

By Senator Flores

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1                   A bill to be entitled  
2       An act relating to the seclusion and restraint on  
3       students with disabilities in public schools; amending  
4       s. 1003.573, F.S.; defining terms; providing  
5       legislative findings and intent; requiring that manual  
6       physical restraint be used only in an emergency when  
7       there is an imminent risk of serious injury or death  
8       to a student or others; providing restrictions on the  
9       use of manual physical restraint; prohibiting the use  
10      of manual physical restraint by school personnel who  
11      are not certified to use district-approved methods for  
12      applying restraint techniques; prohibiting specified  
13      techniques; requiring that each school medically  
14      evaluate a student after the student is manually  
15      physically restrained; prohibiting school personnel  
16      from placing a student in seclusion; providing  
17      requirements for the use of time-out; requiring that a  
18      school district report its training and certification  
19      procedures to the Department of Education; requiring  
20      that school personnel be trained and certified in the  
21      use of manual physical restraint; requiring that a  
22      school review a student's functional behavior  
23      assessment and positive behavioral intervention plan  
24      under certain circumstances; requiring that parents be  
25      notified of a school district's policies regarding the  
26      use of manual physical restraint; requiring that each  
27      school send a redacted copy of any incident report or  
28      other documentation to Disability Rights Florida;  
29      requiring that the department make available on its

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30 website data of incidents of manual physical restraint  
31 by a specified date; requiring that each school  
32 district develop policies and procedures addressing  
33 the allowable use of manual physical restraint,  
34 personnel authorized to use such restraint, training  
35 procedures, analysis of data trends, and the reduction  
36 of the use of manual physical restraint; requiring  
37 that any revisions to a school district's policies and  
38 procedures be filed with the bureau chief of the  
39 Bureau of Exceptional Education and Student Services  
40 by a specified date; providing an effective date.

41  
42 Be It Enacted by the Legislature of the State of Florida:

43  
44 Section 1. Section 1003.573, Florida Statutes, is amended  
45 to read:

46 1003.573 Seclusion and restraint on students with  
47 disabilities in public schools ~~Use of restraint and seclusion on~~  
48 ~~students with disabilities.~~

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

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

51 (b) "Imminent risk of serious injury or death" means the  
52 impending risk of a significant injury, such as a laceration,  
53 bone fracture, substantial hematoma, or other injury to internal  
54 organs, or death.

55 (c) "Manual physical restraint" means the use of physical  
56 restraint techniques that involve physical force applied by a  
57 teacher or other staff member to restrict the movement of all or  
58 part of a student's body.

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59       (d) "Mechanical restraint" means the use of a physical  
60 device that restricts a student's movement or restricts the  
61 normal function of a student's body. The term includes the use  
62 of straps, belts, tie-downs, calming blankets, and chairs with  
63 straps; however, the term does not include the use of:

64       1. Medical protective equipment;

65       2. Physical equipment or orthopedic appliances, surgical  
66 dressings or bandages, or supportive body bands or other  
67 restraints necessary for ongoing medical treatment in the  
68 educational setting;

69       3. Devices used to support functional body position or  
70 proper balance, or to prevent a person from falling out of a bed  
71 or a wheelchair, except when such device is used for any purpose  
72 other than supporting a body position or proper balance, such as  
73 coercion, discipline, convenience, or retaliation, to prevent  
74 imminent risk of serious injury or death of the student or  
75 others, or for any other behavior management reason; or

76       4. Equipment used for safety during transportation, such as  
77 seatbelts or wheelchair tie-downs.

78       (e) "Medical protective equipment" means health-related  
79 protective devices prescribed by a physician or dentist for use  
80 as student protection in response to an existing medical  
81 condition.

82       (f) "Seclusion" means removing a student from an  
83 educational environment, involuntarily confining the student in  
84 a room or area, and preventing the student from leaving the room  
85 or area if achieved by locking the door or otherwise physically  
86 blocking the student's way, threatening physical force or other  
87 consequences, or using physical force. The term does not include

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88 the use of time-out.

89 (g) "Student" means a student with a disability.

