

By Senator Stewart

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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 use, prevention, and reduction of restraint and
5 seclusion on students with disabilities; providing
6 definitions; providing a legislative finding;
7 providing requirements for the use of physical
8 restraint; prohibiting the use of physical restraint
9 by school personnel who are not certified to use
10 district-approved methods for applying restraint
11 techniques; prohibiting specified physical restraint
12 techniques; providing requirements for the use of
13 seclusion and time-out; providing requirements for
14 training and certification in the use of physical
15 restraint and seclusion; providing for student-
16 centered followup; providing requirements for
17 documenting, reporting, and monitoring the use of
18 physical restraint and seclusion; revising school
19 district policies and procedures relating to physical
20 restraint and seclusion; amending s. 1012.582, F.S.;
21 requiring continuing education and inservice training
22 for teaching students with emotional or behavioral
23 disabilities; conforming provisions; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 1003.573, Florida Statutes, is amended
29 to read:

30 1003.573 Use, prevention, and reduction of restraint and
31 seclusion on students with disabilities in public schools.-

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

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33 (a) "Behavioral protective equipment" means equipment used
34 by appropriately certified professionals to prevent external or
35 internal tissue damage caused by chronic self-injurious or self-
36 stimulatory behavior.

37 (b) "Department" means the Department of Education.

38 (c) "Mechanical restraint" means the use of a physical
39 device that restricts a student's body. The term includes the
40 use of straps, belts, tie-downs, calming blankets, mats, and
41 chairs with straps. However, the term does not include the use
42 of:

43 1. Medical protective equipment.

44 2. Behavioral protective equipment, including helmets,
45 gloves, wraps, and other devices that are used temporarily to
46 prevent severe tissue damage caused by behavioral excesses.

47 3. Physical equipment or orthopedic appliances, surgical
48 dressings or bandages, or supportive body bands or other
49 restraints necessary for ongoing medical treatment in the
50 educational setting.

51 4. Devices used to support functional body position or
52 proper balance, or to prevent a person from falling out of a bed
53 or a wheelchair, except when such a device is used for a purpose
54 other than supporting a body position or proper balance, such as
55 coercion, discipline, convenience, or retaliation, to prevent
56 imminent risk of serious injury or death of the student or
57 others, or for any other behavior management reason.

58 5. Equipment used for safety during transportation, such as
59 seatbelts or wheelchair tie-downs.

60 (d) "Medical protective equipment" means health-related
61 protective devices prescribed by a physician or dentist for use

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62 as student protection in response to an existing medical
63 condition.

64 (e) "Physical restraint" means the use of manual restraint
65 techniques that involve significant physical force applied by a
66 teacher or other staff member to restrict the movement of all or
67 part of a student's body.

68 (f) "Seclusion" means removing a student from an
69 educational environment, involuntarily confining the student
70 alone in a room or area, and preventing the student from leaving
71 the room or area if achieved by locking the door or otherwise
72 physically blocking the student's way, threatening physical
73 force or other consequences, or using physical force. The term
74 does not include the use of time-out.

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

76 (h) "Time-out" means a procedure in which access to varied
77 sources of reinforcement is removed or reduced for a particular
78 time period contingent on a response. In exclusionary time-out,
79 a student is contingently removed from the reinforcing
80 environment for a brief, stipulated duration. In nonexclusionary
81 time-out, a student remains in the environment, educational
82 activities are continued, and the reinforcer is contingently
83 removed for a brief, stipulated duration.

84 (2) LEGISLATIVE FINDING.—The Legislature finds that public
85 schools have a responsibility to treat each student with respect
86 and dignity in an environment that provides for the physical
87 safety and security of students and others.

88 (3) PHYSICAL RESTRAINT.—

89 (a) Physical restraint shall be used only to protect the
90 safety of students or others or prevent the destruction of

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91 property and may not be used for student discipline, to correct
92 student noncompliance, or for the convenience of school district
93 staff. Physical restraint shall be used only for the period
94 needed to provide such protection or prevent the destruction of
95 property.

