

By the Committee on Education; and Senators Book, Flores, and Hukill

581-02903-18

2018260c1

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; defining terms; providing requirements
 6 for the use of restraint; prohibiting specified
 7 physical restraint techniques; providing requirements
 8 for the use of exclusionary and nonexclusionary time;
 9 providing requirements for school districts to report
 10 and publish training procedures; providing for
 11 student-centered followup; providing requirements for
 12 documenting, reporting, and monitoring the use of
 13 restraint and exclusionary or nonexclusionary time;
 14 revising school district policies and procedures
 15 relating to restraint; amending s. 1012.582, F.S.;
 16 requiring continuing education and inservice training
 17 for teaching students with emotional or behavioral
 18 disabilities; conforming provisions to changes made by
 19 the act; 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 on
 26 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

581-02903-18

2018260c1

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 includes,
51 but is not limited to, the use of straps, belts, tie-downs, and
52 chairs with straps; however, the term does not include the use
53 of any of the following:

54 a. Medical protective equipment.

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

581-02903-18

2018260c1

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

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

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

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

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

81 (h) "Student" means a student with a disability.

82 (2) PHYSICAL RESTRAINT.—

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

87 (b) Notwithstanding the authority provided in s. 1003.32,

581-02903-18

2018260c1

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

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

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

101 (e) School personnel may not use any of the following
102 physical restraint techniques on a student:

103 1. Pain inducement to obtain compliance.

104 2. Bone locks.

105 3. Hyperextension of joints.

106 4. Peer restraint.

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

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

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

116 8. A technique that involves spraying or pushing anything

581-02903-18

2018260c1

117 on or into the mouth, nose, eyes, or any part of the face or
118 that involves covering the face or body with anything, including
119 soft objects such as pillows or washcloths.

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

122 10. Prone or supine restraint.

123 (3) EXCLUSIONARY AND NONEXCLUSIONARY TIME.-

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

126 1. The exclusionary or nonexclusionary time is part of a
127 positive behavioral intervention plan developed for the student.

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

581-02903-18

2018260c1

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

581-02903-18

2018260c1

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.

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

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

197 1. The name of the student restrained or placed in
198 exclusionary or nonexclusionary time secluded.

199 2. The age, grade, ethnicity, and disability of the student
200 restrained or placed in exclusionary or nonexclusionary time
201 secluded.

202 3. The date and time of the event and the duration of the
203 restraint or exclusionary or nonexclusionary time seclusion.

581-02903-18

2018260c1

204 4. The location at which the restraint or exclusionary or
205 nonexclusionary time ~~seclusion~~ occurred.

206 5. If a restraint is used, a description of the type of
207 restraint used in terms established by the department ~~of~~
208 ~~Education~~.

209 6. The name of the person using or assisting in the
210 restraint of or imposition of exclusionary or nonexclusionary
211 time on ~~seclusion of~~ the student and the date the person was
212 last trained in the use of restraint on students.

213 7. The name of any nonstudent who was present to witness
214 the restraint or exclusionary or nonexclusionary time ~~seclusion~~.

215 8. A description of the incident, including all of the
216 following:

217 a. The context in which the restraint or exclusionary or
218 nonexclusionary time ~~seclusion~~ occurred.

219 b. The student's behavior leading up to and precipitating
220 the decision to use ~~manual or physical~~ restraint or exclusionary
221 or nonexclusionary time ~~seclusion~~, including an indication as to
222 why there was an imminent risk of serious injury or death to the
223 student or others if a student was subject to restraint.

224 c. The specific positive behavioral strategies used to
225 prevent and deescalate the behavior.

226 d. What occurred with the student immediately after the
227 termination of the restraint or exclusionary or nonexclusionary
228 time ~~seclusion~~.

229 e. Any injuries, visible marks, or possible medical
230 emergencies that may have occurred during the restraint or
231 exclusionary or nonexclusionary time ~~seclusion~~, documented
232 according to district policies.

581-02903-18

2018260c1

233 f. Evidence of steps taken to notify the student's parent
234 or guardian.

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

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

254 (7)~~(2)~~ MONITORING.—

255 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint
256 or exclusionary or nonexclusionary time seclusion on students
257 shall be monitored ~~occur~~ at the classroom, building, district,
258 and state levels.

259 (b) Any documentation prepared by a school pursuant to ~~as~~
260 ~~required in~~ subsection (6) ~~(1)~~ shall be provided to the school
261 principal, the district director of Exceptional Student

581-02903-18

2018260c1

262 Education, and the bureau chief of the Bureau of Exceptional
263 Education and Student Services electronically each month that
264 the school is in session. Redacted copies of such documentation
265 must be updated monthly and made available to the public through
266 the department's website no later than October 1, 2018.

267 (c) The department shall maintain aggregate data of
268 incidents of ~~manual or physical~~ restraint or exclusionary or
269 nonexclusionary time and ~~seclusion~~ and disaggregate the data for
270 analysis by county, school, student exceptionality, and other
271 variables, including the type and method of restraint or
272 exclusionary or nonexclusionary time ~~seclusion~~ used. This
273 information must ~~shall~~ be updated monthly and made available to
274 the public through the department's website beginning no later
275 than October 1, 2018.