90 (h) "Time-out" means a procedure in which access to varied  
91 sources of reinforcement is removed or reduced for a particular  
92 time period contingent on a response. The opportunity to receive  
93 reinforcement is contingently removed for a specified time.  
94 Either a student is contingently removed from the reinforcing  
95 environment or the reinforcing environment is contingently  
96 removed for some stipulated duration. The term does not include  
97 the use of a locked room, a blocked exit, or physical force or  
98 threats.

99 (2) LEGISLATIVE FINDINGS AND INTENT.—

100 (a) The Legislature finds that public schools have a  
101 responsibility to ensure that each student is treated with  
102 respect and dignity in a trauma-informed environment that  
103 provides for the physical safety and security of students and  
104 others.

105 (b) The Legislature finds that students, educators, and  
106 families are concerned about the use of seclusion and restraint,  
107 particularly when used on students in special education  
108 programs. Seclusion and restraint refer to safety procedures in  
109 which a student is isolated from others or physically held in  
110 response to serious problem behavior that places the student or  
111 others at risk of injury or harm. The Legislature is concerned  
112 that these procedures are prone to misapplication and abuse and  
113 place a student at an equal or greater risk than the risk of the  
114 student's problem behavior. Moreover, the Legislature is  
115 concerned about the inadequate documentation of seclusion or  
116 restraint procedures, the failure to notify parents when

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117 seclusion or restraint is applied, and the failure to use data  
118 to analyze and address the cause of the precipitating behavior.  
119 Particular concerns include:

120 1. The inappropriate selection and implementation of  
121 seclusion or restraint as a treatment or behavioral intervention  
122 rather than as a safety procedure.

123 2. The inappropriate use of seclusion or restraint in  
124 connection with behaviors, such as noncompliance, threats, or  
125 disruption, which do not place the student or others at risk of  
126 injury or harm.

127 3. The potential for injury or harm to students, peers, or  
128 staff during attempts to conduct seclusion or restraint.

129 4. The potential for increased risk of injury or harm when  
130 seclusion or restraint is implemented by staff who are not  
131 adequately trained.

132 5. The potential for the inadvertent reinforcement or  
133 magnification of the problem behavior with the use of seclusion  
134 or restraint.

135 6. The implementation of seclusion or restraint independent  
136 of comprehensive, function-based behavioral intervention plans.

137 (c) The Legislature finds that the majority of problem  
138 behaviors that are currently used to justify seclusion or  
139 restraint could be prevented with early identification and  
140 intensive early intervention. The need for seclusion or  
141 restraint is, in part, a result of an insufficient investment in  
142 prevention efforts. The Legislature further finds that the use  
143 of seclusion or restraint may produce trauma in students. For  
144 such students, who are already experiencing trauma, the use may  
145 cause retraumatization. The lasting effects of unaddressed

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146 childhood trauma place a heavy burden on individuals, families,  
147 and communities. Research has shown that trauma significantly  
148 increases the risk of mental health problems, difficulties with  
149 social relationships and behavior, physical illness, and poor  
150 school performance.

151 (d) The Legislature intends that students be free from  
152 seclusion and free from the abusive and unnecessary use of  
153 restraint in public schools. The Legislature further intends to  
154 achieve an ongoing reduction of, leading to the prevention of,  
155 the use of manual physical restraint in public schools and,  
156 specifically, to prohibit the use of seclusion, prone and supine  
157 restraint, and mechanical restraint on students. The Legislature  
158 also intends that manual physical restraint be used only when an  
159 imminent risk of serious injury or death exists; that manual  
160 physical restraint not be employed as punishment, for the  
161 convenience of staff, or as a substitute for a positive  
162 behavior-support plan; and that, if manual physical restraint is  
163 used, persons applying such restraint impose the least possible  
164 restrictions and discontinue the restraint as soon as the threat  
165 of imminent risk of serious injury or death ceases.

166 (3) MANUAL PHYSICAL RESTRAINT.—Manual physical restraint  
167 may be used only in an emergency when there is an imminent risk  
168 of serious injury or death to the student or others.