96 (b) The degree of force applied during physical restraint
97 must be only that degree of force necessary to protect the
98 student or others from bodily injury.

99 (c) Physical restraint shall be used only by school
100 personnel who are certified to use the district-approved methods
101 for the appropriate application of specific restraint
102 techniques. School personnel who have received training that is
103 not associated with their employment with the school district,
104 such as a former law enforcement officer who is now a teacher,
105 shall be trained and certified in the specific district-approved
106 techniques and may not apply techniques or procedures acquired
107 elsewhere.

108 (d) School personnel may not use any of the following
109 physical restraint techniques on a student:

110 1. Pain inducement to obtain compliance.

111 2. Bone locks.

112 3. Hyperextension of joints.

113 4. Peer restraint.

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

116 6. Straddling or sitting on any part of the body or a
117 maneuver that places pressure, weight, or leverage on the neck
118 or throat, on an artery, or on the back of the student's head or
119 neck or that otherwise obstructs or restricts the circulation of

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120 blood or obstructs an airway.

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

123 8. A technique that involves pushing anything on or into
124 the student's mouth, nose, eyes, or any part of the face or that
125 involves covering the face or body with anything, including soft
126 objects such as pillows or washcloths.

127 9. A maneuver that involves punching, hitting, poking,
128 pinching, or shoving.

129 10. Water or lemon sprays.

130 (e) Prone restraint or mechanical restraint should be used
131 only when serious bodily injury or death of a student or others
132 is imminent.

133 (4) SECLUSION; TIME-OUT.-

134 (a) School personnel may only place a student in seclusion
135 when proper training and safeguards are in place. School
136 personnel may not close, lock, or physically block a student in
137 a room that is unlit and does not meet the rules of the State
138 Fire Marshal for seclusion time-out rooms.

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

141 1. The exclusionary time-out is part of a positive behavior
142 intervention plan developed for the student from a functional
143 behavioral assessment and referenced in the student's individual
144 education plan.

145 2. There is documentation that the exclusionary time-out
146 was preceded by the use of other positive behavioral supports
147 that were not effective.

148 3. The exclusionary time-out takes place in a classroom or

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149 in another environment where educational class activities are
150 available.

151 4. The student is observed on a constant basis by an adult
152 for the duration of the exclusionary time-out.

153 5. The exclusionary time-out area and process are free of
154 any action that is likely to embarrass or humiliate the student.

155 6. The exclusionary time-out area is not locked.
156

157 If exclusionary or nonexclusionary time-out is applied
158 frequently or for more than a brief duration, the school shall
159 review the student's functional behavioral assessment and
160 individualized behavior intervention plan. A time-out setting
161 may not be locked, and threats or excessive physical force may
162 not be used to implement time-out.

163 (5) CONDITIONS FOR RESTRAINT AND SECLUSION PROCEDURES;
164 TRAINING AND CERTIFICATION.—

165 (a) Each school district shall report its training and
166 certification procedures to the department by publishing the
167 procedures in the district's special policies and procedures
168 manual.

169 (b) Training for certification in the use of physical
170 restraint must include:

171 1. Techniques for serving students in a trauma-informed
172 environment.

173 2. Procedures for deescalating a problem behavior before
174 the behavior increases to a level or intensity necessitating
175 physical intervention.

176 3. Information regarding the risks associated with physical
177 restraint and seclusion and procedures for assessing individual

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178 situations and students to determine whether the use of physical
179 restraint or seclusion is appropriate and sufficiently safe.

180 4. The actual use of specific techniques that range from
181 the least to most restrictive, with ample opportunity for
182 trainees to demonstrate proficiency in the use of such
183 techniques.

184 5. Techniques for implementing physical restraint and
185 seclusion with multiple staff members working as a team.

186 6. Techniques for assisting a student in reentering the
187 instructional environment and reengaging in learning.

188 7. Instruction in the district's documentation and
189 reporting requirements.

