



Date: March 17, 2025

To: House Committee on Early Childhood and Human Services Oregon State
Legislature

Subject: Opposition to HB 3835 – Protecting Family Recourse in Cases of Restraint and
Seclusion

Chair Hartman, Vice-Chair Nguyen, Vice-Chair Scharf, and Members of the Committee,

I am submitting testimony in opposition to HB3835, as currently written, on behalf of Oregon Family Support Network (OFSN). While there are parts of HB 3835 such as aligning definitions of language that we do not oppose, **holding high accountability for those engaged in restraint and seclusion is of critical importance to the families that we represent.** OFSN represents families across Oregon raising children with behavioral health challenges. Our work centers on ensuring that families are heard and that children receive care that is safe, trauma-informed, and supportive of their well-being. While we recognize the need for clear guidelines regarding restraint and seclusion, we oppose aspects of HB3835 that make it harder for families to seek justice when a child is harmed in a care or school setting.

We acknowledge that staff in schools and behavioral healthcare settings, including child-caring agencies, proctor foster homes, certified foster homes, adjudicated youth foster homes, and developmental disabilities residential facilities face significant challenges. Oregon is experiencing a behavioral health workforce crisis that has placed immense stress on staff and systems alike. Most individuals working in these settings genuinely want to improve the lives of children and provide them with the support they need. **However, as parents and caregivers, our first priority must be the safety of our children.** Too many of us have experienced firsthand the difficult impact that even a properly applied restraint can have on our child's emotional and physical well-being. An improper restraint can cause real harm. This is why we must ensure that there are clear pathways for families to hold systems accountable for the children we entrust into their care.

HB 3835 introduces changes that could reduce protections against inappropriate use of restraint and seclusion. Specifically, we are concerned about:

1. **Weakened Accountability and Oversight** – The bill modifies the definitions of “wrongful restraint” and “wrongful seclusion” in ways that could make it more difficult to hold providers accountable for inappropriate actions. By allowing certain forms of seclusion and restraint under broad language such as “reasonable action” or “age-appropriate discipline,” HB 3835 risks creating loopholes that enable harm to children without proper recourse for families.



2. Barriers to Investigations and Legal Action – The bill limits the scope of investigations into restraint and seclusion violations by restricting them to institutional practices rather than individual accountability. This shift could make it harder for families to challenge specific incidents of harm or to seek appropriate justice when their child is subjected to excessive force.

3. Insufficient Safeguards for Families – While the bill outlines reporting requirements for restraint and seclusion incidents, it does not sufficiently strengthen the rights of families to pursue independent reviews or legal action when their child is harmed. Ensuring clear pathways for family advocacy and recourse is essential to maintaining trust in our systems of care and education.

Oregon must prioritize trauma-informed care and uphold protections that prevent unnecessary and harmful restraint and seclusion. We urge the committee to reject provisions in HB 3835 that weaken family recourse and instead focus on policies that enhance transparency, accountability, and child safety. For further discussion of this bill, please see arguments and counterarguments below my signature.

Sincerely,

Tammi Paul
Executive Director
Oregon Family Support Network
tammip@ofsn.net

Key Arguments and Counterarguments on HB 3835

- **Issue 1: Weakened Accountability and Oversight**

Supporters' Argument: HB 3835 provides clarity and prevents unnecessary investigations of staff acting in good faith. Aligning definitions of wrongful restraint and seclusion across settings ensures consistency and prevents over-regulation that discourages professionals from working in behavioral health and education settings.

Response: While clarity is important, it must not come at the expense of reducing protections for children. Ensuring staff are not unjustly accused should not mean weakening pathways for families to hold providers accountable for genuine harm. Consistency should raise the bar for safety, not lower it.



- **Issue 2: Barriers to Investigations and Legal Action**

Supporters' Argument: The bill ensures due process and prevents staff from being unfairly targeted by complaints that focus on individuals rather than systemic issues. Investigations should address organizational practices rather than placing blame on individual staff acting in crisis situations.

Response: Families must have a clear path to challenge wrongful restraint and seclusion incidents. While systemic oversight is crucial, individual accountability is also necessary. If a child is harmed, parents should not face barriers in seeking redress. Protecting staff from undue scrutiny must not come at the cost of reducing accountability when a child suffers harm.

- **Issue 3: Insufficient Safeguards for Families**

Supporters' Argument: HB 3835 increases transparency through detailed documentation requirements. It mandates continuous monitoring, timely parental notification, and comprehensive written records of restraint and seclusion incidents, improving oversight and ensuring staff follow appropriate procedures.

Response: Documentation is only meaningful if families can use it to seek justice. Without independent oversight, increased reporting does not equate to increased accountability. Families need assurances that records will lead to real consequences when inappropriate restraint or seclusion occurs.

Additional Concerns:

- **Protecting Staff & Preventing Over-Criminalization**

Supporters' Argument: Staff need protection from unnecessary investigations and wrongful accusations. The bill prevents behavioral health and education professionals from fearing legal repercussions for using restraint in urgent situations.

Response: We agree that staff should not be unfairly penalized, but the solution is better training, accountability, and oversight—not reducing protections for children. The focus should be on ensuring staff have the tools to prevent escalation, not making it easier to justify restraint and seclusion.

- **Ensuring Safety for All Children**

Supporters' Argument: The bill ensures restraint and seclusion are only used when absolutely necessary and with clear documentation and oversight.



Response: While restraint should always be a last resort, the bill's language makes it easier to justify its use, potentially increasing the risk of traumatizing children rather than supporting them. Instead, we should invest in de-escalation training and trauma-informed alternatives that reduce the need for these interventions.

- **Creating a More Trauma-Informed Approach**

Supporters' Argument: HB 3835 supports trauma-informed training and oversight, ensuring staff are well-prepared to manage behavioral crises while maintaining safety for all.

Response: True trauma-informed care reduces the need for restraint and seclusion. Instead of weakening protections, we should invest in training that prioritizes non-coercive interventions. Real trauma-informed systems prevent harm rather than just documenting it.

Conclusion:

While we recognize the challenges faced by the workforce and the need for clarity in policy, HB 3835 weakens family recourse in cases where children are harmed. We urge policymakers to maintain strong protections that prioritize the well-being of children while ensuring that staff receive the support and training they need to provide safe, effective care.