

By Senator Book

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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 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 to changes made by the act; providing an
 20 effective date.

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

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

26 1003.573 Seclusion and Use of restraint of and seclusion on
 27 students with disabilities in public schools.-

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

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

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

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

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

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

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

50 1. "Mechanical restraint" means the use of a device that
51 restricts a student's freedom of movement. The term does not
52 include the use of any of the following:

53 a. Medical protective equipment.

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

57 c. Physical equipment or orthopedic appliances, surgical
58 dressings or bandages, or supportive body bands or other

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59 restraints necessary for ongoing medical treatment in the
60 educational setting.

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

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

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

74 (g) "Seclusion" means the removal of a student from an
75 educational environment, involuntarily confining the student in
76 a room or area, and preventing the student from leaving the area
77 by locking or artificially blocking the door. The term does not
78 include exclusionary time.

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

81 (2) PHYSICAL RESTRAINT.—

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

86 (b) Notwithstanding the authority provided in s. 1003.32,
87 physical restraint shall be used only to protect the safety of

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88 students, school personnel, or others and may not be used for
89 student discipline, to correct student noncompliance, or for the
90 convenience of school district staff. Physical restraint shall
91 be used only for the period needed to provide such protection.

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

95 (d) School personnel who have received training that is not
96 associated with their employment with the school district, such
97 as a former law enforcement officer who is now a teacher, shall
98 receive training in the specific district-approved techniques
99 and may not apply techniques or procedures acquired 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 type
114 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

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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 or
123 nonexclusionary time if all of the following conditions are met:

124 1. The exclusionary or nonexclusionary time is part of a
125 positive behavioral intervention plan developed for the student
126 from a functional behavioral assessment and referenced in the
127 student's individualized behavior intervention plan.

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

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

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

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

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

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

145 (c) Exclusionary or nonexclusionary time may not be used as

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146 a punishment or negative consequence of a student's behavior.

147 (4) TRAINING.—

148 (a) Each school district shall report its procedures for
149 training in the use of restraint to the department by publishing
150 the procedures in the district's special policies and procedures
151 manual.

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

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

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

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

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

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

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

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

173 8. Cardiopulmonary resuscitation.

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

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

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

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

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

184 (6)-(1) DOCUMENTATION AND REPORTING.-

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

188 (b)-(a) A school shall prepare an incident report within 24
189 hours after a student is released from restraint ~~or seclusion~~.

190 If the student's release occurs on a day before the school
191 closes for the weekend, a holiday, or another reason, the
192 incident report must be completed by the end of the school day
193 on the day the school reopens.

194 (c)-(b) The following must be included in the incident
195 report:

196 1. The name of the student restrained ~~or secluded~~.

197 2. The age, grade, ethnicity, and disability of the student
198 restrained ~~or secluded~~.

199 3. The date and time of the event and the duration of the
200 restraint ~~or seclusion~~.

201 4. The location at which the restraint ~~or seclusion~~
202 occurred.

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

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

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

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

210 8. A description of the incident, including all of the
211 following:

212 a. The context in which the restraint ~~or seclusion~~
213 occurred.

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

218 c. The specific positive behavioral strategies used to
219 prevent and deescalate the behavior.

220 d. What occurred with the student immediately after the
221 termination of the restraint ~~or seclusion~~.

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

225 f. Evidence of steps taken to notify the student's parent
226 or guardian.

227 (d) ~~(e)~~ A school shall notify the parent or guardian of a
228 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is
229 used. Such notification must be in writing and provided before
230 the end of the school day on which the restraint ~~or seclusion~~
231 occurs. Reasonable efforts must also be taken to notify the
232 parent or guardian by telephone or ~~computer~~ e-mail, or both, and

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233 these efforts must be documented. The school shall obtain, and
234 keep in its records, the parent's or guardian's signed
235 acknowledgment that he or she was notified of his or her child's
236 restraint ~~or seclusion~~.

