



# Oregon

Tina Kotek, Governor

## Residential Facilities Ombudsman Program

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May 12, 2025

To: Chair Bowman and Members of the House Committee on Rules

From: Leslie Sutton, Residential Facilities Ombudsman

RE: 3835-A5 Opposition Out of State Youth Placement Provisions and Seclusion and Restraint Provisions

Chair Bowman and Members of the Committee:

The Residential Facilities Ombudsman uses advocacy to create change in people's lives and system policy so that people with disabilities can live full lives in Oregon's communities. We support people with developmental disabilities or mental health conditions who live in foster homes or residential facilities. This includes children with developmental disabilities who live in residential and foster settings. On behalf of those children and their families, we oppose HB 3835-A5.

In 2019, I was a member of Governor Brown's Child Welfare Oversight Board. This board was created under Executive Order 19-03 in April 2019. The board met biweekly and was led by the Governor. After the board concluded, the work rolled into the Governor's Children's Cabinet of which I was also a member. My comments provided today reflect my own recollection of the work of the board and Cabinet.

Among other tasks, the Executive Order directed the board to make and implement recommendations regarding youth sent out of state, building capacity for therapeutic and general foster care, as well as the continuum of care in behavioral health services for foster children and youth that is accessible, trauma-informed and family and child-focused. The Order also called for a consultant to help with the work of the Executive Order. Alvarez and Marsal received \$3.5 million dollars for their consulting work under the Executive Order.

In March 2019, at the height of the out of state youth conversation, there were 88 youth in facilities outside of Oregon. The Child Welfare Oversight Board received regular updates on these children and youth. You can find many of these updates in the State Library Digital Collections.

Amid continued concern in Oregon and nationally about the out-of-state facilities, there was a commitment to bring Oregon children and youth home and develop capacity. We brought them home and developed capacity, just like we committed to doing. The updates referenced above included the number of kids in out-of-state facilities, plans and timelines to bring them home. With the work of ODHS, OHA, providers and many more, all the children and youth came home by June 2020. These children were brought home to their families, foster homes, and residential facilities, despite the fact they were supposedly sent out of state because Oregon did not have the services they "required".

HB 3835-A5 does not provide sufficient factors to determine when children and youth being sent out of state. One of the reasons to send a child out of state under the -5 amendments is that “No child-caring agency placements are available in this state that are suitable for the child and that provide the services and treatments that are medically necessary and medically appropriate for the child;” p. 82 lines 20-23. It is easy to say “nothing exists” when you don’t have to prove it. There is nothing in this wording that says what factors must be considered before determining a placement is not “suitable” or that the placement could provide the treatments needed.

Without a clear definition and factors that describe when a setting is not suitable, history will repeat itself and our youth will again be sent out of state without an accurate analysis of the services the child needs and what is or can be available in Oregon. Clear factors must be in statute to ensure that this analysis is done correctly.

HB 3835-A5 would allow Oregon youth to be sent to facilities if those facilities are in good standing with that state’s licensing. Yet, in 2018-2019, many of those facilities were supposedly in good standing in their own state. Many of the youth at out of state facilities had abuse reports filed from their experiences at the out of state facilities. I read some of these reports. Our Oregon children and youth sustained physical and emotional injuries at these facilities far from home. Many of these facilities are no longer operating because other states and Oregon raised issues about the safety of children in their care. But it was only when concerns were raised by Oregon and other states that the home states looked more closely at those facilities.

We also oppose HB 3835-A5 based on the changes to restraints in the bill. We have concerns that prone or supine, known dangerous restraints, would no longer be considered automatic abuse under this bill.

People with disabilities have a much higher rate of experiencing abuse than people without disabilities. Children youth and their families with IDD who have experienced restraint and seclusion say these restraints are dangerous and traumatic. We believe children, youth, and adults with disabilities and their families. Most importantly, children and youth with IDD and their families and developmental disability coalitions are saying no to this bill. Further in the written record has countless parents opposing this bill as it relates to school settings. Those sections have now been pulled from this bill, thankfully. But, if these actions aren’t appropriate in schools, they shouldn’t be allowed in the children’s homes either.

We are writing chapters of these kid’s childhoods. We need to come alongside those kids and help them reach their goals and dreams. The focus should be on what supports are given in facilities – and the activities the youth are engaged in. We’ve talked a lot about what is/isn’t abuse, but nobody is talking about how youth spend their days in these facilities – and how that supports their dreams. Oregon needs to find supports for these children and they start with setting strong values that support the humanity, dignity and respect for Oregon’s youth. When you have high expectations for kids, families and providers, they succeed.