

## House Bill 3835A: Ensuring fair access to appropriate care for children with behavioral health needs

In addition to caring parents, guardians and neighbors, children need access to quality health care to help them reach their full potential. This is true for children residing at home, in foster care homes, or in treatment settings overseen by Child Welfare or juvenile justice. But today, even as many children struggle with increasingly complex challenges – from homelessness to mental health disorders to addiction<sup>1</sup>– Oregon’s capacity to serve children facing behavioral health crises continues to decline. According to licensing data compiled by the Oregon Department of Human Services, between 2014 and 2024:

- The state has seen a **41% reduction in licensed residential facilities** that provide children and youth with behavioral or psychiatric treatment, going from 90 to 53 facilities.
- Oregon has also **lost more than half of its programs** that certify foster parents who provide specialized behavioral health treatment and support, going from 31 to 14 programs.

Without appropriate places to go, too many of Oregon’s at-risk children are stuck waiting in emergency departments or temporarily staying in hotels waiting to get the care they need.

Oregon families and front-line providers have made clear that we need more people to provide high-quality treatment and services. Recognizing the need, the System of Care Advisory Council (SOCAC)<sup>2</sup> has spent two years collaborating with various workgroups, including the [Safety Workgroup](#), to develop recommendations for policy changes that can help Oregon gain ground in this critical area. The resulting House Bill 3835 intends to improve statutory clarity and support high-quality, accessible clinical care for children with behavioral health needs.

### Key Elements of HB 3835

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<sup>1</sup> Oregon is last in access to mental health services for youth, according to [Mental Health America](#). Oregon ranks second in highest rate of juvenile commitment, according to the [Office of Juvenile Justice and Delinquency Prevention](#).

<sup>2</sup> The System of Care Advisory Council is a central, impartial forum designed to improve the continuum of care that provides services to youth. The Council is comprised of families and youth with lived experience, state agencies, youth advocates, and organizations that serve children. <https://www.oregon.gov/oha/hsd/bh-child-family/pages/socac.aspx>

## 1. Clarifying standards related to child abuse, restraint and seclusion

Abuse is abuse – regardless of the setting – and our laws should reflect a consistent and unified approach.

Families and providers across the system agree that **clear, consistent standards for defining and addressing abuse are essential** to ensuring the safety and well-being of youth in all care environments. Yet the regulatory landscape for providers lacks consistency across care settings and its unintended complexity creates a culture of fear – where direct-care staff are often uncertain about when and how to act in challenging situations, which arise frequently when working with youth who have histories of trauma. Instead of relying on their training and clinical expertise, frontline treatment providers are forced to consider complex legal definitions before determining how to respond to a youth experiencing a mental health crisis.

Additionally, there are currently between 16 and 32 different statutory elements that define wrongful restraint or seclusion for foster parents, child-caring agencies, and residential facilities for children with intellectual and developmental disabilities, and the law is not clear about which providers child abuse statutes apply to. This adds complexity to already stressful situations, decreasing a provider’s ability to rely on relationship, de-escalation skills, and empathy to diffuse crises.

HB 3835 applies a uniform definition of “abusive restraint” and “abusive seclusion” across all provider settings to eliminate confusion and ensure consistency in how child abuse is investigated and addressed. This includes distinguishing between instances where an individual has abused a child during a restraint and situations where there has been a violation of regulations related to the use of restraints, which will trigger a licensing investigation.

HB 3835 changes how we investigate restraints. It does not change prohibited restraints or decrease safety provisions for children in care.

## 2. Increasing children’s fair access to treatment

Children sometimes need specialized care that is not available in Oregon. Children who are enrolled in the Oregon Health Plan but are not in Child Welfare custody can access out-of-state, specialized medical treatment when they need it. But **children in Child Welfare custody are often barred from this kind of access** as a result of current Oregon statute, whose stringent provisions stand in the way of children going to out-of-state facilities for medically necessary and appropriate treatment and services.

By creating very narrow exceptions to the current barriers on out-of-state placement, HB 3835 enables this critical health care access for children in state custody. The bill specifies that out-of-state placement would be allowed only when:

- 1) The specialized care needed is not available in Oregon ,
- 2) The child is a member of a federally recognized Tribe and in compliance with the Indian Child Welfare Act (ICWA) and Tribe has determined the best treatment and services for the child are outside of Oregon ,
- 3) The child lives near the state border and services and treatment in their community are just across the state line, or
- 4) The child is in care with a family member out of state and continuing their treatment and services in that state would be least disruptive.

This bill adds additional accountability and oversight for out-of-state providers through ODHS, OHA, and Oregon Health Plan CCO contracts raising the bar for all children on the Oregon Health Plan.

In addition, the bill improves access to care by:

- Clarifying which agencies regulate secure transport providers, thereby streamlining processes and ensuring qualified providers are available in the event a child needs to be transported to treatment.
- Allowing service providers, such as direct support professional (DSP) organizations and medical transport providers, which are currently authorized by Oregon statute to operate as limited liability companies, to be licensed as child-caring agencies.

In sum, HB 3835 is an important step toward **rebuilding Oregon’s capacity to serve children with complex behavioral health needs**. By clarifying statutes, improving oversight, and removing unnecessary barriers to care, this legislation ensures that no child is denied the treatment they need to heal, grow and thrive – no matter where they live or who is caring for them.

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