



TESTIMONY ON HB 3835
HOUSE COMMITTEE ON EARLY CHILDHOOD AND HUMAN SERVICES
MARCH 20, 2025

Chair Hartman, Co-Chairs Nguyen and Scharf, and Members of the Committee:

My name is Mae Lee Browning, Legislative Director of the Oregon Criminal Defense Lawyers Association. OCDLA opposes HB 3835.

OCDLA's 1,200 members statewide include public defense providers, private bar attorneys, investigators, experts, and law students. Our attorneys represent Oregon's children and parents in juvenile dependency proceedings, youth in juvenile delinquency proceedings, adults in criminal proceedings at the trial and the appellate level, as well as civil commitment proceedings throughout the state of Oregon. Our mission is championing justice, promoting individual rights, and supporting the legal defense community through education and advocacy.

HB 3835 hurts kids in the following ways:

- **Limits sexual abuse investigations** to only incidents accusing a DHS-paid provider. If anyone else in the home hurts a child, it won't be investigated.
- **Restricts DHS investigations of all types of abuse** when reported outside the central hotline. Shouldn't all abuse be investigated regardless of how people report it?
- **Deems illegal seclusion and restraint practices acceptable**—unless a child dies or is permanently disfigured.
- **Removes nearly all independent oversight of DHS**, including by juvenile and all other courts.
- **Allows DHS to send already traumatized kids to unsafe, out-of-state facilities** far from family without independent court approval.
- **Guts Oregon restrictions on seclusion and restraints** of all students.
- **Enables DHS to house foster youth in homeless shelters**, regardless of whether their mental and physical health needs are being met.

HB 3835 changes what counts as a “restraint” to exclude any conduct where the abuser has the “intent” of supporting the safety or development of a child—even if the abuser's conduct results in broken arms. This legislation would usually allow any abuser to simply claim they didn't intend to harm a child and be exempt from a finding of abuse. Under HB 3835, the state's child abuse investigators are NOT ALLOWED TO INVESTIGATE when a child is put in handcuffs or pressed to the floor, because those restraints (while still technically prohibited) are no longer in the list of things they are permitted to investigate. In most places in the bill, the definition of “wrongful seclusion,”

not “seclusion,” is what matters. Only “wrongful seclusion” is abuse, and DHS will only investigate wrongful seclusion. Seclusion is only “wrongful” if it is done for the purposes of retaliation, punishment or convenience.

This legislation changes what is considered abuse under Oregon law, who may be investigated for abuse, and what can be substantiated in an investigation. The bill changes the definition of what counts as “abuse,” depending on who is doing the abusing. Only abuse by a foster parent or by an employee of a facility regulated by DHS counts as abuse under this bill.

HB 3835 changes the law to *permit* retaliation against foster children who complain about abuse. Current law protects children against retaliation for reporting restraint and seclusion; the bill would change this to “wrongful restraint” and “wrongful seclusion.” So under this new scheme, a child could be retaliated against for complaining about a restraint that doesn’t count as a “wrongful restraint”—like being handcuffed or zip-tied, or physically restrained in a way that broke their arm but didn’t constitute permanent disfigurement or death by the abuser’s actions.

This legislation will endanger child safety by allowing the state to use the low standards of Arkansas, Wyoming, Ohio, or other states when determining if a placement is safe for Oregon’s children. Sec. 36 amends ORS 418.321 to create an exception to current law that allows DHS to send children to out-of-state facilities, that do not meet Oregon licensing standards and where DHS does not have a contract.

Oregon’s kids need better protections from abuse, not worse. **HB 3835 lowers the standards for keeping children safe in a number of ways.** These statutory changes are taking place without a proportional and adequate investment in child services or educational services.



Mae Lee Browning
Legislative Director
Oregon Criminal Defense Lawyers Association
MLBrowning@ocdla.org