

HB 3835 B STAFF MEASURE SUMMARY

House Committee On Rules

Action Date: 06/11/25

Action: Do pass with amendments to the A-Eng bill, and be referred to Ways and Means.
(Printed B-Eng).

Vote: 4-3-0-0

Yeas: 4 - Bowman, Kropf, Pham H, Valderrama

Nays: 3 - Boshart Davis, Drazan, Elmer

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Taylor Bickel

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 care settings. The measure defines abusive restraint and abusive involuntary seclusion, outlines when restraint or seclusion may be used, and establishes procedures for investigating instances of abusive restraint or seclusion. It modifies provisions regarding investigations of child abuse in certain settings and changes the definition of abuse. The measure modifies the regulatory and enforcement authority of the Department of Human Services, allows the DHS to place children in out-of-state placement under certain circumstances and exempts secure medical transport from certain licensing requirements. The measure directs DHS to submit quarterly 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:

Abusive Restraint and Abusive 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 by any means.
- Defines “restraint” as a physical restriction of a child’s actions or movements through holding, pressure, or other means.
- Defines “responsible individual” as a person who is at least 18 and 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 (CCA) or developmental disabilities residential facility (DDRF).
- Establishes that abusive seclusion occurs when a responsible individual places a child in involuntary seclusion for discipline, punishment, retaliation, or convenience.
- Establishes that an abusive 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.
- Prohibits the infliction of corporal punishment by a responsible individual.

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

- Modifies the definition of “secure transportation” and “secure escort” to mean only nonmedical transport or escort of a child.
- 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, adjudicated youth, or young person as those terms are defined in ORS

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chapter 419A.

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; or
 - 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 abusive restraint, as established in section 1, in settings for children in care.
- Includes adjudicated youth foster homes in care settings where certain uses of restraint or 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 certain 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 abusive seclusion, as defined in Section 1.
- Permits a certified foster home, adjudicated youth foster home, or proctor foster home to temporarily restrict a child in care's freedom of movement or place a child in involuntary seclusion as a form of age-appropriate discipline, consistent with the reasonable and prudent parent standard.
- 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.
- Allows 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 consent from the child or their parent or guardian, or if disclosure is required by law.
- Removes the limit on the number of approved crisis intervention training providers, and directs DHS to designate providers that meet additional specified standards.
- Directs DHS to coordinate with the System of Care Advisory Council (SOCAC) to convene an advisory committee that will provide DHS with recommendations regarding the selection of crisis intervention training providers.

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- Modifies the information that a child in care receiving services from a CCA must receive regarding the use of restraint and seclusion and their rights to report abusive restraint or seclusion.

Abuse Reports and Investigations (Section 21 – 22)

- Expands the definition of child abuse under ORS 419B.005 to include abusive restraint, abusive seclusion, involuntary servitude, or trafficking.

Child-Caring Agency (CCA) Regulation (Section 19; 24 - 35)

- Allows DHS to impose a corrective action, in addition to a civil penalty, on a CCA or provider of secure transportation services for specified violations.
- 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.
- Replaces certain references to "agency" with "agency's managers" for purposes of licensing and regulatory enforcement.
- Modifies the circumstances under which DHS must take certain actions when receiving a report of abuse of a child in care by specified responsible individuals.
- Specifies that any person may make a report of acts or omissions in care settings; provides immunity to a person making a report in good faith from certain liability and disciplinary actions; and allows the person making the report to disclose otherwise confidential information.
- Modifies requirements for DHS quarterly reports to the Legislative Assembly regarding substantiated reports of abuse and founded reports of abusive restraint or abusive seclusion.

Out-of-State and Congregate Care Placements of Children (Section 36 – 39a; 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 (Q RTP) if:
 - No suitable CCA placements are available in Oregon that provide services and treatment that are medically necessary and appropriate for the child; and the services and treatments are approved for coverage by Medicaid;
 - The placement complies with placement preferences under the Oregon Indian Child Welfare Act; and 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 a CCA in the same state or a neighboring state that provides the types of treatment or services that are medically necessary and appropriate for the child, consistent with rules adopted by the Oregon Health Authority (OHA);
 - 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, and the services or treatment are consistent with rules adopted by OHA.
- Requires out-of-state placements be subject to court approval and requires DHS to move the court to approve the placement within specified timelines.
- Prohibits DHS from placing a child in an out-of-state placement unless the department has:
 - verified that the placement is in good standing with the licensing authority in its state,
 - conducted an in-person inspection and verified the placement is in significant alignment with Oregon licensure requirements, and
 - received approval from certain state officials.

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- Directs DHS and the OHA to establish rules and standards regarding out-of-state placements, and outlines minimum requirements of the rules.
- Requires DHS to file with the juvenile court and provide written notice to 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 to submit quarterly narrative reports regarding out-of-state placements to SOCAC beginning October 1, 2025.
- 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 for adults that is not a CCA or QRTP if it is medically necessary and appropriate, and to extend the length of placement in a residential care facility or shelter-care home, if certain standards are met and upon approval by certain state officials.

Legislative Reports (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.
- Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Current allowable uses of restraint and seclusion in care settings
- Process for reporting and investigating instances of restraint or seclusion
- Causes of reduced placement availability for children in care
- Removal of provisions 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.*
- Decision-making authority granted to the System of Care Advisory Council
- Reports to the Legislative Assembly on out-of-state placements

EFFECT OF AMENDMENT:

The amendment replaces the measure. The amendment removes sections relating to the use of restraint and seclusion in education settings and makes conforming amendments. The amendment removes the newly added definition of chemical restraint and changes references to "wrongful restraint" and "wrongful involuntary seclusion" to "abusive restraint" and "abusive seclusion." It modifies 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, requires DHS to designate providers of training that meet specified standards, and makes changes to required reports to the Legislative Assembly. The amendment removes sections that make changes to housing expenses and criminal background checks for older youth, and removes a provision that allows, rather than requires, DHS to create an electronic reporting website for child abuse to align with other legislation.

BACKGROUND:

Use of Restraint and Seclusion and Secure Transportation Services

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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. 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.