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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/03/2017	.	
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	.	
	.	

The Committee on Education (Stewart) recommended the following:

Senate Amendment (with title amendment)

Between lines 31 and 32
insert:

Section 2. Section 1003.573, Florida Statutes, is amended
to read:

1003.573 Seclusion and Use of restraint of and seclusion on
students with disabilities in public schools.-

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

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

(b) "Exclusionary time" means the period during which an



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12 individual is removed from an event, activity, or instructional
13 environment to encourage reflection on behavior and allow space
14 and time for understanding of choices and consequences.

15 (c) "Imminent risk of serious injury or death" means the
16 impending risk of a significant injury, such as a laceration,
17 bone fracture, substantial hematoma, or injury to an internal
18 organ, or death.

19 (d) "Manual physical restraint" means the use of physical
20 restraint techniques that involve physical force applied by a
21 teacher or other staff member to restrict the movement of all or
22 part of a student's body.

23 (e) "Mechanical restraint" means the use of a device that
24 restricts a student's movement or restricts the normal function
25 of a student's body. The term includes the use of straps, belts,
26 tie-downs, calming blankets, and chairs with straps; however,
27 the term does not include the use of any of the following:

28 1. Medical protective equipment.

29 2. Physical equipment or orthopedic appliances, surgical
30 dressings or bandages, or supportive body bands or other
31 restraints necessary for ongoing medical treatment in the
32 educational setting.

33 3. Devices used to support functional body position or
34 proper balance, or to prevent a person from falling out of a bed
35 or a wheelchair, except when such a device is used for a purpose
36 other than supporting a body position or proper balance, such as
37 coercion, discipline, convenience, or retaliation, to prevent
38 imminent risk of serious injury or death of the student or
39 others, or for any other behavior management reason.

40 4. Equipment used for safety during transportation, such as



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41 seatbelts or wheelchair tie-downs.

42 (f) "Medical protective equipment" means health-related
43 protective devices prescribed by a physician or dentist for use
44 as student protection in response to an existing medical
45 condition.

46 (g) "Nonexclusionary time" means a period during which the
47 individual remains in the event or instructional environment but
48 is redirected from the activities so that he or she has an
49 opportunity to reflect on the behavior and is given space and
50 time for understanding of choices and consequences.

51 (h) "Seclusion" means the removal of a student from an
52 educational environment, involuntary confinement of the student
53 in a room or area, and prevention of the student from leaving
54 the room or area if achieved by locking the door or otherwise
55 physically blocking the student's way, threatening physical
56 force or other consequences, or using physical force.

57 (i) "Student" means a student with a disability.

58 (2) LEGISLATIVE FINDINGS AND INTENT.—

59 (a) The Legislature finds that public schools have a
60 responsibility to ensure that each student is treated with
61 respect and dignity in a trauma-informed environment that
62 provides for the physical safety and security of the student and
63 others.

64 (b) The Legislature also finds that there is the potential
65 for increased risk of injury or harm when seclusion or restraint
66 is implemented by staff who are not adequately trained.

67 (3) MANUAL PHYSICAL RESTRAINT.—

68 (a) Manual physical restraint may be used only when there
69 is an imminent risk of serious injury or death to the student or



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70 others and only for the period of time necessary to eliminate
71 such risk.

72 (b) The degree of force applied during manual physical
73 restraint must be only that degree of force necessary to protect
74 the student or others from bodily injury or death.

75 (c) Manual physical restraint shall be used only by school
76 personnel who are qualified and certified to use the methods
77 authorized under this section, for the appropriate application
78 of specific restraint techniques.

79 (d) School personnel who have received training that is not
80 associated with their employment with the school district, such
81 as a former law enforcement officer who is now a teacher, shall
82 be certified in the specific district-approved techniques and
83 may not apply techniques or procedures acquired elsewhere.

84 (e) School personnel may not use any of the following
85 manual physical restraint techniques on a student:

86 1. Prone and supine restraint.

87 2. Pain inducement to obtain compliance.

88 3. Bone locks.

89 4. Hyperextension of joints.

90 5. Peer restraint.

91 6. Mechanical restraint.

92 7. Pressure or weight on the chest, lungs, sternum,
93 diaphragm, back, or abdomen, causing chest compression.