169 (a) Manual physical restraint may be used only for the  
170 period of time necessary to eliminate the imminent risk of  
171 serious injury or death to the student or others.

172 (b) The degree of force applied during manual physical  
173 restraint must be only that degree of force necessary to protect  
174 the student or others from bodily injury.

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175 (c) Manual physical restraint shall be used only by school  
176 personnel who are qualified and certified to use the district-  
177 approved methods for the appropriate application of specific  
178 restraint techniques. School personnel who have received  
179 training that is not associated with their employment with the  
180 school district, such as a former law enforcement officer who is  
181 now a teacher, shall be certified in the specific district-  
182 approved techniques and may not apply techniques or procedures  
183 acquired elsewhere.

184 (d) School personnel may not manually physically restrain a  
185 student except when an imminent risk of serious injury or death  
186 to the student or others exists.

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

- 189 1. Prone and supine restraint.
- 190 2. Pain inducement to obtain compliance.
- 191 3. Bone locks.
- 192 4. Hyperextension of joints.
- 193 5. Peer restraint.
- 194 6. Mechanical restraint.
- 195 7. Pressure or weight on the chest, lungs, sternum,  
196 diaphragm, back, or abdomen, causing chest compression.
- 197 8. Straddling or sitting on any part of the body or any  
198 maneuver that places pressure, weight, or leverage on the neck  
199 or throat, on an artery, or on the back of the student's head or  
200 neck or that otherwise obstructs or restricts the circulation of  
201 blood or obstructs an airway.
- 202 9. Any type of choking, including hand chokes, and any type  
203 of neck or head hold.

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204       10. Any technique that involves pushing anything on or into  
205 the student's mouth, nose, eyes, or any part of the face or that  
206 involves covering the face or body with anything, including soft  
207 objects such as pillows or washcloths.

208       11. Any maneuver that involves punching, hitting, poking,  
209 pinching, or shoving.

210       12. Any type of mat or blanket restraint.

211       13. Water or lemon sprays.

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

216       (4) SECLUSION; TIME-OUT.-

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

218       (b) School personnel may place a student in time-out if the  
219 following conditions are met:

220       1. The time-out is part of a positive behavioral  
221 intervention plan developed for that student from a functional  
222 behavioral assessment and referenced in the student's individual  
223 education plan.

224       2. There is documentation that the time-out was preceded by  
225 the use of other positive behavioral supports that were not  
226 effective.

227       3. The time-out takes place in a classroom or in another  
228 environment where class educational activities are taking place.

229       4. The student is not physically prevented from leaving the  
230 time-out area.

231       5. The student is observed on a constant basis by an adult  
232 for the duration of the time-out.



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233 6. The time-out area and process are free of any action  
234 that is likely to embarrass or humiliate the student.

235 (c) Time-out may not be used for a period that exceeds 1  
236 minute for each year of a student's age, and time-out must end  
237 immediately when the student is calm enough to return to his or  
238 her seat.

239 (d) Time-out may not be used as a punishment or negative  
240 consequence of a student's behavior.

241 (5) TRAINING AND CERTIFICATION.—

242 (a) Each school district shall report its training and  
243 certification procedures to the department by publishing the  
244 procedures in the district's special policies and procedures  
245 manual.

246 (b) Training for initial certification in the use of manual  
247 physical restraint must include:

248 1. Procedures for deescalating problem behaviors before the  
249 problems increase to a level or intensity necessitating physical  
250 intervention.

251 2. Information regarding the risks associated with manual  
252 physical restraint and procedures for assessing individual  
253 situations and students in order to determine if the use of  
254 manual physical restraint is appropriate and sufficiently safe.

255 3. The actual use of specific techniques that range from  
256 the least to most restrictive, with ample opportunity for  
257 trainees to demonstrate proficiency in the use of such  
258 techniques.

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

261 5. Techniques for assisting a student to reenter the

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262 instructional environment and again engage in learning.

263 6. Instruction in the district's documentation and  
264 reporting requirements.

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

267 8. Cardiopulmonary resuscitation.

