

HB 3835 A -A5, -A11, -A13 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 5/12, 6/11

WHAT THE MEASURE DOES:

The measure modifies laws related to the use of restraint and seclusion on children in public schools and in care settings. The measure defines wrongful restraint and wrongful involuntary seclusion, outlines when restraint or seclusion may be used, and establishes procedures for investigating instances of wrongful restraint or seclusion. It modifies provisions regarding investigations of child abuse in certain settings and changes the definition of abuse. The measure allows the Department of Human Services (DHS) to place children in out-of-state agencies under certain circumstances, exempts secure medical transport from certain licensing requirements, and modifies provisions of placements for older youth in care. The measure directs DHS to submit narrative reports to the System of Care Advisory Council (SOCAC), requires SOCAC to submit reports to the Legislative Assembly, and makes clarifying and conforming amendments.

Detailed Summary:

Wrongful Restraint and Wrongful Seclusion (Section 1)

- Defines “involuntary seclusion” as the confinement of a child alone in a room or enclosed space from which they are prevented from leaving.
- Defines “restraint” as a physical restriction of a child’s actions or movements through holding, pressure, or other means.
- Defines “chemical restraint” as a medication that is administered to a child to control behavior and restrict freedom of movement and that is not a standard treatment for the child’s medical or psychiatric condition.
- Defines “responsible individual” as a person over age 18 who may have contact with a child as a result of their position as a foster parent or employee, volunteer, or contractor of a child-caring agency or public education program.
- Defines “wrongful seclusion” as the placement of a child in involuntary seclusion for discipline, punishment, retaliation, or convenience by a responsible individual.
- Establishes that a wrongful restraint occurs when a responsible individual
 - uses or directs the use of restraint for discipline, punishment, retaliation, or convenience;
 - administers or directs the use of a chemical restraint; or
 - restrains or directs restraint using excessive or reckless force that results in, or is likely to result in, serious physical harm to the child.
- Clarifies that wrongful restraint or seclusion does not include age-appropriate disciplinary measures aligned with the child’s developmental stage and individual needs.
- Prohibits corporal punishment, wrongful restraint, or wrongful seclusion by a responsible individual.

Restraint and Seclusion in School Settings (Section 2-7)

- Aligns definitions of “involuntary seclusion,” “restraint,” and “chemical restraint” with Section 1 of the bill.
- Permits the use of restraint in a public education program only if
 - the restraint is imposed by personnel of the public education program or school district;
 - the student’s behavior poses a reasonable risk of imminent serious physical harm to the student, or others, including animals;
 - a less restrictive intervention will not reduce the risk;
 - the least amount of physical force necessary to mitigate the risk is used; and
 - the restraint is not wrongful restraint, or a type of restraint that is otherwise prohibited.

- Permits the use of involuntary seclusion only if
 - the student's behavior poses a reasonable risk of imminent serious physical harm to the student, or others, including animals;
 - a less restrictive intervention will not reduce the risk; and
 - the involuntary seclusion is not wrongful seclusion.
- Clarifies that personnel of a public school program or school district may physically intervene without immobilizing a student to protect a person from an assault, serious physical harm, or sexual contact.
- Requires schools to provide a child with access to the bathroom and water as often as determined by the Department of Education (ODE) by rule if restraint or involuntary seclusion continues for more than 10 minutes.
- Modifies the frequency at which an administrator must provide written authorization for restraint or involuntary seclusion to continue.
- Eliminates the requirement for districts to notify certain individuals if personnel are seriously injured in connection to the use of restraint or seclusion.
- Replaces references from "serious bodily injury" with "serious physical injury," as defined in ORS 161.105.
- Removes requirement that complainants seek remedies with the public education's local governing body before submitting a complaint to the State Board of Education.
- Establishes a process, to be adopted in rule by the State Board of Education, for ODE to investigate complaints related to the use of restraint and involuntary seclusion, which includes limiting the subject of investigations to a school district or public education program rather than specific personnel.

Secure Transportation Providers and Use of Restraint during Transport (Section 8; 18)

- Modifies the definition of "secure transportation services" to mean only nonmedical transport of a child using specific vehicles to be further specified by DHS.
- Rescinds authorization for DHS to use restraints during transport of children or youth.
- Requires the Oregon Health Authority (OHA) to create a transportation safety plan prior to using restraints during transportation of a youth.