94 8. Straddling or sitting on any part of the body or any
95 maneuver that places pressure, weight, or leverage on the neck
96 or throat, on an artery, or on the back of the head or neck or
97 that otherwise obstructs or restricts the circulation of blood
98 or obstructs an airway.



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99 9. Any type of choking, including hand chokes, and any type
100 of neck or head hold.

101 10. Any technique that involves pushing anything on or into
102 the mouth, nose, eyes, or any part of the face or that involves
103 covering the face or body with anything, including soft objects
104 such as pillows or washcloths.

105 11. Any maneuver that involves punching, hitting, poking,
106 pinching, or shoving.

107 12. Any type of mat or blanket restraint.

108 13. Water or lemon sprays.

109 (f) The school shall ensure that a student is medically
110 evaluated by a physician, nurse, or other qualified medical
111 professional as soon as possible after the student has been
112 manually physically restrained by school personnel.

113 (4) SECLUSION; exclusionary and nonexclusionary time.—

114 (a) School personnel may not place a student in seclusion.

115 (b) School personnel may place a student in exclusionary or
116 non-exclusionary time if all of the following conditions are
117 met:

118 1. The exclusionary or nonexclusionary time is part of a
119 positive behavioral intervention plan developed for the student
120 from a functional behavioral assessment and referenced in the
121 student's individual education plan.

122 2. There is documentation that the exclusionary or
123 nonexclusionary time was preceded by the use of other positive
124 behavioral supports that were not effective.

125 3. The exclusionary or nonexclusionary time takes place in
126 a classroom or in another environment where class educational
127 activities are taking place.



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

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

132 6. The exclusionary or nonexclusionary time area and
133 process are free of any action that is likely to embarrass or
134 humiliate the student.

135 (c) Exclusionary or nonexclusionary time may not be used
136 for a period that exceeds 1 minute for each year of a student's
137 age and must end immediately when the student is calm enough to
138 return to his or her seat.

139 (d) Exclusionary or nonexclusionary time may not be used as
140 a punishment or negative consequence of a student's behavior.

141 (5) TRAINING AND CERTIFICATION.—

142 (a) Each school district shall report its procedures for
143 training and certification in the use of manual physical
144 restraint to the department by publishing the procedures in the
145 district's special policies and procedures manual.

146 (b) Training for initial certification in the use of manual
147 physical restraint must include all of the following:

148 1. Procedures for deescalating a problem behavior before
149 the problem increases to a level or intensity necessitating
150 physical intervention.

151 2. Information regarding the risks associated with manual
152 physical restraint and procedures for assessing individual
153 situations and students in order to determine whether the use of
154 manual physical restraint is appropriate and sufficiently safe.

155 3. The actual use of specific techniques that range from
156 the least to most restrictive, with ample opportunity for



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157 trainees to demonstrate proficiency in the use of such
158 techniques.

159 4. Techniques for implementing manual physical restraint
160 with multiple staff members working as a team.

161 5. Techniques for assisting a student in reentering the
162 instructional environment and reengaging in learning.

163 6. Instruction in the district's documentation and
164 reporting requirements.

165 7. Procedures to identify and deal with possible medical
166 emergencies arising during the use of manual physical restraint.

167 8. Cardiopulmonary resuscitation.

168 (c) Each school district shall provide refresher
169 certification training courses in manual physical restraint
170 techniques at least annually to all staff members who have
171 successfully completed the initial certification program. The
172 district must identify those persons to be certified and
173 maintain a record that includes the name and position of the
174 person certified, the date of the person's most recent
175 certification and whether it is an initial or refresher
176 certification, and whether the individual successfully completed
177 the certification and achieved proficiency.

178 (d) School district policies regarding the use of manual
179 physical restraint must address whether it is appropriate for an
180 employee working in a specific setting, such as a school bus
181 driver, school bus aide, job coach, employment specialist, or
182 cafeteria worker, to be certified in manual physical restraint
183 techniques. In the case of school resource officers or others
184 who may be employed by other agencies when working in a school,
185 administrators shall review each agency's specific policies to



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186 be aware of techniques that may be used.

187 (6) STUDENT-CENTERED FOLLOWUP.—If a student is manually
188 physically restrained more than twice during a school year, the
189 school shall review the student's functional behavioral
190 assessment and positive behavioral intervention plan.