268 (c) School districts shall provide refresher certification  
269 training courses in manual physical restraint techniques at  
270 least annually to all staff members who have successfully  
271 completed the initial certification program. The district must  
272 identify those persons to be certified and maintain a record  
273 that includes the name and position of the person certified, the  
274 date of the most recent certification, an indication of whether  
275 it was an initial certification or a refresher certification,  
276 and whether the individual successfully completed the  
277 certification and achieved proficiency.

278 (d) School district policies regarding the use of manual  
279 physical restraint must address whether it is appropriate for an  
280 employee working in specific settings, such as a school bus  
281 driver, school bus aide, job coach, employment specialist, or  
282 cafeteria worker, to be certified in manual physical restraint  
283 techniques. In the case of school resource officers or others  
284 who may be employed by other agencies when working in a school,  
285 administrators shall review each agency's specific policies to  
286 be aware of techniques that may be used.

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

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291 (7)~~(1)~~ DOCUMENTATION AND REPORTING.—

292 (a) At the beginning of each school year, a school district  
293 shall provide a copy of its policies on emergency procedures,  
294 including its policies on the use of manual physical restraint,  
295 to each student's parent or guardian. The student's parent or  
296 guardian must sign a form indicating that he or she has received  
297 and read the district's policies, which the student's school  
298 shall retain on file.

299 (b)~~(a)~~ A school shall prepare an incident report within 24  
300 hours after a student is released from a restraint ~~or seclusion~~.  
301 If the student's release occurs on a day before the school  
302 closes for the weekend, a holiday, or another reason, the  
303 incident report must be completed by the end of the school day  
304 on the day the school reopens.

305 (c)~~(b)~~ The following must be included in the incident  
306 report:

- 307 1. The name of the student restrained ~~or secluded~~.
- 308 2. The age, grade, ethnicity, and disability of the student  
309 restrained ~~or secluded~~.
- 310 3. The date and time of the event and the duration of the  
311 restraint ~~or seclusion~~.
- 312 4. The location at which the restraint ~~or seclusion~~  
313 occurred.
- 314 5. A description of the type of restraint used in terms  
315 established by the Department of Education.
- 316 6. The name of the person using or assisting in the  
317 restraint ~~or seclusion~~ of the student.
- 318 7. The name of any nonstudent who was present to witness  
319 the restraint ~~or seclusion~~.

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- 320 8. A description of the incident, including:
- 321 a. The context in which the restraint ~~or seclusion~~
- 322 occurred.
- 323 b. The student's behavior leading up to and precipitating
- 324 the decision to use manual physical ~~manual or physical~~ restraint
- 325 ~~or seclusion~~, including an indication as to why there was an
- 326 imminent risk of serious injury or death to the student or
- 327 others.
- 328 c. The specific positive behavioral strategies used to
- 329 prevent and deescalate the behavior.
- 330 d. What occurred with the student immediately after the
- 331 termination of the restraint ~~or seclusion~~.
- 332 e. Any injuries, visible marks, or possible medical
- 333 emergencies that may have occurred during the restraint ~~or~~
- 334 ~~seclusion~~, documented according to district policies.
- 335 f. The results of the medical evaluation and a copy of any
- 336 report by the medical professionals conducting the evaluation,
- 337 if available. If the medical report is not available within 24
- 338 hours, the district must submit the medical report separately as
- 339 soon as it becomes available.
- 340 ~~g.f.~~ Evidence of steps taken to notify the student's parent
- 341 or guardian.
- 342 (d) ~~(e)~~ A school shall notify the parent or guardian of a
- 343 student each time manual physical ~~manual or physical~~ restraint
- 344 ~~or seclusion~~ is used. Such notification must be in writing and
- 345 provided before the end of the school day on which the restraint
- 346 ~~or seclusion~~ occurs. Reasonable efforts must also be taken to
- 347 notify the parent or guardian by telephone or ~~computer~~ e-mail,
- 348 or both, and these efforts must be documented. The school shall

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349 obtain, and keep in its records, the parent's or guardian's  
350 signed acknowledgment that he or she was notified of his or her  
351 child's restraint ~~or seclusion~~.

