

Opposition to HB 3835

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Dear Chair Hartman and members of the Committee,

I am writing in opposition to the basic premise and specific details of HB 3835, a measure that would both permit the out-of-state placement of Oregon youth and serve to degrade the definitions and regulation of restraint employed by paid caregivers or school personnel.

My opposition stems from a nearly 40 year career, mostly in Oregon, in providing housing and supports (mostly 24-hour/day) to individuals with various disabilities. I have been retired for eleven years, but retain a solid commitment to many of the achievements and breakthroughs my colleagues and I accomplished.

One of the most important related to the prevention of need for restraint and the approved use of it only when absolutely necessary to keep an individual or those around them safe. Prior to my retirement I was certified to teach most of the nationally-recognized certification systems related to preventing and/or the use of restraints (Mandt, CPI, Pro-ACT, OIS).

During the middle 1980s through the early 1990s, I was the Executive Director for the Oregon Technical Assistance Corporation, a prime contractor for Oregon's DHS charged with assisting with the closure of Fairview Training Center and establishing a network of small, community-based providers and provider organizations.

The matter of improper restraint was central to these efforts. OTAC assisted the State to develop its initial policy, statutory and regulatory framework to deal with restraint and to introduce a mandated, statewide system of training and certification for everyone who was employed in the field regarding preventing the need for restraints and, when absolutely necessary, to employ approved restraints safely and for as little time as necessary.

Then, as apparently now, many in the field argued that restrictions on the use of restraints would create a "culture of fear," would limit the recruitment/retention of employees or would result in a type of adverse selection of referrals for care by provider agencies. These proved false then and remain false today.

Moreover, the calls for out-of-state placements and/or loosening of regulatory standards related to the use of restraint are symptomatic of a larger and historically ignored set of problems: the intentional underfunding of the provider community by the Oregon Legislature.

I say this because the technology and expertise unquestionably exists to support even the most difficult individuals in our systems. What doesn't exist is appropriate funding to ensure adequate staffing, sufficient training and support for those performing direct supports/services, etc.

The struggle in the housing and supports field has always been securing sufficient funding to operate programs that provide highly individualized living arrangements and paid supports.

This bill and the thinking supporting it does little to address or remedy this historic problem. It does nothing whatsoever to address the longstanding leadership or organizational culture problems at DHS. It does nothing to fundamentally change the recruitment/retention problems Oregon's providers face.

It represents instead a concession to continuing failed policies and a lack of appropriate funding that devalues both the individuals receiving services, their families and those who provide their housing and supports in the process.

I urge you and your colleagues to reject HB 3835 and instead examine the root causes why the already tried and failed “solutions” it proposes would only take Oregon back to where it started in the 1980s - conflating the use restraint for proper program design, funding adequate and well-trained staffing and having a workforce that is paid a true living wage for the incredibly difficult work they have chosen.

Thank you for the opportunity to provide this testimony.