191 (7) ~~(1)~~ DOCUMENTATION AND REPORTING.—

192 (a) At the beginning of each school year, a school district
193 shall provide a copy of its policies on emergency procedures,
194 including its policies on the use of manual physical restraint,
195 to each student's parent or guardian. The student's parent or
196 guardian must sign a form indicating that he or she has received
197 and read the district's policies, which the student's school
198 shall retain on file.

199 (b) ~~(a)~~ A school shall prepare an incident report within 24
200 hours after a student is released from restraint ~~or seclusion.~~
201 If the student's release occurs on a day before the school
202 closes for the weekend, a holiday, or another reason, the
203 incident report must be completed by the end of the school day
204 on the day the school reopens.

205 (c) ~~(b)~~ All of the following must be included in the
206 incident report:

- 207 1. The name of the student restrained ~~or secluded.~~
- 208 2. The age, grade, ethnicity, and disability of the student
209 restrained ~~or secluded.~~
- 210 3. The date and time of the event and the duration of the
211 restraint ~~or seclusion.~~
- 212 4. The location at which the restraint ~~or seclusion~~
213 occurred.
- 214 5. A description of the type of restraint used in terms



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215 established by the department of ~~Education~~.

216 6. The name of the person using or assisting in the
217 restraint ~~or seclusion~~ of the student.

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

220 8. A description of the incident, including all of the
221 following:

222 a. The context in which the restraint ~~or seclusion~~
223 occurred.

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

228 c. The specific positive behavioral strategies used to
229 prevent and deescalate the behavior.

230 d. What occurred with the student immediately after the
231 termination of the restraint ~~or seclusion~~.

232 e. Any injuries, visible marks, or possible medical
233 emergencies that may have occurred during the restraint ~~or~~
234 ~~seclusion~~, documented according to district policies.

235 f. The results of the medical evaluation and a copy of any
236 report by the medical professionals conducting the evaluation,
237 if available. If the medical report is not available within 24
238 hours, the district must submit the medical report separately as
239 soon as it becomes available.

240 ~~g.~~ Evidence of steps taken to notify the student's parent
241 or guardian.

242 (d) ~~(e)~~ A school shall notify the parent or guardian of a
243 student each time manual ~~or~~ physical restraint ~~or seclusion~~ is



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244 used. Such notification must be in writing and provided before
245 the end of the school day on which the restraint ~~or seclusion~~
246 occurs. Reasonable efforts must also be taken to notify the
247 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
248 these efforts must be documented. The school shall obtain, and
249 keep in its records, the parent's or guardian's signed
250 acknowledgment that he or she was notified of his or her child's
251 restraint ~~or seclusion~~.

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

258 (8) ~~(2)~~ MONITORING.—

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

262 (b) Any documentation prepared by a school pursuant to ~~as~~
263 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
264 principal, the district director of Exceptional Student
265 Education, and the bureau chief of the Bureau of Exceptional
266 Education and Student Services ~~electronically~~ each week ~~month~~
267 that the school is in session.

268 (c) Each week that a school is in session, the school shall
269 send a redacted copy of any incident report and other
270 documentation prepared pursuant to subsection (7) to Disability
271 Rights Florida.

272 (d) ~~(e)~~ The department shall maintain aggregate data of



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273 incidents of manual ~~or~~ physical restraint ~~and seclusion~~ and
274 disaggregate the data for analysis by county, school, student
275 exceptionality, and other variables, including the type and
276 method of restraint ~~or seclusion~~ used. This information shall be
277 updated monthly and made available to the public through the
278 department's website beginning no later than January 31, 2018.

279 ~~(e)(d)~~ The department shall establish standards for
280 documenting, reporting, and monitoring the use of manual ~~or~~
281 physical restraint ~~or mechanical restraint, and occurrences of~~
282 ~~seclusion~~. These standards shall be provided to school districts
283 ~~by October 1, 2011.~~

284 ~~(9)(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.-

285 (a) Each school district shall develop policies and
286 procedures that are consistent with this section and that govern
287 all of the following:

288 1. Authorized use of manual physical restraint on students.

289 2. Personnel authorized to use manual physical restraint.

290 3. Training procedures.

291 ~~4.1.~~ Incident-reporting procedures.

