

House Bill 3485

Sponsored by Representative DIEHL

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes when DHS can find that a person's restraint or seclusion of a student amounts to child abuse. (Flesch Readability Score: 68.0).

Modifies when the Department of Human Services may substantiate an allegation of child abuse arising from the restraint or seclusion of a student.

A BILL FOR AN ACT

1
2 Relating to abuse of students; amending section 8, chapter 581, Oregon Laws 2023.

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

4 **SECTION 1.** Section 8, chapter 581, Oregon Laws 2023, is amended to read:

5 **Sec. 8.** (1) Notwithstanding ORS 419B.005 (1)(a)(K), at the conclusion of an investigation under
6 ORS 419B.020, the Department of Human Services may not substantiate an allegation of abuse
7 against personnel of a public education program [*who have not been trained to the standard estab-*
8 *lished in ORS 339.300 but*] who impose [*a*] **restraint or seclusion** on a student if:

9 [*a*] *The restraint is imposed in response to an imminent risk of serious bodily injury of any per-*
10 *son;*]

11 [*b*] **(a)(A)** The person imposing the restraint **or seclusion has not been trained to the**
12 **standard established in ORS 339.300** and does not act with [*reckless disregard for student safety*]
13 **the intent to harm the student; or**

14 **(B)** **The person has been trained to the standard established in ORS 339.300 and the im-**
15 **position of the restraint or seclusion constituted only a minor deviation from the require-**
16 **ments under ORS 339.285 to 339.303 and 339.308; and**

17 [*c*] **(b)** The restraint **or seclusion** does not impose a significant risk of impeding the student's
18 breathing.

19 (2)**(a)** Nothing in this section prohibits the department from finding that the public education
20 program is responsible under [*section 2 of this 2023 Act*] **ORS 339.296** for abuse arising from the
21 [*untrained*] personnel's inappropriate use of restraint **or seclusion**.

22 **(b)** **If the department finds a public education program responsible for abuse arising from**
23 **the personnel's inappropriate use of restraint or seclusion, the public education program**
24 **shall take appropriate employment action against the personnel if the public education pro-**
25 **gram determines that the personnel's actions violated an employment policy. The public ed-**
26 **ucation program shall determine the appropriate employment action, which must be**
27 **consistent with any collective bargaining requirements and relevant state and federal laws**
28 **and take into consideration the totality of the circumstances, including any training the**
29 **personnel received.**

30 (3) As used in this section, "public education program," [*and*] "restraint" **and "seclusion"** have

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 the meanings given those terms in ORS 339.285.

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