Abuse of a Child in Care (Section 9 – 11)

- Establishes that certain responsible entities and individuals abuse a child in care if they do not make a reasonable effort to protect the child in care from abuse, including abuse as defined in ORS 419B.005.
- Classifies and describes the following acts as abuse of a child in care when committed by specific responsible individuals:
 - causing nonaccidental physical injury or injury that is inconsistent with the individual's explanation
 - neglect
 - abandonment
 - willfully inflicting physical pain or injury upon a child
 - committing specific crimes listed in ORS Chapter 161
 - verbal abuse
 - financial exploitation
 - sexual abuse or exploitation.
- Defines "adjudicated youth foster home" as a foster home certified by the Oregon Youth Authority (OYA) and includes youth in these homes under "child in care."

Use of Restraint and Seclusion of Children in Care (Section 12 - 14)

- Aligns definitions with Section 1 of the bill.
- Prohibits the use of wrongful restraint, as established in section 1, in settings for children in care.
- Includes adjudicated foster homes in care settings where wrongful restraint and wrongful involuntary seclusion are prohibited.
- Allows the use of restraint or involuntary seclusion by certain child-caring entities only if the child's behavior poses a reasonable risk of imminent serious physical harm to themselves or others, including animals, and:

- a less restrictive intervention would not be effective,
- the least amount of physical force and contact necessary is used, and
- the type of restraint is not otherwise prohibited, and the involuntary seclusion is not wrongful seclusion, as defined in Section 1.
- Clarifies that certain child-caring entities may physically intervene, without immobilizing the child in care, to protect individuals from an assault, serious physical harm, or sexual contact.
- Creates exemption for certain inpatient treatment programs to place a child in specific restraints if authorized by certain specialists and if the restraint is not authorized as a standing order or on an as-needed basis.
- Replaces references to “serious bodily injury” and “serious physical injury” with “serious physical harm.”
- Grants DHS authority to prescribe requirements by rule for a program to provide a child with access to the bathroom and water, rather than at least every 30 minutes, if restraint or seclusion lasts more than 10 minutes.

Procedures, Recording Keeping, Notifications, Reports, and Training (Section 15 – 17)

- Requires DHS to grant specified individuals the opportunity to review, rather than obtain copies of, certain records regarding incidents related to restraint or seclusion upon request and only with proper consent.
- Directs DHS to appoint an advisory committee for the selection of crisis intervention training providers.
- Increases the number of crisis intervention training providers DHS must designate as meeting certification requirements from two or three to at least four.
- Requires DHS to adopt rules that contain explicit policies to reduce the use of restraint or seclusion.

Abuse Reports and Investigations; Child-Caring Agency (CCA) Licensing and Regulation (Section 19 – 35)

- Allows, rather than requires, DHS to create an electronic reporting website for child abuse.
- Repeals provisions related to DHS finding a public education program or personnel responsible for abuse based on the improper use of or training related to restraint or seclusion.
- Expands the definition of child abuse to include wrongful restraint, wrongful seclusion, involuntary servitude, or trafficking.
- Expands the definition of "child caring agency" to include any children's care or services provider that is required by law to be licensed, certified, or otherwise authorized by DHS; modifies other definitions related to CCAs; and specifies exceptions.
- Specifies the types of children's care or services providers that must be licensed, certified, or otherwise authorized by DHS.
- Directs DHS to adopt CCA licensing rules and requires a CCA to be a corporation, limited liability company, or county program.
- Allows DHS to place conditions on the license of a CCA as an alternative to suspension or revocation of the license, following specified events.
- Modifies the processes for DHS to respond to reports regarding a CCA in order to ensure the health, safety, and welfare of children in care.
- Modifies requirements for DHS quarterly reports to the Legislative Assembly regarding substantiated reports of abuse, wrongful restraint, or wrongful seclusion.

Out-of-State and Congregate Care Placements of Children (Section 36 – 39; 48)

- Permits DHS to place a child in an out-of-state placement that is not licensed by DHS as a CCA or designated as a qualified residential treatment program (QRTP) if
 - the child requires specialized services and treatment, there is no suitable CCA placement available in Oregon, and the services are authorized for coverage by Medicaid;
 - the placement is requested by the child's Tribe or is a youth regional treatment center funded by the Indian Health Service;
 - the child currently resides out of state, and requires treatment or care from an entity in the same state or a neighboring state;

