

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.; defining
4 terms; providing requirements for the use of physical
5 restraint; prohibiting specified physical restraint
6 techniques; providing requirements for the use of
7 exclusionary and nonexclusionary time; providing
8 requirements for school districts to report and
9 publish training procedures; providing for student-
10 centered followup; providing requirements for
11 documenting, reporting, and monitoring the use of
12 restraint and exclusionary or nonexclusionary time;
13 revising school district policies and procedures
14 relating to restraint; prohibiting the use of
15 seclusion; amending s. 1012.582, F.S.; requiring
16 continuing education and inservice training for
17 instructional personnel in 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) "Exclusionary time" means the period during which a

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30 student is removed from an event, activity, or instructional
31 environment to encourage reflection on his or her behavior and
32 allow space and time for understanding of choices and
33 consequences.

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

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

55 a. Medical protective equipment.

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

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59 excesses.

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

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

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

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

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

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

83 (2) PHYSICAL RESTRAINT.—

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

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88 (b) Notwithstanding the authority provided in s. 1003.32,
89 physical restraint may be used only to protect the safety of
90 students, school personnel, or others and may not be used for
91 student discipline, to correct student noncompliance, or for the
92 convenience of school district staff. Physical restraint may
93 only be used for the period needed to provide such protection.

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

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

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

104 1. Pain inducement to obtain compliance.

105 2. Bone locks.

106 3. Hyperextension of joints.

107 4. Peer restraint.

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

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

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

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

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

123 10. Prone or supine restraint.

124 (3) EXCLUSIONARY AND NONEXCLUSIONARY TIME.-

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

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

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

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

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

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

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

142 (b) Exclusionary or nonexclusionary time may be used for a
143 period of up to 1 minute for each year of a student's age or
144 until the student is calm enough to return to his or her seat,
145 whichever is shorter.

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146 (c) Exclusionary or nonexclusionary time may not be used as
147 a punishment for or negative consequence of a student's
148 behavior.

149 (4) TRAINING.—

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

154 (b) Training in the use of restraint must include all of
155 the following:

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

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

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

167 4. Techniques for implementing restraint with multiple
168 staff members working as a team.

169 5. Techniques for assisting a student in reentering the
170 instructional environment and reengaging in learning.

171 6. Instruction in the district's documentation and
172 reporting requirements.

173 7. Procedures for identifying and dealing with possible
174 medical emergencies arising during the use of restraint.

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175 8. Cardiopulmonary resuscitation.

176 (5) STUDENT-CENTERED FOLLOWUP.—If a student is restrained
177 more than twice during a semester, the school must conduct a
178 review of each of the following:

179 (a) The incidents in which restraint was used and an
180 analysis of how future incidents may be avoided.

181 (b) The student's functional behavioral assessment and
182 positive behavioral intervention plan by the school personnel
183 and parent within 2 weeks before the end of the semester.

184 (c) The training provided to school personnel concerning
185 the use of restraint.

186 (6) ~~(1)~~ DOCUMENTATION AND REPORTING.—

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

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

197 (c) ~~(b)~~ The following must be included in the incident
198 report:

199 1. The name of the student restrained or placed in
200 exclusionary or nonexclusionary time ~~secluded~~.

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

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204 3. The date and time of the event and the duration of the
205 restraint or exclusionary or nonexclusionary time ~~seclusion~~.

206 4. The location at which the restraint or exclusionary or
207 nonexclusionary time ~~seclusion~~ occurred.

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

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

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

217 8. A description of the incident, including all of the
218 following:

219 a. The context in which the restraint or exclusionary or
220 nonexclusionary time ~~seclusion~~ occurred.

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

226 c. The specific positive behavioral strategies used to
227 prevent and deescalate the behavior.

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

231 e. Any injuries, visible marks, or possible medical
232 emergencies that may have occurred during the restraint or

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233 exclusionary or nonexclusionary time seclusion, documented
234 according to district policies.

235 f. Evidence of steps taken to notify the student's parent
236 or guardian.

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

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

256 (7)~~(2)~~ MONITORING.—

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

261 (b) Any documentation prepared by a school pursuant to as

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262 ~~required in~~ subsection (6) ~~(1)~~ shall be provided to the school
263 principal, the district director of Exceptional Student
264 Education, and the bureau chief of the Bureau of Exceptional
265 Education and Student Services electronically each month that
266 the school is in session. Redacted copies of such documentation
267 must be updated monthly and made available to the public through
268 the department's website no later than October 1, 2019.

