

Dear Members of the Committee and Legislative Counsel:

I am writing on behalf of Oregonians with disabilities to express my unwavering opposition to LC 238 > HB 4042. While framed as a measure to enhance regulatory oversight, this draft effectively codifies a retreat from established safety standards, introduces dangerous loopholes for the placement of young Oregonians in adult facilities, and weakens the state's accountability mechanisms for restraint violations.

My opposition is grounded in the following critical legal and safety concerns:

1. Dilution of Licensing Enforcement (Section 1)

The proposed amendments to ORS 418.240 grant DHS the discretion to merely "place conditions" on a child-caring agency's license even in cases of serious non-compliance.

- The Danger: This creates a "pay-to-play" regulatory environment where facilities with histories of safety failures, including wrongful restraint, can remain operational under perpetual "plans of correction" rather than facing mandatory suspension or revocation.

2. "Portability" of Restraint Certifications (Section 3)

Section 3 of the draft makes restraint certifications "personal" and "portable between employers".

- The Danger: This policy ignores the necessity of site-specific training and facility-level accountability. It allows "bad actor" employees to carry a certification of proficiency in physical restraint from one facility to another without a new employer being required to evaluate that employee's history or provide site-specific de-escalation training.

3. Violation of ICWA Protections and Safety Standards (Section 4)

LC 238 > HB 4042 creates an exception for the out-of-state placement of Indian children, allowing them to be placed in facilities that are not licensed by Oregon or designated as "qualified residential treatment programs" (QRTP).

- The Danger: While tribal sovereignty is paramount, Oregon has an independent duty to ensure that *any* out-of-state placement meets the state's baseline safety and oversight standards. Bypassing QRTP requirements removes critical federal and state safeguards for vulnerable children.

4. Arbitrary Extension of Placement Limits (Section 5)

The bill allows DHS to extend "short-term" shelter placements by up to 30 additional days through simple rule-making.

- The Danger: "Short-term" assessment and stabilization frequently becomes long-term warehousing of children with disabilities due to systemic capacity issues. LC 238 incentivizes this "warehousing" rather than compelling the state to develop adequate community-based beds.

5. Unlawful Expansion of "Adult Setting" Placements (Section 5)

LC 238 > HB 4042 amends ORS 418.322 to permit the Department of Human Services (DHS) to place children or wards in "adult settings" if deemed "medically appropriate". This provision is a direct violation of the Olmstead v. L.C. mandate, which requires that individuals with disabilities receive services in the most integrated, age-appropriate setting.

- The Danger: Placing minors in adult residential settings lacks the specialized developmental, educational, and trauma-informed supports required by law, creating a high-risk environment for abuse and regression.

In Conclusion, LC 238 > HB 4042 represents a significant regression in the protection of Oregon's most vulnerable citizens. It prioritizes "systemwide capacity" and administrative convenience over the fundamental civil rights of Oregonians with disabilities.

I strongly urge this committee to reject LC 238 > HB 4042 in its entirety. Oregon must focus on expanding community-integrated care, not creating legal loopholes for adult-setting placements and weakening facility oversight.

Respectfully Submitted,

Brant Soler

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