- the out-of-state placement is approved by an agency in that state that provides licensing services in compliance with the Interstate Compact on the Placement of Children and relevant Oregon statutes; or
- the placement is the nearest facility to the child's community that provides necessary services or treatment.
- Requires out-of-state placements be subject to court approval.
- Directs DHS to take the following actions before placing a child in an out-of-state placement:
 - verify that the placement is in good standing with the licensing authority in its state,
 - conduct an in-person inspection and verify the placement is in significant alignment with Oregon licensure requirements, and
 - receive approval from certain state officials.
- Directs DHS and the OHA to establish rules and standards regarding out-of-state placements.
- Requires DHS to file with the juvenile court and other state officials and bodies when placing a child out-of-state under this section.
- Prohibits the placement of a child with an intellectual or developmental disability in an out-of-state placement that is an intermediate care facility.
- Requires DHS and OHA to submit quarterly narrative reports regarding out-of-state placements to SOCAC beginning April 1, 2026.
- Authorizes SOCAC to review records submitted in executive session and exempts records from public inspection.
- Directs SOCAC to submit a report analyzing the quarterly report to the Legislative Assembly no later than six months after receiving the report, and an annual report to the Legislative Assembly by September 15 each year.
- Allows DHS to place a child in a congregate care residential setting that is not a CCA or QRTP, and to extend the length of placement in a residential care facility or shelter-care home, if certain standards are met.
- Removes the requirement for DHS to publish information about out-of-state placements on a public website.

Older Children in Care (Section 40 – 41)

- Eliminates the requirement that DHS collect a portion of housing expenses from certain older youth.
- Allows DHS to exempt individuals over age 18 who were placed in a foster or adoptive home by DHS from criminal records check requirements prior to placing another child in the home.

Legislative Report (Sections 47; 49)

- Directs SOCAC to study the implementation and effects of provisions in the measure and to submit an initial report to the Legislative Assembly by September 15, 2026, and a final report by September 15, 2027.

Miscellaneous & Effective Dates (Sections 50 – 66)

- Makes conforming and clarifying amendments.
- States that changes to investigations and complaints related to restraint and seclusion in schools apply beginning August 30, 2026, and allows the State Board of Education and ODE to adopt necessary rules for implementation prior to this operative date.
- Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Current allowable uses of restraint and seclusion in care settings
- Causes of reduced placement availability for children in care
- Removal of provisions of the measure related to education settings
- Current safety standards for staff and children in care settings
- Availability of specialized medical treatment for children in care
- Standards for out-of-state placement facilities and protections for children placed out-of-state
- Recommendations from the appointed special master for *CASA for Children, et al. v. State of Oregon et al.*

EFFECT OF AMENDMENT:

This Summary has not been adopted or officially endorsed by action of the committee.

-A5 The amendment replaces the measure. The amendment removes sections making changes to the use of restraint and seclusion in education settings and makes conforming amendments. The amendment modifies the definition of chemical restraint, and changes references to "wrongful restraint" and "wrongful involuntary seclusion" to "abusive restraint" and "abusive seclusion." It makes changes to the permissible uses of restraint and seclusion in care settings, removes the minimum number of crisis intervention training providers that the Department of Human Services (DHS) must designate, and requires DHS to designate providers of training that meet specified standards. The amendment prohibits DHS from issuing or renewing a license, certificate, or authorization to a child-caring agency (CCA) that does not comply with requirements related to restraint and involuntary seclusion and incident reporting. It modifies allowable conditions for DHS to place a child in an out-of-state placement that is not a licensed CCA and requires DHS to report information on out-of-state placements online.

REVENUE: May have revenue impact, but no statement yet issued.

FISCAL: May have fiscal impact, but no statement yet issued.

Detailed Summary:

Use of Restraint and Seclusion on Children (Section 1 - 19)

- Removes sections relating to the use of restraint and seclusion in public education programs and makes conforming amendments.
- Modifies the definition of "chemical restraint" to a medication that is:
 - administered to a child to reduce an imminent safety risk by managing the child's behavior and temporarily restricting the child's freedom of movement; and
 - not a standard treatment for the child's medical or psychiatric condition.
- Changes references to "wrongful restraint" and "wrongful seclusion" to "abusive restraint" and "abusive seclusion," respectively.
- Restores the definition of "secure escort" and "secure transportation," and clarifies that these terms only include nonmedical transport.
- Classifies sexual contact, as defined by ORS 163.305, with a child in care as abuse of a child in care, regardless of whether the sexual contact is otherwise unlawful.
- Prohibits a restraint that, unless necessary to prevent an imminent life-threatening injury or gain control of a weapon:
 - is intended to impede a child in care's movement;
 - includes the intentional and nonincidental use of a solid object, including the ground, a wall, or the floor; and
 - causes the child in care to be pressed between the person imposing the restraint and the object, or between objects.
- Clarifies that specified facilities may place a child in care in a restraint or involuntary seclusion if the child's behavior poses a reasonable risk of imminent serious physical harm to animals as defined in ORS 167.310.
- Permits a certified foster home or proctor foster home, consistent with the reasonable and prudent parent standard, to temporarily restrict a child in care's freedom of movement and to implement age-appropriate discipline, and states these actions are not subject to incident reporting requirements related to restraint or involuntary seclusion.
- Defines "reasonable and prudent parent standard" as the standard characterized by careful and sensible parent decisions that maintain the health, safety and best interests of a child in care while encouraging emotional and developmental growth.
- States that federal requirements regarding restraint or seclusion that are more restrictive than state law supersede any inconsistent provision to the extent of the inconsistency.