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

243 (7) ~~(2)~~ MONITORING.—

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

247 (b) Any documentation prepared by a school pursuant to ~~as~~
248 ~~required in~~ subsection (6) ~~(1)~~ shall be provided to the school
249 principal, the district director of Exceptional Student
250 Education, and the bureau chief of the Bureau of Exceptional
251 Education and Student Services electronically each month that
252 the school is in session.

253 (c) The department shall maintain aggregate data of
254 incidents of ~~manual or physical~~ restraint ~~and seclusion~~ and
255 disaggregate the data for analysis by county, school, student
256 exceptionality, and other variables, including the type and
257 method of restraint ~~or seclusion~~ used. This information shall be
258 updated monthly and made available to the public through the
259 department's website beginning no later than October 1, 2018.

260 (d) The department shall establish standards for
261 documenting, reporting, and monitoring the use of ~~manual or~~

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262 ~~physical restraint or mechanical restraint, and occurrences of~~
263 ~~seclusion.~~ These standards shall be provided to school districts
264 ~~by October 1, 2011.~~

265 ~~(8)(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

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

273 1. A description of escalating behavioral strategies that
274 may be used.

275 2. Allowable use of restraint on students.

276 3. Training procedures.

277 ~~4.1.~~ Incident-reporting procedures.

278 ~~5.2.~~ Data collection and monitoring, including when, where,
279 and why students are restrained and or secluded; the frequency
280 of occurrences of such restraint ~~or seclusion~~; and the ~~prone or~~
281 ~~mechanical restraint that is most used.~~

282 ~~6.3.~~ Monitoring and reporting of data collected.

283 ~~7.4.~~ Training programs and procedures relating to ~~manual or~~
284 ~~physical restraint and seclusion.~~

285 ~~8.5.~~ The district's plan for selecting personnel to be
286 trained and the timeframe for completing such training pursuant
287 to subsection (4).

288 ~~9.6.~~ The district's plan for reducing the use of restraint,
289 ~~and seclusion~~ particularly in settings in which it occurs
290 frequently or with students who are restrained repeatedly, ~~and~~

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291 ~~for reducing the use of prone restraint and mechanical~~
 292 ~~restraint.~~ The plan must include a goal for reducing the use of
 293 ~~restraint and seclusion~~ and must include activities, skills, and
 294 resources needed to achieve that goal. Activities may include,
 295 but are not limited to, all of the following:

- 296 a. Additional training in positive behavioral support and
 297 crisis management.~~†~~
 298 b. Parental involvement.~~†~~
 299 c. Data review.~~†~~
 300 d. Updates of students' functional behavioral analysis and
 301 positive behavior intervention plans.~~†~~
 302 e. Additional student evaluations.~~†~~
 303 f. Debriefing with staff.~~†~~
 304 g. Use of schoolwide positive behavior support.~~†~~ and
 305 h. Changes to the school environment.
 306 10. Analysis of data to determine trends.
 307 11. Ongoing reduction of the use of restraint.

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

314 (9)-(4) PROHIBITED RESTRAINT.-School personnel may not use
 315 straitjackets or a mechanical restraint or a manual or physical
 316 restraint that restricts a student's breathing.

317 (10)-(5) SECLUSION.-School personnel may not place a student
 318 in seclusion ~~close, lock, or physically block a student in a~~
 319 ~~room that is unlit and does not meet the rules of the State Fire~~

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320 ~~Marshal for seclusion time-out rooms.~~

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

323 1012.582 Continuing education and inservice training for
324 teaching students with developmental and emotional or behavioral
325 disabilities.—

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

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

336 (b) Curriculum planning and curricular and instructional
337 modifications, adaptations, and specialized strategies and
338 techniques.

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

340 (d) The use of positive behavioral supports to deescalate
341 problem behaviors.

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

348 (2) In developing the recommendations, the commissioner

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

358 Section 3. This act shall take effect July 1, 2018.