

1 A bill to be entitled

2 An act relating to students with disabilities in  
3 public schools; amending s. 1003.573, F.S., relating  
4 to the seclusion and restraint of students with  
5 disabilities; providing definitions; providing  
6 requirements for the use of restraint; prohibiting  
7 specified physical restraint techniques; providing  
8 requirements for the use of exclusionary and  
9 nonexclusionary time; providing requirements for  
10 school districts to report and publish training  
11 procedures; providing for student-centered followup;  
12 providing requirements for documenting, reporting, and  
13 monitoring the use of restraint and seclusion;  
14 revising school district policies and procedures  
15 relating to restraint and seclusion; amending s.  
16 1012.582, F.S.; requiring continuing education and  
17 inservice training for teaching students with  
18 emotional or behavioral disabilities; conforming  
19 provisions; providing an effective date.  
20

21 Be It Enacted by the Legislature of the State of Florida:  
22

23 Section 1. Section 1003.573, Florida Statutes, is amended  
24 to read:

25 1003.573 Seclusion and ~~Use of~~ restraint of ~~and seclusion~~

26 ~~en~~ students with disabilities in public schools.—

27 (1) DEFINITIONS.—As used in this section, the term:

28 (a) "Department" means the Department of Education.

29 (b) "Exclusionary time" means the period during which a  
30 student is removed from an event, activity, or instructional  
31 environment to encourage reflection on behavior and allow space  
32 and time for understanding of choices and consequences.

33 (c) "Imminent risk of serious injury or death" means the  
34 impending risk of a significant injury, such as a laceration,  
35 bone fracture, substantial hematoma, or injury to an internal  
36 organ, or death.

37 (d) "Medical protective equipment" means health-related  
38 protective devices prescribed by a physician or dentist for use  
39 as student protection in response to an existing medical  
40 condition.

41 (e) "Nonexclusionary time" means a period during which a  
42 student remains in the event or instructional environment but is  
43 redirected from the activities so that he or she has an  
44 opportunity to reflect on the behavior and is given space and  
45 time for understanding of choices and consequences.

46 (f) "Restraint" means the use of a mechanical or physical  
47 restraint which may be used only when all other behavioral  
48 strategies and intervention techniques have been exhausted.

49 1. "Mechanical restraint" means the use of a device that  
50 restricts a student's freedom of movement. The term does not

51 include the use of any of the following:

52 a. Medical protective equipment.

53 b. Behavioral protective equipment, including helmets,  
54 gloves, wraps, and other devices that are used temporarily to  
55 prevent severe tissue damage caused by behavioral excesses.

56 c. Physical equipment or orthopedic appliances, surgical  
57 dressings or bandages, or supportive body bands or other  
58 restraints necessary for ongoing medical treatment in the  
59 educational setting.

60 d. Devices used to support functional body position or  
61 proper balance, or to prevent a person from falling out of a bed  
62 or a wheelchair, except when such a device is used for a purpose  
63 other than supporting a body position or proper balance, such as  
64 coercion, discipline, convenience, or retaliation, to prevent  
65 imminent risk of serious injury or death of the student or  
66 others, or for any other behavior management reason.

67 e. Equipment used for safety during transportation, such  
68 as seatbelts or wheelchair tie-downs.

69 2. "Physical restraint" means the use of manual restraint  
70 techniques that involve significant physical force applied by a  
71 teacher or other staff member to restrict the movement of all or  
72 part of a student's body.

73 (g) "Seclusion" means the removal of a student from an  
74 educational environment, involuntarily confining the student in  
75 a room or area, and preventing the student from leaving the area

76 by locking or artificially blocking the door. The term does not  
77 include exclusionary time.

78 (h) "Student" means a student with a functional behavioral  
79 assessment and an individualized behavior intervention plan.

80 (2) PHYSICAL RESTRAINT.—

81 (a) Physical restraint may be used only when there is an  
82 imminent risk of serious injury or death to the student or  
83 others and only for the period of time necessary to eliminate  
84 such risk.

85 (b) Notwithstanding the authority provided in s. 1003.32,  
86 physical restraint shall be used only to protect the safety of  
87 students, school personnel, or others and may not be used for  
88 student discipline, to correct student noncompliance, or for the  
89 convenience of school district staff. Physical restraint shall  
90 be used only for the period needed to provide such protection.

91 (c) The degree of force applied during physical restraint  
92 must be only that degree of force necessary to protect the  
93 student or others from serious injury or death.