- Removes the requirement that DHS adopt a minimum number of nationally recognized providers of crisis intervention training, and instead requires DHS to adopt providers of training that:
 - use trauma informed practices;
 - prioritize the reduction or elimination of the use of restraint and involuntary seclusion;
 - teach techniques for de-escalation that do not require restraint or involuntary seclusion; and
 - meet DHS's training standards.
- Directs DHS to coordinate with the System of Care Advisory Council (SOCAC) to convene the advisory committee that provides recommendations regarding the selection of crisis intervention training providers and clarifies the advisory committee's membership.
- Requires that a child in care receive information that assures the child they will not experience retaliation for making an abuse report or complaint regarding the use of involuntary seclusion or restraint.
- Permits the Oregon Health Authority (OHA) to use restraints during the escort of a youth, adjudicated youth, or young person, as those terms are defined in ORS chapter 419A, in addition to transportation.
- Permits DHS to impose a corrective action, in addition to a civil penalty, on a child-care agency or provider of secure transportation services for specified violations.

Abuse Reports and Investigations (Section 21 - 23)

- Removes provision that allows, rather than requires, DHS to develop a website for electronic reporting of suspected child abuse.

Child-Caring Agency (CCA) Regulation (Sections 24 - 35)

- Requires CCAs that are domestic or foreign limited liability companies to meet additional standards established by DHS by rule.
- Prohibits DHS from issuing or renewing a license, certificate, or authorization to a CCA unless the CCA complies with requirements related to restraint and involuntary seclusion of children in care and incident reporting.
- Adds the following data to the list of information that must be included in DHS's quarterly report to interim legislative committees:
 - the number of incidents that were reported as suspected abusive restraint;
 - the number of incidents in which a prohibited restraint was used;
 - the number of complaints received involving alleged violations of procedural, reporting, training, and notification requirements; and
 - the number of complaints that involved allegations later confirmed to be violations.

Out-of-state Placements and Congregate Care Placements of Children (Sections 36 - 39)

- Modifies allowable criteria for DHS to place a child in an out-of-state placement that is not a licensed CCA to include:
 - that no CCA placements are available in this state that are suitable for the child and provide services and treatments that are medically necessary and medically appropriate, and the services are approved for coverage by Medicaid;
 - that there is reason to know that the child is an Indian child, the placement complies with placement preferences under the Oregon Indian Child Welfare Act, and:
 - the placement is a youth regional treatment center operated or funded by the Indian Health Services that serves the needs of Indian children or youth; or
 - the Indian child's Tribe has requested the child be placed in the out-of-state placement.
 - that the out-of-state placement is an out-of-state CCA, the child currently resides in a placement located in the same state or a neighboring state, subject to the Interstate Compact on the Placement of Children, and the CCA provides treatment or services that medically necessary and appropriate for the child, consistent with rules adopted by OHA; or

- that the provider that is closest to the child's community that is able to provide treatment or services that are medically necessary and appropriate is in a neighboring state, accessing the treatment in the neighboring state maintains the child's connection to the community, and the services or treatment are consistent with rules adopted by OHA.
- Directs DHS, rather than DHS and OHA, to submit quarterly narrative reports to SOCAC on the circumstances justifying certain placement exceptions and extensions.
- Permits DHS to place a child or ward in a congregate care setting that serves adults and is not a licensed CCA or Q RTP if the congregate care setting is licensed by DHS or OHA and provides medically necessary and appropriate services or treatment.
- Requires DHS to maintain a website that is updated monthly with information on out-of-state placements and to provide a narrative description of circumstances behind out-of-state placements to SOCAC on a quarterly basis.

Miscellaneous and Effective Dates

- Makes conforming amendments.
- Declares emergency, effective on passage.

