

Requested by Representative KROPF

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 4042**

1 On page 1 of the printed A-engrossed bill, line 3, after “418.519” insert “,  
2 418.523”.

3 On page 5, after line 36, insert:

4 **“SECTION 3.** ORS 418.523 is amended to read:

5 “418.523. (1) Except as otherwise provided in this section, a child-caring  
6 agency, proctor foster home or developmental disabilities residential facility  
7 may only place a child in care in a restraint or involuntary seclusion if the  
8 child in care’s behavior poses a reasonable risk of imminent serious bodily  
9 injury to the child in care or others and less restrictive interventions would  
10 not effectively reduce that risk.

11 “(2) A certified foster home may not place a child in care in a restraint  
12 or involuntary seclusion.

13 “(3) Notwithstanding subsection (1) or (2) of this section, a child-caring  
14 agency, proctor foster home, certified foster home or developmental disabili-  
15 ties residential facility may use the following types of restraints on a child  
16 in care:

17 “(a) Holding the child in care’s hand or arm to escort the child in care  
18 safely and without the use of force from one area to another;

19 “(b) Assisting the child in care to complete a task if the child in care does  
20 not resist the physical contact; or

21 “(c) Using a physical intervention if:

1       “(A) The intervention is necessary to break up a physical fight or to ef-  
2       fectively protect a person from an assault, serious bodily injury or sexual  
3       contact;

4       “(B) The intervention uses the least amount of physical force and contact  
5       possible; and

6       “(C) The intervention is not a prohibited restraint described in ORS  
7       418.521 (2).

8       “(4) Notwithstanding ORS 418.521 (2):

9       “(a) The restraint described in ORS 418.521 (2)(e) may be used if the re-  
10       straint is necessary to gain control of a weapon.

11       “(b) The restraint described in ORS 418.521 (2)(g) may be used if the re-  
12       straint is necessary for the purpose of extracting a body part from a bite.

13       “(c) If a program is a secure children’s inpatient treatment program or  
14       secure adolescent inpatient treatment program, the program may place a  
15       child in care in a restraint described in ORS 418.521 (2)(d) or (e) only if:

16       “(A) The child in care is currently admitted to the program;

17       “(B) The restraint is authorized by an order written at the time of and  
18       specifically for the current situation by a licensed medical practitioner or a  
19       licensed children’s emergency safety intervention specialist;

20       “(C) The restraint is used only as long as needed to prevent serious  
21       physical injury, as defined in ORS 161.015, and while no other intervention  
22       or form of restraint is possible;

23       “(D) A licensed medical practitioner, children’s emergency safety inter-  
24       vention specialist or qualified mental health professional, who is certified in  
25       the use of the type of restraint used, continuously monitors the use of the  
26       restraint and the physical and psychological well-being of the child in care  
27       at all times while the restraint is being used;

28       “(E) Each individual placing the child in care in the restraint is certified  
29       as described in ORS 418.529 in the use of the type of restraint used and the  
30       individual’s training is current;

1 “(F) One or more individuals with current cardiopulmonary resuscitation  
2 training are present for the duration of the restraint;

3 “(G) The program has written policies that require a licensed children’s  
4 emergency safety intervention specialist or other licensed practitioner to  
5 evaluate and document the physical, psychological and emotional well-being  
6 of the child in care immediately following the use of the restraint; and

7 “(H) The program is in compliance with any other requirements under  
8 ORS 418.519 to 418.532, and the use of the restraint does not otherwise vio-  
9 late any applicable contract requirements or any state or federal law related  
10 to the use of restraints.

11 **“(d) The restraint described in ORS 418.521 (2)(b) may be used if the**  
12 **restraint is durable medical equipment, a prosthetic device or an**  
13 **orthotic device, as those terms are defined by the Oregon Health Au-**  
14 **thority by rule, that has been determined to be medically necessary**  
15 **and medically appropriate for the child in care. The use of a restraint**  
16 **as provided in this paragraph is not subject to subsections (5) or (6)**  
17 **of this section or the record keeping or reporting requirements under**  
18 **ORS 418.526 and 418.528.**

19 “(5) In addition to the restraints described in subsection (3) of this sec-  
20 tion, a program may place a child in care in a restraint or involuntary se-  
21 clusion if:

22 “(a) The restraint or involuntary seclusion is used only for as long as the  
23 child in care’s behavior poses a reasonable risk of imminent serious bodily  
24 injury;

25 “(b) The individuals placing the child in care in the restraint or invol-  
26 untary seclusion are certified as described in ORS 418.529 in the use of the  
27 type of restraint used or are trained, as required by the department by rule,  
28 in the use of the involuntary seclusion used;

29 “(c) The program staff continuously monitor the child in care for the du-  
30 ration of the restraint or involuntary seclusion; and

1 “(d) The restraint or involuntary seclusion is performed in a manner that  
2 is safe, proportionate and appropriate, taking into consideration the child in  
3 care’s chronological and developmental age, size, gender identity, physical,  
4 medical and psychiatric condition and personal history, including any history  
5 of physical or sexual abuse.

6 “(6) In addition to the requirements described in subsection (5) of this  
7 section, if a program places a child in care in a restraint or involuntary se-  
8 clusion for more than 10 minutes:

9 “(a) The program must provide the child in care with adequate access to  
10 the bathroom and water at least every 30 minutes; and

11 “(b)(A) Every five minutes after the first 10 minutes of the restraint or  
12 involuntary seclusion, a program supervisor who is certified as described in  
13 ORS 418.529 in the use of the type of restraint being used or trained, as re-  
14 quired by the department by rule, in the use of the involuntary seclusion  
15 being used must provide written authorization for the continuation of the  
16 restraint or involuntary seclusion.

17 “(B) If the supervisor is not on-site at the time the restraint is used, the  
18 supervisor may provide the written authorization electronically.

19 “(C) The written authorization must document why the restraint or in-  
20 voluntary seclusion continues to be the least restrictive intervention to re-  
21 duce the risk of imminent serious bodily injury in the given  
22 circumstances.”.

23 In line 37, delete “3” and insert “4”.

24 On page 7, line 14, delete “4” and insert “5”.

25 On page 8, delete lines 21 through 36 and insert:

26 “(5) The department may not place a child or ward in a residential care  
27 facility or shelter-care home described in subsection (3)(g) or (h) of this sec-  
28 tion:

29 “(a) Except as provided by subsection (7) of this section, for more than  
30 60 consecutive days or 90 cumulative days in a 12-month period; or

1 “(b) If the residential care facility or shelter-care home also serves youths  
2 or adjudicated youths served by the county juvenile department or adjudi-  
3 cated youths committed to the custody of the Oregon Youth Authority by the  
4 court.

5 “(6) Except as provided by subsection (7) of this section, the department  
6 may not place a child or ward in a homeless, runaway or transitional living  
7 shelter described in subsection (3)(i) of this section for more than 60 con-  
8 secutive or 90 cumulative days in any 12-month period.

9 “(7) Subject to rules adopted by the department, the limits for the dura-  
10 tion of placement of a child or ward under subsection (5)(a) or (6) of this  
11 section may be extended:

12 “(a) As requested by the child or ward; or

13 “(b) By up to 30 consecutive or 30 cumulative days in a 12-month period  
14 if the department determines that the extension is in the best interest of the  
15 child or ward.”.

16 In line 37, delete “(7)” and insert “(8)”.

17 In line 44, delete “(8)(a)” and insert “(9)(a)”.

18 On page 9, line 5, delete “(9)” and insert “(10)” and delete “(5)(b)” and  
19 insert “(7)”.

20 In line 11, delete “5” and insert “6”.

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