94 (d) School personnel who have received training that is  
95 not associated with their employment with the school district,  
96 such as a former law enforcement officer who is now a teacher,  
97 shall receive training in the specific district-approved  
98 techniques and may not apply techniques or procedures acquired  
99 elsewhere.

100 (e) School personnel may not use any of the following

101 physical restraint techniques on a student:

102 1. Pain inducement to obtain compliance.

103 2. Bone locks.

104 3. Hyperextension of joints.

105 4. Peer restraint.

106 5. Pressure or weight on the chest, lungs, sternum,  
107 diaphragm, back, or abdomen causing chest compression.

108 6. Straddling or sitting on any part of the body or any  
109 maneuver that places pressure, weight, or leverage on the neck  
110 or throat, on an artery, or on the back of the head or neck or  
111 that otherwise obstructs or restricts the circulation of blood  
112 or obstructs an airway.

113 7. Any type of choking, including hand chokes, and any  
114 type of neck or head hold.

115 8. A technique that involves spraying or pushing anything  
116 on or into the mouth, nose, eyes, or any part of the face or  
117 that involves covering the face or body with anything, including  
118 soft objects such as pillows or washcloths.

119 9. Any maneuver that involves punching, hitting, poking,  
120 pinching, or shoving.

121 (3) EXCLUSIONARY AND NONEXCLUSIONARY TIME.—

122 (a) School personnel may place a student in exclusionary  
123 or nonexclusionary time if all of the following conditions are  
124 met:

125 1. The exclusionary or nonexclusionary time is part of a

126 positive behavioral intervention plan developed for the student  
127 from a functional behavioral assessment and referenced in the  
128 student's individualized behavior intervention plan.

129 2. There is documentation that the exclusionary or  
130 nonexclusionary time was preceded by the use of other positive  
131 behavioral supports that were not effective.

132 3. The exclusionary or nonexclusionary time takes place in  
133 a classroom or in another environment where class educational  
134 activities are taking place.

135 4. The student is not physically prevented from leaving  
136 the exclusionary or nonexclusionary time area.

137 5. The student is observed on a constant basis by an adult  
138 for the duration of the exclusionary or nonexclusionary time.

139 6. The exclusionary or nonexclusionary time area and  
140 process are free of any action that is likely to embarrass or  
141 humiliate the student.

142 (b) Exclusionary or nonexclusionary time may not be used  
143 for a period that exceeds 1 minute for each year of a student's  
144 age or until the student is calm enough to return to his or her  
145 seat.

146 (c) Exclusionary or nonexclusionary time may not be used  
147 as a punishment or negative consequence of a student's behavior.

148 (4) TRAINING.—

149 (a) Each school district shall report its procedures for  
150 training in the use of restraint to the department by publishing

151 the procedures in the district's special policies and procedures  
152 manual.

153 (b) Training in the use of restraint must include all of  
154 the following:

155 1. Procedures for deescalating a problem behavior before  
156 the problem behavior increases to a level or intensity  
157 necessitating physical intervention.

158 2. Information regarding the risks associated with  
159 restraint and procedures for assessing individual situations and  
160 students in order to determine whether the use of restraint is  
161 appropriate and sufficiently safe.

162 3. The actual use of specific techniques that range from  
163 the least to most restrictive, with ample opportunity for  
164 trainees to demonstrate proficiency in the use of such  
165 techniques.

166 4. Techniques for implementing restraint with multiple  
167 staff members working as a team.

168 5. Techniques for assisting a student in reentering the  
169 instructional environment and reengaging in learning.

170 6. Instruction in the district's documentation and  
171 reporting requirements.

172 7. Procedures to identify and deal with possible medical  
173 emergencies arising during the use of restraint.

174 8. Cardiopulmonary resuscitation.

175 (5) STUDENT-CENTERED FOLLOWUP.-If a student is restrained

176 more than twice during a semester, the school shall conduct a  
177 review of:

178 (a) The incidents in which restraint was used and an  
179 analysis of how future incidents may be avoided;

180 (b) The student's functional behavioral assessment and  
181 positive behavioral intervention plan by the school personnel  
182 and parent within two weeks before the end of the semester; and

183 (c) The training provided to school personnel concerning  
184 the use of restraint.

185 (6)(1) DOCUMENTATION AND REPORTING.—

186 (a) At the beginning of each school year, a school  
187 district shall publicly post its policies on all emergency  
188 procedures, including its policies on the use of restraint and  
189 seclusion.