190 8. Procedures to identify and deal with possible medical
191 emergencies arising during the use of physical restraint or
192 seclusion.

193 (c) Training completed in a training program that
194 emphasizes the use of prone restraint or mechanical restraint as
195 a primary technique for managing a crisis situation does not
196 satisfy the requirements of paragraph (b).

197 (d) Each school district shall provide refresher training
198 courses in physical restraint and seclusion techniques at least
199 annually to all staff members who have successfully completed
200 the training and certification program. The district must
201 identify those persons to be trained and maintain a record that
202 includes the name and position of the person trained and the
203 date of the person's most recent training.

204 (e) School district policies regarding the use of physical
205 restraint and seclusion must address whether it is appropriate
206 for an employee working in a specific setting, such as a school

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207 bus driver, school bus aide, job coach, employment specialist,
208 or cafeteria worker, to be trained and certified in physical
209 restraint and seclusion techniques.

210 (6) STUDENT-CENTERED FOLLOWUP.—If a student is physically
211 restrained or secluded more than twice during a semester, the
212 school shall review the student's functional behavioral
213 assessment and individualized behavior intervention plan.

214 (7) ~~(1)~~ DOCUMENTATION AND REPORTING.—

215 (a) At the beginning of each school year, a school district
216 shall publicly post its policies on all emergency procedures,
217 including its policies on the use of physical restraint and
218 seclusion.

219 (b) ~~(a)~~ A school shall prepare an incident report within 24
220 hours after a student is released from physical restraint or
221 seclusion. If the student's release occurs on a day before the
222 school closes for the weekend, a holiday, or another reason, the
223 incident report must be completed by the end of the school day
224 on the day the school reopens.

225 (c) ~~(b)~~ The following must be included in the incident
226 report:

227 1. The name of the student physically restrained or
228 secluded.

229 2. The age, grade, ethnicity, and disability of the student
230 restrained or secluded.

231 3. The date and time of the event and the duration of the
232 restraint or seclusion.

233 4. The location at which the restraint or seclusion
234 occurred.

235 5. A description of the type of restraint used in terms

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

237 6. The name of the person using or assisting in the
238 restraint or seclusion of the student.

239 7. The name of any nonstudent who was present to witness
240 the restraint or seclusion.

241 8. A description of the incident, including:

242 a. The context in which the restraint or seclusion
243 occurred.

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

248 c. The specific positive behavioral strategies used to
249 prevent and deescalate the behavior.

250 d. What occurred with the student immediately after the
251 termination of the restraint or seclusion.

252 e. Any injuries, visible marks, or possible medical
253 emergencies that may have occurred during the restraint or
254 seclusion, documented according to district policies.

255 f. Evidence of steps taken to notify the student's parent
256 or guardian.

257 (d) ~~(e)~~ A school shall notify the parent or guardian of a
258 student each time ~~manual or physical~~ restraint or seclusion is
259 used. Such notification must be in writing and provided before
260 the end of the school day on which the restraint or seclusion
261 occurs. Reasonable efforts must also be taken to notify the
262 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
263 these efforts must be documented. The school shall obtain, and
264 keep in its records, the parent's or guardian's signed

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265 acknowledgment that he or she was notified of his or her child's
266 restraint or seclusion.

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

273 (8)~~(2)~~ MONITORING.—

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

277 (b) Documentation prepared by a school pursuant to ~~as~~
278 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
279 principal, the district director of Exceptional Student
280 Education, and the bureau chief of the Bureau of Exceptional
281 Education and Student Services electronically each month that
282 the school is in session.

283 (c) The department shall maintain aggregate data of
284 incidents of ~~manual or~~ physical restraint and seclusion and
285 disaggregate the data for analysis by school district ~~county~~,
286 school of instruction, student exceptionality, and other
287 variables, including the type and method of restraint or
288 seclusion used. This information shall be updated monthly and
289 made available to the public through the department's website
290 beginning January 31, 2018.

