



Disability
Rights
Oregon

TO: House Committee on Behavioral Health and Health Care
FROM: Emily Cooper
DATE: March 20, 2025
RE: HB 3835

Dear Chair Hartman, Vice-Chair Scharf, and Vice Chair Nguyen,

My name is Emily Cooper. I'm the Legal Director at Disability Rights Oregon and a member of the System of Care Advisory Council where I have been opposing this concept since November 2024. DRO is Oregon's designated Protection and Advocacy System, charged with protecting, advocating for, and enforcing the rights of people with disabilities. I am writing to maintain my opposition to HB 3835.

I understand that many supporters of this bill have all of the right intentions – ensuring youth in crisis get the care when, how and where they need it. We also know that state agencies and schools often make tough decisions with limited resources. However, neither drafters' intent nor poorly funded systems should be the focus of this committee; instead, I kindly ask each of you to focus on the *policy* of this bill and its *impact* on youth and their families.

Last Minute Amendment

During the public hearing, you heard ODHS testify that the amendment published the day before the public hearing addressed the outstanding concerns of youth and family. A careful reading of the amendment does a lot less than we were promised and, often, makes the bill worse.

Amendment improvements:

- Removed the forced treatment of youth sections.
- Changed definition of neglect to allow investigation of failure to protect children though there is still confusion about what will be considered "maltreatment" for purposes of complying with both federal law and the *Wyatt* Settlement Agreement.
- Increased procedural protections for out of state placements including putting back juvenile courts oversight, prior inspections, and placement limitations for youth experiencing intellectual or developmental disabilities.
- Restores the word "reasonable" before word "risk" to help ensure that the use of seclusion and restraint is not purely subjective.

What is worse than the original, already flawed bill:

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- The amendment’s language drastically lowers protections when children are locked away or secluded from others. For example, even a "wrongful seclusion" is not “abuse” and will not be investigated.
- Removes all video recording requirements from seclusion rooms, which could have been used to both ensure continuous monitoring of youth in those rooms but also provide evidence of abuse or neglect of children in seclusion rooms.
- Removes requirement that children be offered water or a bathroom break every 30 minutes and instead allows DHS to set any standard it likes by rule. It also appears that failure to allow children to toilet would be considered “abuse” and investigated.

Remaining Critical Concerns

First and foremost, improvements to the system of care cannot be made to the detriment of children. As national and local experts testified, the impact of this bill will do just that.

Second, the devil is truly in the detail of the actual language of the bill. If passed into law, this bill would return Oregon to the 2019 standards for out-of-state placement, allowing placement of children in poorly regulated settings any time DHS decides it lacks the resources to treat them here. Even with the amendments, this bill also reduces public, independent scrutiny of child caring agencies and schools who seclude, restrain, or send children out-of-state.

Finally, this bill limits when, how, and whether investigations will happen based on a new definition of “responsible adult.” For example, if a non “responsible adult” sexually abuses a child, it will no longer be counted as maltreatment while a child is in foster care, nor will it be investigated in the same way as if a “responsible adult” conducted the same heinous act.

There are Better Solutions

This committee heard and will hear multiple stories of youth and staff getting physically and emotionally hurt during restraint events. We also heard about a beleaguered workforce. The Oregon Health Sciences University (OHSU) recently conducted a workforce study at the request of the Systems of Care Advisory Council. OHSU’s workforce study shows that a) burnout b) pay and c) training are the causes for these gaps NOT regulatory fear or confusion about seclusion and restraint definitions. Ultimately, *service delivery gaps would be best addressed by additional workforce resources.*

The bill’s whereas clause points to the true problem. Oregon is 51st in the nation in mental health treatment. A much more necessary solution is expanding community capacity including mobile crisis services, peer services including respite, and training teachers and care providers about safe, appropriate methods to prevent behavioral health emergencies to safely respond to youth in crisis. This training should include what the law says and understand what is expected of them when they need to seclude or restrain a child.

Conclusion

Finally, the solution cannot be to make Oregon kids less safe. Nor can the solution be to blame or label youth most likely to be impacted by this bill as “aggressive” or “hard to serve.” Indeed, these youth have been hurt, traumatized and need culturally competent care. Let’s focus our collective resources on going upstream to prevent harm, meet youth where they are, and make sure they get the care they so desperately need.

About Disability Rights Oregon

Since 1977 Disability Rights Oregon has been the State's Protection and Advocacy System.¹ We are authorized by Congress to protect, advocate, and enforce the rights of people with disabilities under the U.S. Constitution and Federal and State laws, investigate abuse and neglect of people with disabilities, and “pursue administrative, legal, and other appropriate remedies”.² We are also mandated to "educate policymakers" on matters related to people with disabilities.³

If you have any questions regarding DRO’s position on this legislation, please call Ben Gurewitz 971-806-7908 or email him at bgurewitz@droregon.org