190 (b)(a) A school shall prepare an incident report within 24  
191 hours after a student is released from restraint ~~or seclusion~~.  
192 If the student's release occurs on a day before the school  
193 closes for the weekend, a holiday, or another reason, the  
194 incident report must be completed by the end of the school day  
195 on the day the school reopens.

196 (c)(b) The following must be included in the incident  
197 report:

- 198 1. The name of the student restrained ~~or secluded~~.
- 199 2. The age, grade, ethnicity, and disability of the  
200 student restrained ~~or secluded~~.



201           3. The date and time of the event and the duration of the  
202 restraint ~~or seclusion~~.

203           4. The location at which the restraint ~~or seclusion~~  
204 occurred.

205           5. A description of the type of restraint used in terms  
206 established by the department ~~of Education~~.

207           6. The name of the person using or assisting in the  
208 restraint ~~or seclusion~~ of the student and the date the person  
209 was last trained in the use of restraint on students.

210           7. The name of any nonstudent who was present to witness  
211 the restraint ~~or seclusion~~.

212           8. A description of the incident, including all of the  
213 following:

214           a. The context in which the restraint ~~or seclusion~~  
215 occurred.

216           b. The student's behavior leading up to and precipitating  
217 the decision to use ~~manual or physical~~ restraint ~~or seclusion~~,  
218 including an indication as to why there was an imminent risk of  
219 serious injury or death to the student or others.

220           c. The specific positive behavioral strategies used to  
221 prevent and deescalate the behavior.

222           d. What occurred with the student immediately after the  
223 termination of the restraint ~~or seclusion~~.

224           e. Any injuries, visible marks, or possible medical  
225 emergencies that may have occurred during the restraint ~~or~~

226 ~~seclusion~~, documented according to district policies.

227 f. Evidence of steps taken to notify the student's parent  
228 or guardian.

229 (d)~~(e)~~ A school shall notify the parent or guardian of a  
230 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is  
231 used. Such notification must be in writing and provided before  
232 the end of the school day on which the restraint ~~or seclusion~~  
233 occurs. Reasonable efforts must also be taken to notify the  
234 parent or guardian by telephone or ~~computer~~ e-mail, or both, and  
235 these efforts must be documented. The school shall obtain, and  
236 keep in its records, the parent's or guardian's signed  
237 acknowledgment that he or she was notified of his or her child's  
238 restraint ~~or seclusion~~.

239 (e)~~(d)~~ A school shall also provide the parent or guardian  
240 with the completed incident report in writing by mail within 3  
241 school days after a student was ~~manually or physically~~  
242 restrained ~~or secluded~~. The school shall obtain, and keep in its  
243 records, the parent's or guardian's signed acknowledgment that  
244 he or she received a copy of the incident report.

245 (7)~~(2)~~ MONITORING.—

246 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint  
247 ~~or seclusion~~ on students shall be monitored ~~occur~~ at the  
248 classroom, building, district, and state levels.

249 (b) Any documentation prepared by a school pursuant to as  
250 ~~required in~~ subsection (6) ~~(1)~~ shall be provided to the school

251 principal, the district director of Exceptional Student  
252 Education, and the bureau chief of the Bureau of Exceptional  
253 Education and Student Services electronically each month that  
254 the school is in session.

255 (c) The department shall maintain aggregate data of  
256 incidents of ~~manual or physical~~ restraint and ~~seclusion~~ and  
257 disaggregate the data for analysis by county, school, student  
258 exceptionality, and other variables, including the type and  
259 method of restraint ~~or seclusion~~ used. This information shall be  
260 updated monthly and made available to the public through the  
261 department's website beginning no later than October 1, 2017.

262 (d) The department shall establish standards for  
263 documenting, reporting, and monitoring the use of ~~manual or~~  
264 ~~physical~~ restraint ~~or mechanical restraint,~~ and ~~occurrences of~~  
265 ~~seclusion~~. These standards shall be provided to school districts  
266 ~~by October 1, 2011.~~

267 (8)(3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

268 (a) School districts shall develop policies and procedures  
269 that provide for the physical safety and security of all  
270 students and school personnel and which treat all students with  
271 respect and dignity in an environment that promotes a positive  
272 school culture and climate. Such ~~Each school district shall~~  
273 ~~develop~~ policies and procedures must be that ~~are~~ consistent with  
274 this section and must ~~that~~ govern the following:

275 1. A description of escalating behavioral strategies that

276 may be used.

277 2. Allowable use of restraint on students.

278 3. Training procedures.

279 4.1. Incident-reporting procedures.