292 ~~5.2.~~ Data collection and monitoring, including when, where,
293 and why students are restrained and ~~or secluded;~~ the frequency
294 of occurrences of such restraint ~~or seclusion;~~ and the prone ~~or~~
295 ~~mechanical restraint that is most used.~~

296 ~~6.3.~~ Monitoring and reporting of data collected.

297 ~~7.4.~~ Training programs relating to manual ~~or~~ physical
298 restraint ~~and seclusion.~~

299 ~~8.5.~~ The district's plan for selecting personnel to be
300 trained.

301 ~~9.6.~~ The district's plan for reducing the use of restraint,



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302 ~~and seclusion~~ particularly in settings in which it occurs
303 frequently or with students who are restrained repeatedly, ~~and~~
304 ~~for reducing the use of prone restraint and mechanical~~
305 ~~restraint~~. The plan must include a goal for reducing the use of
306 restraint ~~and seclusion~~ and must include activities, skills, and
307 resources needed to achieve that goal. Activities may include,
308 but are not limited to, all of the following:

- 309 a. Additional training in positive behavioral support and
310 crisis management. ~~†~~
311 b. Parental involvement. ~~†~~
312 c. Data review. ~~†~~
313 d. Updates of students' functional behavioral analysis and
314 positive behavior intervention plans. ~~†~~
315 e. Additional student evaluations. ~~†~~
316 f. Debriefing with staff. ~~†~~
317 g. Use of schoolwide positive behavior support. ~~†~~ ~~and~~
318 h. Changes to the school environment.
319 10. Analysis of data to determine trends.
320 11. Ongoing reduction of the use of manual physical
321 restraint.

322 (b) Any revisions a school district makes to its ~~to the~~
323 ~~district's~~ policies and procedures, which must be prepared as
324 part of the school district's ~~its~~ special policies and
325 procedures, must be filed with the bureau chief of the Bureau of
326 Exceptional Education and Student Services ~~no later than January~~
327 ~~31, 2012.~~

328 ~~(4) PROHIBITED RESTRAINT. School personnel may not use a~~
329 ~~mechanical restraint or a manual or physical restraint that~~
330 ~~restricts a student's breathing.~~



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331 ~~(5) SECLUSION. School personnel may not close, lock, or~~
332 ~~physically block a student in a room that is unlit and does not~~
333 ~~meet the rules of the State Fire Marshal for seclusion time out~~
334 ~~rooms.~~

335

336 ===== T I T L E A M E N D M E N T =====

337 And the title is amended as follows:

338 Delete lines 2 - 10

339 and insert:

340 An act relating to education; requiring the
341 Commissioner of Education to review specified college
342 entrance examinations to determine their alignment
343 with the core curricular content for high school level
344 English Language Arts and mathematics established in
345 state standards; requiring the commissioner to submit
346 a report on the results of such review to the
347 Governor, Legislature, and State Board of Education by
348 a specified date; amending s. 1003.573, F.S.; defining
349 terms; providing legislative findings and intent;
350 providing requirements for the use of manual physical
351 restraint by school personnel; prohibiting specified
352 manual physical restraint techniques; requiring each
353 school to ensure that a student who has been manually
354 physically restrained receive a medical evaluation
355 after such restraint; prohibiting school personnel
356 from placing a student in seclusion; providing
357 requirements for the use of exclusionary or
358 nonexclusionary time; requiring that a school district
359 report its procedures for training and certification



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360 in the use of manual physical restraint to the
361 Department of Education; providing requirements for
362 such training and certification; requiring each school
363 district to annually provide refresher certification;
364 requiring a school district's manual physical
365 restraint policies to address certain issues;
366 requiring that a school review a student's functional
367 behavior assessment and positive behavioral
368 intervention plan under certain circumstances;
369 requiring that parents be notified of a school
370 district's policies regarding the use of manual
371 physical restraint; revising information to be
372 included in a school incident report; requiring that
373 each school send a redacted copy of any incident
374 report or other documentation to Disability Rights
375 Florida; requiring that the department make available
376 on its website data of incidents of manual physical
377 restraint; requiring that each school district develop
378 policies and procedures governing the authorized use
379 of manual physical restraint, the personnel authorized
380 to use such restraint, training procedures, analysis
381 of data, and the reduction of the use of manual
382 physical restraint; requiring that any revisions to a
383 school district's policies and procedures be filed
384 with the bureau chief of the Bureau of Exceptional
385 Education and Student Services; amending s. 1008.22,