276 (d) The department shall establish and provide to school
277 districts standards for documenting, reporting, and monitoring
278 the use of ~~manual or physical~~ restraint ~~or mechanical restraint~~,
279 and occurrences of exclusionary or nonexclusionary time
280 ~~seclusion~~. ~~These standards shall be provided to school districts~~
281 ~~by October 1, 2011.~~

282 (8)(3) SCHOOL DISTRICT POLICIES AND PROCEDURES REGARDING
283 RESTRAINT.—

284 (a) School districts shall develop policies and procedures
285 that provide for the physical safety and security of all
286 students and school personnel and which treat all students with
287 respect and dignity in an environment that promotes a positive
288 school culture and climate. Such ~~Each school district shall~~
289 ~~develop~~ policies and procedures must be ~~that are~~ consistent with
290 this section and must ~~that~~ govern the following:

581-02903-18

2018260c1

- 291 1. A description of escalating behavioral strategies that
292 may be used.
- 293 2. Allowable use of restraint on students.
- 294 3. Training procedures.
- 295 ~~4.1. Incident-reporting procedures.~~
- 296 ~~5.2. Data collection and monitoring, including when, where,~~
297 ~~and why students are restrained and ~~or secluded;~~ the frequency~~
298 ~~of occurrences of such restraint ~~or seclusion;~~ and the prone or~~
299 ~~mechanical restraint that is most used.~~
- 300 ~~6.3. Monitoring and reporting of data collected.~~
- 301 ~~7.4. Training programs and procedures relating to ~~manual or~~~~
302 ~~physical restraint and seclusion.~~
- 303 ~~8.5. The district's plan for selecting personnel to be~~
304 ~~trained and the timeframe for completing such training pursuant~~
305 ~~to subsection (4).~~
- 306 ~~9.6. The district's plan for reducing the use of restraint,~~
307 ~~and seclusion particularly in settings in which it occurs~~
308 ~~frequently or with students who are restrained repeatedly, and~~
309 ~~for reducing the use of prone restraint and mechanical~~
310 ~~restraint. The plan must include a goal for reducing the use of~~
311 ~~restraint and seclusion and must include activities, skills, and~~
312 ~~resources needed to achieve that goal. Activities may include,~~
313 ~~but are not limited to, all of the following:~~
- 314 a. Additional training in positive behavioral support and
315 crisis management.~~†~~
- 316 b. Parental involvement.~~†~~
- 317 c. Data review.~~†~~
- 318 d. Updates of students' functional behavioral analysis and
319 positive behavior intervention plans.~~†~~

581-02903-18

2018260c1

- 320 e. Additional student evaluations.†
 321 f. Debriefing with staff.†
 322 g. Use of schoolwide positive behavior support.† ~~and~~
 323 h. Changes to the school environment.
 324 10. Analysis of data to determine trends.
 325 11. Ongoing reduction of the use of restraint.

326 (b) Any revisions a school district makes to its ~~to the~~
 327 ~~district's~~ policies and procedures, which must be prepared as
 328 part of the school district's ~~its~~ special policies and
 329 procedures, must be filed with the bureau chief of the Bureau of
 330 Exceptional Education and Student Services ~~no later than January~~
 331 ~~31, 2012.~~

332 (9) ~~(4)~~ PROHIBITED RESTRAINT.—School personnel may not use a
 333 mechanical restraint or a ~~manual or physical~~ restraint that
 334 restricts a student's breathing.

335 (10) ~~(5)~~ SECLUSION.—School personnel may not place a student
 336 in seclusion ~~close, lock, or physically block a student in a~~
 337 ~~room that is unlit and does not meet the rules of the State Fire~~
 338 ~~Marshal for seclusion time-out rooms.~~

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

341 1012.582 Continuing education and inservice training for
 342 teaching students with developmental and emotional or behavioral
 343 disabilities.—

344 (1) The Commissioner of Education shall develop
 345 recommendations to incorporate instruction regarding autism
 346 spectrum disorder, Down syndrome, ~~and~~ other developmental
 347 disabilities, and emotional or behavioral disabilities into
 348 continuing education or inservice training requirements for

581-02903-18

2018260c1

349 instructional personnel. These recommendations shall address:

350 (a) Early identification of, and intervention for, students
351 who have autism spectrum disorder, Down syndrome, ~~or~~ other
352 developmental disabilities, or emotional or behavioral
353 disabilities.

354 (b) Curriculum planning and curricular and instructional
355 modifications, adaptations, and specialized strategies and
356 techniques.

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

358 (d) The use of positive behavioral supports to deescalate
359 problem behaviors.

360 (e) Appropriate use of ~~manual~~ physical restraint and
361 effective classroom behavior management strategies, including,
362 but not limited to, differential reinforcement, precision
363 commands, minimizing attention or access to other reinforcers,
364 and exclusionary and nonexclusionary time methods ~~seclusion~~
365 ~~techniques~~.

366 (2) In developing the recommendations, the commissioner
367 shall consult with the State Surgeon General, the Director of
368 the Agency for Persons with Disabilities, representatives from
369 the education community in the state, and representatives from
370 entities that promote awareness about autism spectrum disorder,
371 Down syndrome, ~~and~~ other developmental disabilities, and
372 emotional or behavioral disabilities and provide programs and
373 services to persons with ~~developmental~~ disabilities, including,
374 but not limited to, regional autism centers pursuant to s.
375 1004.55.

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