280 5.2. Data collection and monitoring, including when,  
281 where, and why students are restrained and ~~or secluded;~~ the  
282 frequency of occurrences of such restraint ~~or seclusion;~~ and the  
283 ~~prone or mechanical restraint that is most used.~~

284 6.3. Monitoring and reporting of data collected.

285 7.4. Training programs and procedures relating to ~~manual~~  
286 ~~or physical~~ restraint ~~and seclusion.~~

287 8.5. The district's plan for selecting personnel to be  
288 trained and the timeframe for completing such training pursuant  
289 to subsection (4).

290 9.6. The district's plan for reducing the use of  
291 restraint, ~~and seclusion~~ particularly in settings in which it  
292 occurs frequently or with students who are restrained  
293 repeatedly, ~~and for reducing the use of prone restraint and~~  
294 ~~mechanical restraint.~~ The plan must include a goal for reducing  
295 the use of restraint ~~and seclusion~~ and must include activities,  
296 skills, and resources needed to achieve that goal. Activities  
297 may include, but are not limited to, all of the following:

298 a. Additional training in positive behavioral support and  
299 crisis management. ~~†~~

300 b. Parental involvement. ~~†~~

- 301 c. Data review.~~†~~
- 302 d. Updates of students' functional behavioral analysis and
- 303 positive behavior intervention plans.~~†~~
- 304 e. Additional student evaluations.~~†~~
- 305 f. Debriefing with staff.~~†~~
- 306 g. Use of schoolwide positive behavior support.~~†~~ and
- 307 h. Changes to the school environment.

308 10. Analysis of data to determine trends.

309 11. Ongoing reduction of the use of restraint.

310 (b) Any revisions a school district makes to its ~~to the~~  
 311 ~~district's~~ policies and procedures, which must be prepared as  
 312 part of the school district's ~~its~~ special policies and  
 313 procedures, must be filed with the bureau chief of the Bureau of  
 314 Exceptional Education and Student Services ~~no later than January~~  
 315 ~~31, 2012.~~

316 (9)(4) PROHIBITED RESTRAINT.—School personnel may not use  
 317 straitjackets or a mechanical restraint or a manual or physical  
 318 restraint that restricts a student's breathing.

319 (10)(5) SECLUSION.—School personnel may not place a  
 320 student in seclusion ~~close, lock, or physically block a student~~  
 321 ~~in a room that is unlit and does not meet the rules of the State~~  
 322 ~~Fire Marshal for seclusion time-out rooms.~~

323 Section 2. Subsections (1) and (2) of section 1012.582,  
 324 Florida Statutes, are amended to read:

325 1012.582 Continuing education and inservice training for

326 | teaching students with developmental and emotional or behavioral  
 327 | disabilities.—

328 |       (1) The Commissioner of Education shall develop  
 329 | recommendations to incorporate instruction regarding autism  
 330 | spectrum disorder, Down syndrome, ~~and~~ other developmental  
 331 | disabilities, and emotional or behavioral disabilities into  
 332 | continuing education or inservice training requirements for  
 333 | instructional personnel. These recommendations shall address:

334 |       (a) Early identification of, and intervention for,  
 335 | students who have autism spectrum disorder, Down syndrome, ~~or~~  
 336 | other developmental disabilities, or emotional or behavioral  
 337 | disabilities.

338 |       (b) Curriculum planning and curricular and instructional  
 339 | modifications, adaptations, and specialized strategies and  
 340 | techniques.

341 |       (c) The use of available state and local resources.

342 |       (d) The use of positive behavioral supports to deescalate  
 343 | problem behaviors.

344 |       (e) Appropriate use of ~~manual~~ physical restraint and  
 345 | seclusion techniques and effective classroom behavior management  
 346 | strategies, including, but not limited to, differential  
 347 | reinforcement, precision commands, minimizing attention or  
 348 | access to other reinforcers, and exclusionary and  
 349 | nonexclusionary time methods.

350 |       (2) In developing the recommendations, the commissioner

351 shall consult with the State Surgeon General, the Director of  
352 the Agency for Persons with Disabilities, representatives from  
353 the education community in the state, and representatives from  
354 entities that promote awareness about autism spectrum disorder,  
355 Down syndrome, ~~and~~ other developmental disabilities, and  
356 emotional or behavioral disabilities and provide programs and  
357 services to persons with ~~developmental~~ disabilities, including,  
358 but not limited to, regional autism centers pursuant to s.  
359 1004.55.

360 Section 3. This act shall take effect July 1, 2017.