REVENUE: May have revenue impact, statement not yet issued.

FISCAL: May have fiscal impact, statement not yet issued.

-A11 The amendment replaces the measure. The amendment modifies definitions, defines serious physical harm, and makes changes to the allowable uses of restraint and involuntary seclusion. The amendment modifies requirements related to crisis intervention training providers and makes changes to actions the Department of Human Services (DHS) must take if determines a child-caring agency (CCA) is not in compliance with certain requirements. The amendment makes changes to reporting requirements to the Legislative Assembly. The amendment changes the criteria under which DHS may place a child in an out-of-state placement, requires DHS to move the court for approval of an out-of-state placement, and prohibits the court from approving certain placements unless it finds that the placement is medically necessary and appropriate. The amendment removes sections of the measure that make changes to housing expenses for older youth and criminal background check requirements for individuals over the age of 18 who were placed in an adoptive or foster home by DHS.

Detailed Summary:

Child Abuse, Restraint and Seclusion (Section 12 – 15)

- Removes sections relating to the use of restraint and seclusion in public education programs and makes conforming amendments.
- Removes newly added definitions, including definitions of chemical restraint, abusive restraint, and involuntary seclusion.
- Modifies the definition of chemical restraint to mean a drug or medication that is administered by any means to control a child's behavior or restrict freedom of movement and that is not:
 - Prescribed by specified medical professionals acting within their scope of practice for standard treatment of the child's medical or psychiatric condition; and
 - Administered as prescribed by specified medical professionals acting within their scope of practice.
- Modifies the definition of restraint of a child in care to mean the physical restriction of a child's actions by using physical force to hold the child or by using pressure or any other means to restrict the child's ability to voluntarily move their head, limbs, torso, neck, hands, or feet.
- Specifies actions that do not constitute restraint, including brief physical contact to promote a child's safety, providing physical guidance, physically escorting a child, or physically assisting a child.

- Defines “serious physical harm” as “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 and protracted disfigurement, extreme pain or any physical injury that creates a significant risk or death.”
- Prohibits any restraint of a child in care that is:
 - used for discipline, punishment retaliation or convenience;
 - imposed on a child in care when the child’s current actions do not pose a reasonable risk of imminent serious physical harm.
- Allows the use of restraint on a child in care only if the child’s current action pose a reasonable risk of imminent serious physical harm to the child or others and:
 - a less restrictive intervention would not be effective;
 - the restraint is imposed with the minimum amount of physical force and contact necessary;
 - any use of force is consistent with the child’s size, age, development, and known trauma history;
 - the restraint ends immediately when the risk of imminent serious physical harm has resolved, or a less restrictive intervention become practicable; and
 - the restraint is not an otherwise prohibited restraint.
- Specifies that permissible restraint of a child in care may only be used when:
 - the restraint is imposed by staff or contractors of specified facilities who have current certification in the restraint;
 - the child is receiving care or services from the child-caring agency (CCA), proctor foster home, or developmental disabilities residential facility (DDRF); and
 - the restraint is consistent with all state and federal requirements for the provision of services to an individual receiving developmental disability services if the child in care is receiving such services.
- Allows the use of involuntary seclusion of a child in care only if the child’s current actions pose a reasonable risk of imminent serious physical harm to the child or others and:
 - all other efforts to address the current actions have been unsuccessful;
 - a less restrictive intervention would not be effective;
 - the involuntary seclusion ends immediately when the risk of imminent serious physical harm has been resolved or a less restrictive intervention becomes practicable; and
 - the child is not receiving services from a DDRF, a certified foster home, or an adjudicated youth foster home.
- Specifies that involuntary seclusion may only be imposed by staff or contractors of the CCA or proctor foster home from which the child is receiving care or services.
- Clarifies that a person may use physical force upon a child in care in an emergency if specified conditions are met.
- Modifies conditions under which a secure children’s or adolescent inpatient treatment program may utilize a supine restraint.

Abuse of a Child in Care (Section 9-11)

- Provides that an individual or organization abuses a child in care if the individual or organization neglects the child by failing to provide care, supervision, or services necessary to maintain the child’s physical and mental health when the individual or organization has a duty to provide care.
- Classifies the following acts as abuse of a child in care when committed by an employee, operator, contractor, agent, or volunteer of specified entities, or by any other person who is responsible for the provisions of care or services to the child:
 - neglect by failure to provide care, supervision, or services necessary to maintain the child’s physical and mental health;
 - neglect by failure to make a reasonable effort to protect the child in care from abuse, including abuse as defined in ORS 419B.005; and
 - abandonment.