269 (c) The department shall maintain aggregate data of
270 incidents of ~~manual or physical~~ restraint or exclusionary or
271 nonexclusionary time and seclusion and disaggregate the data for
272 analysis by county, school, student exceptionality, and other
273 variables, including the type and method of restraint or
274 exclusionary or nonexclusionary time seclusion used. This
275 information must shall be updated monthly and made available to
276 the public through the department's website beginning no later
277 than October 1, 2019.

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

284 (8) ~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES REGARDING
285 RESTRAINT.—

286 (a) School districts shall develop policies and procedures
287 that provide for the physical safety and security of all
288 students and school personnel and treat all students with
289 respect and dignity in an environment that promotes a positive
290 school culture and climate. Such ~~Each school district shall~~

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291 ~~develop~~ policies and procedures must be ~~that are~~ consistent with
 292 this section and must ~~that~~ govern the following:

293 1. A description of escalating behavioral strategies that
 294 may be used.

295 2. Allowable use of restraint on students.

296 3. Training procedures.

297 4.1. Incident-reporting procedures.

298 5.2. Data collection and monitoring, including when, where,
 299 and why students are restrained and ~~or secluded,~~ the frequency
 300 of occurrences of such restraint ~~or seclusion;~~ and ~~the prone or~~
 301 ~~mechanical restraint that is most used.~~

302 6.3. Monitoring and reporting of data collected.

303 7.4. Training programs and procedures relating to ~~manual or~~
 304 ~~physical~~ restraint ~~and seclusion.~~

305 8.5. The district's plan for selecting personnel to be
 306 trained and the timeframe for completing such training pursuant
 307 to subsection (4).

308 9.6. The district's plan for reducing the use of restraint,
 309 ~~and seclusion~~ particularly in settings in which it occurs
 310 frequently or with students who are restrained repeatedly, ~~and~~
 311 ~~for reducing the use of prone restraint and mechanical~~
 312 ~~restraint.~~ The plan must include a goal for reducing the use of
 313 restraint ~~and seclusion~~ and must include activities, skills, and
 314 resources needed to achieve that goal. Activities may include,
 315 but are not limited to, all of the following:

316 a. Additional training in positive behavioral support and
 317 crisis management. ~~†~~

318 b. Parental involvement. ~~†~~

319 c. Data review. ~~†~~

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320 d. Updates of students' functional behavioral analysis and
321 positive behavior intervention plans.~~†~~

322 e. Additional student evaluations.~~†~~

323 f. Debriefing with staff.~~†~~

324 g. Use of schoolwide positive behavior support.~~†~~ ~~and~~

325 h. Changes to the school environment.

326 10. Analysis of data to determine trends.

327 11. Ongoing reduction of the use of restraint.

328 (b) Any revisions a school district makes to its ~~to the~~
329 ~~district's~~ policies and procedures, which must be prepared as
330 part of the school district's ~~its~~ special policies and
331 procedures, must be filed with the bureau chief of the Bureau of
332 Exceptional Education and Student Services ~~no later than January~~
333 ~~31, 2012.~~

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

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

341 Section 2. Section 1012.582, Florida Statutes, is amended
342 to read:

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

346 (1) The Commissioner of Education shall develop
347 recommendations to incorporate instruction regarding autism
348 spectrum disorder, Down syndrome, ~~and~~ other developmental

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349 disabilities, and emotional or behavioral disabilities into
350 continuing education or inservice training requirements for
351 instructional personnel. These recommendations must ~~shall~~
352 address:

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

357 (b) Curriculum planning and curricular and instructional
358 modifications, adaptations, and specialized strategies and
359 techniques.

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

361 (d) The use of positive behavioral supports to deescalate
362 problem behaviors.

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

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

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378 1004.55.

379 (3) Beginning with the 2010-2011 school year, the
380 Department of Education shall incorporate the course curricula
381 recommended by the Commissioner of Education, pursuant to
382 subsection (1), into existing requirements for the continuing
383 education or inservice training of instructional personnel. The
384 requirements of this section may not add to the total hours
385 required for continuing education or inservice training as
386 currently established by the department.

387 (4) The State Board of Education may adopt rules pursuant
388 to ss. 120.536(1) and 120.54 to implement this section.

389 Section 3. This act shall take effect July 1, 2019.