</p>
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	<p>(4) The department shall develop rules outlining a process for review of the out-of-state placement of a child who is identified as a child with an intellectual or developmental disability or who is suspected of having an intellectual or developmental disability. At a minimum, the rules must:</p> <p>(a) Identify a process for expediting review of the child’s eligibility for developmental disability services.</p> <p>(b) Require that a multidisciplinary review team, including administrators in the developmental disability services program, review the placement before the child is placed out-of-state.</p> <p>(c) Require that a multidisciplinary team, including administrators in the developmental disability services program, monitor the progress of the child in the out-of-state placement.</p> <p>(d) Require that contracts for placement of the child ensure that the child has the same rights and protections that the child would have if the child was placed in this state.</p> <p>(5)(a) A department child welfare services employee must accompany a child who is placed in an out-of-state child-caring agency any time the child is transported to an initial out-of-state placement, any time the child is moved to a new placement and any time the child is moved by secure transport.</p> <p>(b) Notwithstanding paragraph (a) of this subsection, if a child placed in an out-of-state child-caring agency requires secure transport from the out-of-state placement due to an emergency, a department child welfare services employee is not required to accompany the child if the time it would take for the employee to travel to the child’s out-of-state location would pose a risk to the health, safety or welfare of the child. If a department child welfare services employee does not accompany a child transported to an alternate out-of-state placement, as provided in this paragraph, the child welfare services employee must immediately travel to meet the child at the new out-of-state facility.</p>	<p>(b) The out-of-state placement is an intermediate care facility, as defined by the department by rule.</p> <p>Requirement for ODHS Rulemaking</p> <p>(9) The department shall adopt rules prescribing the process for review of the out-of-state placement. At a minimum, the rules must:</p> <p>(a) Establish what constitutes significant alignment with licensure requirements for child-caring agencies under ORS 418.215 and 418.240;</p> <p>(b) Require a multidisciplinary team to monitor the progress of the child in the out-of-state placement;</p> <p>(c) Require a member of the multidisciplinary team described in paragraph (b) of this subsection to accompany the child as the child travels to and from an out-of-state placement;</p> <p>(d) Require that a member of the multidisciplinary team described in paragraph (b) of this subsection have in-person contact with the child in the out-of-state placement at least once every 15 days; and</p> <p>(e) Ensure the child's rights in the out-of-state placement are in significant alignment with the rights the child has in this state;</p> <p>(f) Ensure the child understands the child’s rights as a child in the care or custody of the department, including under the Oregon Foster Children’s Bill of Rights, and ensure that the child knows how to report violations of those rights to the State of Oregon.</p> <p>(g) Establish the multidisciplinary response if a child's rights have been violated or abuse has been reported in the out-of-state placement.</p> <p>[Section 36]</p> <p>ODHS and SOCAC Reporting Requirements</p> <p>(2) When the Department of Human Services places a child in an out-of-state placement under ORS 418.321 (7), the department shall:</p> <p>(a) File with the juvenile court the report required under ORS 419B.440 (1)(a); and</p>
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		<p>(6)(a) As used in this subsection, “juvenile offender” means a person under 18 years of age who has or is alleged to have committed an act that is a violation, or, if done by an adult, would constitute a violation, of a law or ordinance of the United States or a county or city in this state.</p> <p>(b) Except as provided in paragraph (c) of this subsection, the department may not place a child in an out-of-state child-caring agency if the child-caring agency provides care to juvenile offenders.</p> <p>(c) The department may place a child in an out-of-state child-caring agency that provides care to juvenile offenders if:</p> <p>(A) The child-caring agency is a qualified residential treatment program licensed by the department;</p> <p>(B) The child-caring agency maintains site-specific accreditation from a nationally recognized organization;</p> <p>(C) The child being placed is a juvenile offender; and</p> <p>(D) Prior to the hearing to approve the placement, the court and all parties to the dependency case have been informed of the nature of the services offered by the program and of the population served by the program, and the court, having considered the nature of the services and composition of the facility population and the report of the qualified individual, has found that placement in the facility is the least restrictive setting available to appropriately meet the child’s treatment needs. [ORS 418.321]</p>	<p>(b) Provide written notice of the placement to the office of the Governor, the foster care ombudsman and the System of Care Advisory Council prior to or as soon as practicable after the date of placement.</p> <p>(3) The department shall submit quarterly narrative reports to the System of Care Advisory Council describing the circumstances justifying, in the previous quarter:</p> <p>(a) Placement exceptions based on the approval of a responsible Medicaid entity as permitted under ORS 418.322 (3)(k) and (4); and</p> <p>(b) Any placement extensions authorized under ORS 418.322 (4).</p> <p>(4)(a) Not later than six months after receiving a quarterly report under subsection (3) of this section, the System of Care Advisory Council shall submit a report to the committees or interim committees of the Legislative Assembly related to human services and behavioral health in the manner provided under ORS 192.245, analyzing the immediately preceding quarter’s narrative report described in subsection (3) of this section. The report under this subsection must include an analysis of:</p> <p>(A) The appropriateness of the placement exceptions and extensions described in the department’s quarterly report; and</p> <p>(B) Any trends reflected in the department’s quarterly report.</p> <p>(b) In addition, not later than September 15 of each year, the System of Care Advisory Council shall submit a report to the interim committees of the Legislative Assembly related to human services and behavioral health in the manner provided under ORS 192.245 summarizing the quarterly reports received from the department in the previous four quarters. The summary must include the System of Care Advisory Council’s analysis of the appropriateness of the placement exceptions and of the trends reflected in the quarterly reports in the previous four quarters.</p> <p>(5)(a) Records received by the System of Care Advisory Council under this section are not subject to public inspection and, to the extent permitted under ORS 192.610 to 192.705, the System of Care</p>
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			<p>Advisory Council shall hold an executive session for the consideration of information and records it receives under this section.</p> <p>(b) The System of Care Advisory Council may not include information in its reports under this section that contain the name of or any identifying information about a child.</p> <p>[Section 36b and 48]</p>
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