291 (d) The department shall establish standards for
292 documenting, reporting, and monitoring the use of ~~manual or~~
293 physical restraint or mechanical restraint, and occurrences of

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294 seclusion. These standards shall be provided to school districts
295 ~~by October 1, 2011.~~

296 ~~(9)(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

297 (a) Each school district shall develop policies and
298 procedures that are consistent with this section and that govern
299 the following:

300 1. Allowable use of physical restraint or seclusion on
301 students.

302 2. Personnel authorized to use physical restraint or
303 seclusion.

304 3. Training procedures.

305 ~~4.1.~~ Incident-reporting procedures.

306 ~~5.2.~~ Data collection and monitoring, including when, where,
307 and why students are restrained or secluded; the frequency of
308 occurrences of such restraint or seclusion; and the prone or
309 mechanical restraint that is most used.

310 ~~6.3.~~ Monitoring and reporting of data collected.

311 ~~7.4.~~ Training programs relating to ~~manual or~~ physical
312 restraint and seclusion.

313 ~~8.5.~~ The district's plan for selecting personnel to be
314 trained.

315 ~~9.6.~~ The district's plan for reducing the use of restraint
316 and seclusion particularly in settings in which it occurs
317 frequently or with students who are restrained repeatedly, and
318 for reducing the use of prone restraint and mechanical
319 restraint. The plan must include a goal for reducing the use of
320 restraint and seclusion and must include activities, skills, and
321 resources needed to achieve that goal. Activities may include,
322 but are not limited to:

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- 323 a. Additional training in positive behavioral support and
 324 crisis management;
- 325 b. Parental involvement;
- 326 c. Data review;
- 327 d. Updates of students' functional behavioral analysis and
 328 positive behavior intervention plans;
- 329 e. Additional student evaluations;
- 330 f. Debriefing with staff;
- 331 g. Use of schoolwide positive behavioral ~~behavior~~ support;
- 332 and
- 333 h. Changes to the school environment.

334 10. Analysis of data to determine trends.

335 11. Ongoing reduction of the use of physical restraint and
 336 seclusion.

337 (b) Any revisions a school district makes to its ~~to the~~
 338 ~~district's~~ policies and procedures, which are ~~must be~~ prepared
 339 as part of the school district's ~~its~~ special policies and
 340 procedures, must be filed with the bureau chief of the Bureau of
 341 Exceptional Education and Student Services ~~no later than January~~
 342 ~~31, 2012.~~

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

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

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

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352 1012.582 Continuing education and inservice training for
353 teaching students with developmental and emotional or behavioral
354 disabilities.-

355 (1) The Commissioner of Education shall develop
356 recommendations to incorporate instruction regarding autism
357 spectrum disorder, Down syndrome, ~~and~~ other developmental
358 disabilities, and emotional or behavioral disabilities into
359 continuing education or inservice training requirements for
360 instructional personnel. These recommendations shall address:

361 (a) Early identification of, and intervention for, students
362 who have autism spectrum disorder, Down syndrome, ~~or~~ other
363 developmental disabilities, or emotional or behavioral
364 disabilities.

365 (b) Curriculum planning and curricular and instructional
366 modifications, adaptations, and specialized strategies and
367 techniques.

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

369 (d) The use of positive behavioral supports to deescalate
370 problem behaviors.

371 (e) Appropriate use of ~~manual~~ physical restraint and
372 seclusion techniques and effective classroom behavior management
373 strategies, including, but not limited to, differential
374 reinforcement, precision commands, minimizing attention or
375 access to other reinforcers, and time-out methods.

376 (2) In developing the recommendations, the commissioner
377 shall consult with the State Surgeon General, the Director of
378 the Agency for Persons with Disabilities, representatives from
379 the education community in the state, and representatives from
380 entities that promote awareness about autism spectrum disorder,

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381 Down syndrome, ~~and~~ other developmental disabilities, and
382 emotional or behavioral disabilities and provide programs and
383 services to persons with ~~developmental~~ disabilities, including,
384 but not limited to, regional autism centers pursuant to s.
385 1004.55.

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