352 (e)~~(d)~~ A school shall also provide the parent or guardian  
353 with the completed incident report in writing by mail within 3  
354 school days after a student was manually physically ~~manually or~~  
355 ~~physically~~ restrained ~~or secluded~~. The school shall obtain, and  
356 keep in its records, the parent's or guardian's signed  
357 acknowledgment that he or she received a copy of the incident  
358 report.

359 (8)~~(2)~~ MONITORING.—

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

363 (b) Any documentation prepared by a school pursuant to ~~as~~  
364 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school  
365 principal, the district director of Exceptional Student  
366 Education, and the bureau chief of the Bureau of Exceptional  
367 Education and Student Services ~~electronically~~ each week ~~month~~  
368 that the school is in session.

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

373 (d)~~(e)~~ The department shall maintain aggregate data of  
374 incidents of manual physical ~~manual or physical~~ restraint and  
375 ~~seclusion~~ and disaggregate the data for analysis by county,  
376 school, student exceptionality, and other variables, including  
377 the type and method of restraint ~~or seclusion~~ used. This

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378 information shall be updated monthly and made available to the  
379 public through the department's website no later than January  
380 31, 2016.

381 ~~(e)-(d)~~ The department shall establish standards for  
382 documenting, reporting, and monitoring the use of manual  
383 physical ~~manual or physical~~ restraint ~~or mechanical restraint,~~  
384 ~~and occurrences of seclusion.~~ These standards shall be provided  
385 to school districts ~~by October 1, 2011.~~

386 ~~(9)-(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

387 (a) Each school district shall develop policies and  
388 procedures that are consistent with this section and that govern  
389 the following:

390 1. Allowable use of manual physical restraint on students.

391 2. Personnel authorized to use manual physical restraint.

392 3. Training procedures.

393 ~~4.1.~~ Incident-reporting procedures.

394 ~~5.2.~~ Data collection and monitoring, including when, where,  
395 and why students are restrained and ~~or secluded;~~ the frequency  
396 of occurrences of such restraint ~~or seclusion;~~ and the ~~prone or~~  
397 ~~mechanical restraint that is most used.~~

398 ~~6.3.~~ Monitoring and reporting of data collected.

399 ~~7.4.~~ Training programs relating to manual physical ~~manual~~  
400 ~~or physical~~ restraint ~~and seclusion.~~

401 ~~8.5.~~ The district's plan for selecting personnel to be  
402 trained.

403 ~~9.6.~~ The district's plan for reducing the use of restraint  
404 ~~and seclusion~~ particularly in settings in which it occurs  
405 frequently or with students who are restrained repeatedly, ~~and~~  
406 ~~for reducing the use of prone restraint and mechanical~~

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407 ~~restraint~~. The plan must include a goal for reducing the use of  
 408 restraint ~~and seclusion~~ and must include activities, skills, and  
 409 resources needed to achieve that goal. Activities may include,  
 410 but are not limited to:

- 411 a. Additional training in positive behavioral support and
- 412 crisis management;
- 413 b. Parental involvement;
- 414 c. Data review;
- 415 d. Updates of students' functional behavioral analysis and
- 416 positive behavior intervention plans;
- 417 e. Additional student evaluations;
- 418 f. Debriefing with staff;
- 419 g. Use of schoolwide positive behavior support; and
- 420 h. Changes to the school environment.

421 10. Analysis of data to determine trends.

422 11. Ongoing reduction of the use of manual physical  
 423 restraint.

424 (b) Any revisions that a school district makes to its ~~to~~  
 425 ~~the district's~~ policies and procedures, which are ~~must be~~  
 426 prepared as part of the school district's ~~its~~ special policies  
 427 and procedures, must be filed with the bureau chief of the  
 428 Bureau of Exceptional Education and Student Services ~~no later~~  
 429 ~~than January 31, 2012.~~

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

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

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436 ~~rooms.~~

437 Section 2. This act shall take effect July 1, 2015.