- Classifies the following acts of abuse of a child in care when committed by specified individuals:
 - assault;
 - causing nonaccidental physical injury or injury that is inconsistent with the individuals' explanation;
 - imposing of restraint or involuntary seclusion in violation of state law;
 - willfully inflicting physical pain or injury;
 - committing specific crimes listed in ORS Chapter 161;
 - verbal abuse;
 - financial exploitation; and
 - sexual abuse or exploitation.

Secure Transportation Providers and Use of Restraint during Transportation (Section 8; 18)

- Provides that restraint may be utilized in secure escort only if the child's actions create a reasonable risk of imminent serious physical harm to the child or others during transport to specified care providers that are not hospitals or health care facilities certified by the Oregon Health Authority (OHA).
- Defines "secure nonmedical transportation services" as the "secure transportation or escort of children by a provider that is not subject to rules adopted by OHA" while transporting a child to specified care providers that are not hospitals or health care facilities licensed by OHA.
- Specifies that secure nonemergency medical transportation providers are exempt from certain licensing requirements unless the provider also provides secure nonmedical transportation services.
- Prohibits the use of secure nonmedical transportation services to transport a child in care to a hospital, health care or treatment facility certified by or contracted with OHA, or an equivalent hospital or facility in another state.
- Removes changes to the allowable use of restraint of youth during transportation under ORS 419A.245.

Procedures, Record Keeping, Notifications, Reports, Training, and Penalties (Section 16 – 17)

- Requires DHS to adopt rules regarding the standards and certification requirements for a person to be qualified and authorized to impose a restraint upon a child in care.
- Directs DHS to designate two or three crisis intervention training providers for certification requirements and specifies standards for the providers and program curriculum.
- Requires DHS to appoint an advisory committee to provide recommendations with the selection of training providers and specifies requirements for the advisory committee's membership.
- Modifies minimum requirements of rules adopted by DHS related to the use of restraint of children in care.
- Clarifies that a CCA, proctor foster home, or DDRF may utilize additional training on prevention of crisis situations that do not involve the use of physical force.
- Removes changes to the information that must be provided to a child in care receiving services from a CCA.
- Removes changes to the ability of individuals to obtain copies of certain records regarding incidents related to restraint or seclusion.
- Directs the director DHS to impose specified civil penalties following multiple incidences of the use of restraint of a child in care by a person who is not properly certified.
- Increases the maximum civil penalty that may be imposed by DHS.

Abuse Reports and Investigations (Section 21 – 23)

- Removes the use of abusive restraint or abuse involuntary seclusion from the definition of child abuse under ORS 419B.005.
- Removes section that modifies the definition of abuse of an adult with a developmental disability.

Child-Caring Agency Regulation (Section 24 – 35)

- Removes allowance for a child-caring agency to be a limited liability company.
- Removes ability for DHS to place conditions on the license of a CCA as an alternative to suspension or revocation of the license, following specified events.

- Permits DHS to place conditions on the license of a CCA as an alternative to suspension or revocation of the license if the agency's managers or other relevant employees failed to provide financial statements or if the agency failed to provide access to a child in the agency's care or custody.
- Requires DHS to provide certain written notices to the Children's Advocate, in addition to other specified state officials, and modifies information that must be included in the notice.
- Modifies the process for DHS to respond to reports regarding a CCA.
- Specifies the minimum frequency by which a CCA must provide certain financial statements and tax compliance certificates.
- Removes changes to provisions related to the interference of disclosure of information concerning the abuse or maltreatment of a child in care.
- Clarifies that DHS must take specified actions when it becomes aware of allegations or concerns of suspected abuse when the department learns of the allegations or concerns by any means.
- Removes provisions allowing any person to make a report specified entities of certain acts or omissions, providing the person making the report from certain disciplinary actions, and allowing the person making the report to disclose otherwise confidential information.
- Adds the developmental disabilities coordinator to the individuals who must be notified by DHS when a report is received that a child in care may have been subjected to abuse.
- Modifies actions DHS must take when investigating a report of abuse of a child in care or an allegation of the inappropriate use of restraint or involuntary seclusion.
- Prohibits DHS from substantiating an allegation of abuse by an individual involved in the use of restraint solely because the individual did not possess a current certification to impose the restraint.
- Modifies information DHS must include in its quarterly report to the Legislative Assembly.
- Modifies actions DHS must take if the department becomes aware of actual or suspected failure of a CCA to maintain regulatory compliance and modifies actions DHS must take if the department finds that a CCA is not in compliance.
- Prohibits DHS from taking action to suspend or revoke a CCA's license, certification, or authorization unless certain standards are met.
- Modifies notification requirements if a CCA fails to comply with a plan of correction imposed by the department.
- Requires DHS to post specified notices on its public website.

