

Contentious bill backed by behavioral health providers gets another hearing

A revised version of the bill affecting medical and behavioral care for foster kids and others in the custody of the state has won another hearing after facing major criticisms earlier in the session



SHUTTERSTOCK

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A bill intended to improve medical care and behavioral health access for children in the custody of the state is scheduled for a public hearing Monday. But it's facing significant concerns from

advocates who say it opens the door to abuse and neglect in the state's child welfare system.

Depending on which side you listen to, [HB 3835](#) will either endanger children by undoing essential protections for youths in the state's welfare system, or it will correct stifling overregulation that has hurt children who need more care options and caretakers.

It's the product of two years of meetings of the state System of Care Advisory Council, which tries to improve the services care agencies offer to Oregonians 25 and younger.

Sponsored by Rep. Rob Nosse, the 100-page bill seeks to clarify the line between restraints and abuse in child care agencies including foster homes. Supporters say the clarity is needed because residential treatment facilities for kids are getting dinged for things that don't constitute mistreatment, contributing to their closures.

But critics say the bill would also reopen the door to treating children in out-of-state facilities with uncertain conditions, a practice discontinued years ago after reports of abuse and neglect caused a scandal and a lengthy class-action lawsuit against the Oregon Department of Human Services.

Disability Rights Oregon, which has long been a [dogged critic](#) and [legal opponent](#) of DHS policies and actions, is spearheading the opposition to the bill, saying the changes jeopardize the safety of children. The Oregon Family Support Network,

which works with families with children who have behavioral health issues, is also among those opposing the bill, saying it will weaken regulations and accountability.

Supporting the proposed changes are individual providers and several behavioral health organizations, including The Oregon Psychiatric Physicians Association, the Oregon Council of Child & Adolescent Psychiatry and the Tri-County Behavioral Health Providers Association.

They say the regulations put in place after numerous reports of abuse and neglect in the state's child welfare system went too far. They say clarifying rules for caretakers on what defines abuse would alleviate the liability fears that have kept frontline workers from action in crisis situations, and even driven some from the business altogether. And loosening restrictions on out-of-state care would increase access to special needs treatment that's lacking in Oregon.

Out-of-state care option could open access to treatment

The amendment refines some of the language around out-of-state placements, which had drawn some of the strongest opposition to the bill. Adults on the Oregon Health Plan and people with private insurance can choose to go to out-of-state facilities for specialized treatment for themselves or their children, but children in the child welfare system

cannot receive care out-of-state because of the protections now in place. The revised language would allow that option for children under DHS care.

During an earlier public hearing, Dr. Daniel Nicoli, a child and adolescent psychiatrist, told lawmakers that the state's current laws have created an environment where staff who must physically intervene to protect youth, peers, or themselves are regularly reported for potential abuse — even when no abuse occurred.

“Staff face investigations and often career-ending consequences—even when the intervention is both necessary and justified,” he stated in written testimony. “The stress of these investigations, along with the associated administrative burden, staffing shortages, and increased turnover, has driven many dedicated professionals away from careers serving youth, further exacerbating staffing shortages and cost burdens for child-caring facilities across Oregon.”

The amended version of the bill no longer applies its language around abuse and restraints to public-school settings. It applies only to child-caring agencies such as foster care homes or developmental disabilities residential facilities.

The revised bill also changes the terminology of “wrongful restraint” to “abusive restraint” in an effort to more strongly clarify what warrants an investigation. A restraint is defined as abusive when

it is used as a form of discipline, punishment, retaliation or convenience; the use of a chemical restraint; or excessive or reckless use of force that results in, or is likely to result in, serious physical harm to the child.

More behavioral health options for youths are needed

Oregon has a critical shortage of behavioral health providers for children in the state's custody. In 2023, Mental Health America ranked Oregon dead last among other states in terms of its access to mental health services for youths.

The state reports that in the past 10 years, Oregon lost more than 40% of its licensed residential facilities that provide children and youth with behavioral or psychiatric treatment — from 90 facilities in 2014 to 53 facilities in 2024. Only one facility remains specifically for girls, and none remain that are culturally specific for Hispanic or Native American youths.

The state has lost more than half of the programs that certify, support and oversee foster parents who provide specialized behavioral health treatment and support — a decline from 31 programs in 2014 to 14 programs in 2024.

Without appropriate places to go, children with some of the most challenging behavioral needs are

living in hotels or other temporary lodging, according to the DHS.

In her testimony to lawmakers, Stephanie Alvstad, CEO of J BarJ Youth Services called the “regulatory misalignment” that impedes facilities from providing the services necessary for vulnerable populations. J Bar J recently closed its Sisters facility for girls struggling with mental health, substance abuse, and other issues. The organization still runs a residential treatment facility for adjudicated male youth, shelters for homeless and runaway youths and other prevention programs across Central Oregon.

The restrictions on out-of-state placements came after a slew of damning reports of abuse and neglect in multiple facilities, often involving chemical and physical restraints and seclusion. In 2019, the Department of Human Services acknowledged it had 84 youths in out-of-state facilities, ages 9-18, across 11 states.

In 2020, lawmakers passed a law prohibiting DHS from placing a child in an out-of-state facility unless the agency met certain standards, including that it be licensed by DHS under Oregon law as a child-caring agency. However, DHS claims it has never been able to certify out-of-state care because the law is too restrictive.

The amended bill includes requirements to be met before the DHS could place a child in out-of-state treatment, including court approval along with

approval by the child welfare director and state Medicaid office. The child can be placed out of state only if no child-caring agency placements are available in Oregon that provide the services and treatments that are medically necessary and appropriate for the child.

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