Out-of-State Placements of Children (Section 36 – 39)

- Requires DHS to review the contract with an out-of-state CCA to ensure compliance with requirements prior to a child's placement in the agency.
- Allows DHS to place a child in an out-of-state placement that is not a licensed CCA if there is reason to know that the child is an Indian child and the placement:
 - complies with placement preferences under the Oregon Indian Child Welfare Act; and
 - the placement is a youth regional treatment center operated by the Indian Health Service or the Indian child's tribe has affirmatively request the placement.
- Permits DHS to temporarily license an out-of-state CCA without requiring the agency to be incorporated under state laws or be a county program and to place the child in the agency if certain criteria are met.
- Establishes a process for DHS to verify out-of-state placements, requires the department to conduct in person inspections of the placements, and outlines minimum standards for out-of-state placements that the department must implement in rule.
- Modifies criteria under which DHS may place a child in a congregate care residential setting that is not a CCA or qualified residential treatment program.
- Prohibits DHS from placing a child or ward in an out-of-state institution for mental disease.
- Requires DHS to move the court for approval of an out-of-state placement and prohibits the court from approving certain placements unless it finds that the placement is medically necessary and appropriate.

Older Children in Care

- Removes the provision that eliminates the requirement that DHS collect a portion of housing expenses from certain older youth.
- Removes the provision that allows DHS to exempt individuals over age 18 who were placed in a foster or adoptive home by DHS from criminal records check requirements prior to placing another child in the home.

Reports

- Removes requirement for the System of Care Advisory Council (SOCAC) to submit quarterly reports to the Legislative Assembly.
- Removes requirement for SOCAC to study implementation of amendments and submit a report to the Legislative Assembly.

Miscellaneous

- Makes conforming amendments.
- Declares an emergency, effective on passage.

REVENUE: May have revenue impact, statement not yet issued.

FISCAL: May have fiscal impact, statement not yet issued.

-A13 The amendment replaces the measure with language similar to the -A5 amendments. The amendment removes the newly added definition of chemical restraint, allows the use of involuntary seclusion as a form of age-appropriate discipline in foster homes under specified circumstances, and removes changes to the definition of abuse of an adult with a developmental disability. It directs the Department of Human Services (DHS) to adopt rules regarding out-of-state placements of children in care and outlines the minimum requirements of the rules. The amendment makes changes to reports on out-of-state placements, and requires DHS to move the court for approval of an out-of-state placement. The amendment removes sections of the measure that make changes to housing expenses for older youth and criminal background check requirements for individuals over the age of 18 who were placed in an adoptive or foster home by DHS.

Use of Restraint and Seclusion on Children (Section 1 - 19)

- Removes the newly added definition of chemical restraint and references the existing definition in ORS 418.519.
- Clarifies that specified types of restraints, including supine and prone restraints, are prohibited except in a secure children's or adolescent inpatient treatment program and only under specified circumstances.
- Clarifies that a certified or proctor foster home may place a child in care in involuntary seclusion as a form of age-appropriate discipline, as defined by rule and consistent with the reasonable and prudent parent standard.
- Removes the newly added provision stating that federal requirements regarding restraint or seclusion that are more restrictive than state law supersede any inconsistent provision to the extent of the inconsistency.

Abuse Reports and Investigations (Section 21 - 23)

- Removes section that changes the definition of abuse of an adult with a developmental disability.
- Clarifies that a child-caring agency, rather than its managers, is prohibited from attempting to prevent the disclosure of certain information concerning of a child in the care of the child-caring agency.

Out-of-state Placements of Children (Section 36 - 39a)

- Modifies the minimum requirements that DHS must include in rules adopted by the department related to the out-of-state placement of a child in care, including that the rules:

- Require a member of the multidisciplinary team that monitors the progress of the child accompany the child to and from the out-of-state placement;
- Require a member of the multidisciplinary team must have in-person contact with the child at least once every 15 days;
- Ensure the child's rights in the out-of-state placement are in significant alignment with the rights the child has in Oregon;
- Establish the multidisciplinary response if a child's rights have been violated or abuse is reported in the out-of-state placement.
- Directs DHS to include descriptions of the circumstances justifying the placement of children or wards in adult settings in its quarterly narrative report to the System of Care Advisory Council (SOCAC).
- Modifies the requirements for SOCAC to submit quarterly reports to interim legislative committees on the appropriateness of placement exceptions and extensions and trends in the DHS quarterly reports.
- Requires DHS to move the juvenile court for approval of an out-of-state placement no later than 30 days following the placement and directs the court to schedule a hearing no later than 60 days following the out-of-state placement upon the receipt of the motion.
- Prohibits the court from approving a motion for approval of an out-of-state placement of a child in care unless the court finds that the placement meets all applicable criteria.

Older Children in Care (Section 40 - 41)

- Removes the provision that eliminates the requirement that DHS collect a portion of housing expenses from certain older youth.
- Removes the provision that allows DHS to exempt individuals over age 18 who were placed in a foster or adoptive home by DHS from criminal records check requirements prior to placing another child in the home.

Reports (Section 47 - 49)

- Requires DHS to submit quarterly narrative reports regarding out-of-state-placements to SOCAC beginning October 1, 2025, rather than April 1, 2026.

Effective Date

- Declares an emergency, effective on passage.

REVENUE: No revenue impact.

FISCAL: Fiscal impact issued.

BACKGROUND:

Use of Restraint and Seclusion and Secure Transportation Services

In 2011, the Legislature Assembly passed [House Bill 2939](#), which limited the use of physical restraint and seclusion for students in Oregon schools. [Senate Bill 963](#), passed in 2019, modified the permissible use of restraint in public schools. The bill prohibited the use of certain types of restraints including chemical, mechanical, prone, and supine restraints, and clarified circumstances under which students could be restrained. In 2021, the Legislative Assembly passed [Senate Bill 710](#), which prohibited certain entities, including child-caring agencies (CCAs), foster homes, and developmental disability residential facilities (DDRFs) from using restraint or involuntary seclusion as a form of discipline, punishment, or retaliation. The bill prohibited the use of certain types of restraints, such as chemical or mechanical restraints. [The bill](#) also required secure transportation service providers that transported children to or from certain locations to be licensed as CCAs.

Subsequent bills passed by the Legislative Assembly have made changes to provisions regarding the use of restraint or seclusion in public education and care settings. These bills include [SB 93 \(2023\)](#), [SB 790 \(2023\)](#), and [SB 1024 \(2023\)](#).

[ORS 418.523](#) outlines the permissible uses of restraint or involuntary seclusion of children in care and requirements for monitoring and authorizing continued restraint or seclusion. Under Oregon law, staff must be trained on the proper usage of restraint and seclusion, and DHS may investigate the improper use of restraint and seclusion as abuse of a child in care. The Children's Care Licensing Program (CCLP), a division of DHS, collects and reports information relating to restraint and involuntary seclusion in CCAs. Those [reports](#) can be found on the CCLP's webpage.

Out of State Placements

In recent years, placements of Oregon children in out-of-state CCAs became the subject of investigation and review following reports of treatment of children in some out-of-state facilities, including the use of chemical restraints and seclusion ([Associated Press, 2019](#)). In an informational presentation given to the Senate Committee on Human Services in April 2019, DHS reported that 84 youth in the Oregon foster system were placed out-of-state ([DHS, 2019](#)).

Following reports that DHS was placing foster children in hotels and other nonstandard placements, a practice known as "temporary lodging," a class action lawsuit was filed in 2012 (*CASA for Children v. State of Oregon*). A separate class action lawsuit filed in 2019, *Wyatt v. Kotek*, alleged that DHS had failed to protect foster children in its care from trauma, citing frequent moves, inadequate therapy, and unsafe placements. These cases highlighted systemic challenges, including the use of temporary lodging and placements in out-of-state and unlicensed facilities. In 2024, a [settlement](#) for *Wyatt* was reached that required DHS to contract with a neutral expert to address foster care system outcomes. Additionally, the court for *CASA* appointed a special master, whose [report](#) made several recommendations to improve the system of care for foster children.

[Senate Bill 1605](#), passed by the Legislative Assembly in 2020, was an omnibus bill relating to children. Among other changes, the bill prohibited DHS from placing a child in an out-of-state child-caring agency unless the agency met certain standards, including that the agency be licensed by DHS under Oregon law.

Beginning in 2022, DHS contracted with a Keizer-based nonprofit entity called Dynamic Life to supervise foster children in unlicensed short-term rentals as an alternative to temporary lodging, although the organization was not a licensed CCA. Following a series of investigative reports and legislative hearings, DHS ended the contract in 2024.