

1 A bill to be entitled
2 An act relating to students with disabilities in
3 public schools; amending s. 1003.573, F.S.; providing
4 definitions; requiring school districts to prohibit
5 the use of seclusion; providing requirements for the
6 use of restraint; prohibiting specified restraint
7 techniques; revising school district policies and
8 procedures relating to restraint; requiring school
9 districts to adopt positive behavior interventions and
10 supports and certain policies and procedures;
11 requiring school districts to publicly post specified
12 policies and procedures; requiring school districts to
13 provide training on certain interventions and supports
14 to specified personnel; providing requirements for
15 such training; requiring school districts to publish
16 training procedures; requiring a school to develop a
17 crisis intervention plan for certain students;
18 providing requirements for such plans; providing
19 requirements for documenting, reporting, and
20 monitoring the use of restraint; conforming provisions
21 to changes made by the act; requiring the department
22 to make certain information available to the public by
23 a specified date; creating s. 1003.574, F.S.; creating
24 the Video Cameras in Public School Classrooms Pilot
25 Program; providing definitions; requiring a video

26 camera be placed in specified classrooms upon the
27 request of a parent; requiring a video camera to be
28 operational within a specified time period; providing
29 requirements for the discontinuation of such video
30 cameras; providing requirements for such video
31 cameras; requiring a written explanation if the
32 operation of such cameras is interrupted; requiring
33 district school boards to maintain such explanation
34 for a specified time period; requiring a school to
35 provide written notice of the placement of a video
36 camera to certain individuals; providing requirements
37 for retaining and deleting video recordings; providing
38 prohibitions for the use of such video cameras and
39 recordings; providing that a school principal is the
40 custodian of such video cameras and recordings;
41 providing requirements for school principals and video
42 recordings; providing requirements relating to student
43 privacy; providing requirements for the viewing of
44 such video recordings; providing for an appeal process
45 for actions of a school or school district; providing
46 that incidental viewings of video recordings by
47 specified individuals are not a violation of certain
48 provisions; providing construction; requiring the
49 Department of Education to collect specified
50 information; authorizing the State Board of Education

51 to adopt rules; amending s. 1012.582, F.S.; requiring
 52 continuing education and inservice training for
 53 teaching students with emotional or behavioral
 54 disabilities; conforming provisions to changes made by
 55 the act; providing an effective date.

56
 57 Be It Enacted by the Legislature of the State of Florida:

58
 59 Section 1. Section 1003.573, Florida Statutes, is amended
 60 to read:

61 1003.573 Seclusion and Use of restraint of and seclusion
 62 ~~on~~ students with disabilities in public schools.-

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

64 (a) "Crisis Intervention Plan" means an individualized
 65 action plan for school personnel to implement when a student
 66 exhibits dangerous behavior that may lead to imminent risk of
 67 serious injury.

68 (b) "Imminent risk of serious injury" means the threat
 69 posed by dangerous behavior that may cause serious physical harm
 70 to self or others.

71 (c) "Restraint" means the use of a mechanical or physical
 72 restraint.

73 1. "Mechanical restraint" means the use of a device that
 74 restricts a student's freedom of movement. The term does not
 75 include the use of devices prescribed or recommended by physical

76 | or behavioral health professionals when used for indicated
77 | purposes.

78 | 2. "Physical restraint" means the use of manual restraint
79 | techniques that involve significant physical force applied by a
80 | teacher or other staff member to restrict the movement of all or
81 | part of a student's body. The term does not include briefly
82 | holding a student in order to calm or comfort the student or
83 | physically escorting a student to a safe location.

84 | (d) "Positive behavior interventions and supports" means
85 | the use of behavioral interventions to prevent dangerous
86 | behaviors that may cause serious physical harm to the student or
87 | others.

88 | (e) "Seclusion" means the involuntary confinement of a
89 | student in a room or area alone and preventing the student from
90 | leaving the room or area. The term does not include time-out
91 | used as a behavior management technique intended to calm a
92 | student.

93 | (f) "Student" means a child with an individual education
94 | plan enrolled in grades kindergarten through 12 in a school, as
95 | defined in s. 1003.01(2), or the Florida School for the Deaf and
96 | Blind. The term does not include students in prekindergarten,
97 | students who reside in residential care facilities under s.
98 | 1003.58, or students participating in a Department of Juvenile
99 | Justice education program under s. 1003.53.

100 | (2) SECLUSION.—Each school district shall prohibit school

101 personnel from using seclusion.

102 (3) RESTRAINT.—

103 (a) Authorized school personnel may use restraint only
 104 when all positive behavior interventions and supports have been
 105 exhausted. Restraint may be used only when there is an imminent
 106 risk of serious injury and shall be discontinued as soon as the
 107 threat posed by the dangerous behavior has dissipated.

108 Straightjackets, zip ties, handcuffs, or tie-downs may not be
 109 used to obstruct or restrict breathing or blood flow. Restraint
 110 techniques may not be used to inflict pain to induce compliance.

111 (b) Notwithstanding the authority provided in s. 1003.32,
 112 restraint shall be used only to protect the safety of students,
 113 school personnel, or others and may not be used for student
 114 discipline or to correct student noncompliance.

115 (c) The degree of force applied during physical restraint
 116 must be only that degree of force necessary to protect the
 117 student or others from imminent risk of serious injury.

118 (4)~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

119 (a) Each school district shall adopt positive behavior
 120 interventions and supports and identify all school personnel
 121 authorized to use the interventions and supports. Each school
 122 district shall develop policies and procedures ~~that are~~
 123 consistent with this section and that govern the following:

- 124 1. Incident-reporting procedures.
- 125 2. Data collection and monitoring, including when, where,

126 and why students are restrained and ~~or secluded~~; the frequency
 127 of occurrences of such restraint ~~or seclusion~~; and the prone or
 128 ~~mechanical restraint that is most used.~~

129 3. Monitoring and reporting of data collected.

130 4. Training programs and procedures relating to ~~manual or~~
 131 ~~physical~~ restraint as described in subsection (3) ~~and seclusion.~~

132 5. The district's plan for selecting personnel to be
 133 trained pursuant to this subsection.

134 6. The district's plan for reducing the use of restraint,
 135 ~~and seclusion~~ particularly in settings in which it occurs
 136 frequently or with students who are restrained repeatedly, ~~and~~
 137 ~~for reducing the use of prone restraint and mechanical~~
 138 ~~restraint.~~ The plan must include a goal for reducing the use of
 139 restraint ~~and seclusion~~ and must include activities, skills, and
 140 resources needed to achieve that goal. Activities may include,
 141 but are not limited to:

142 a. Additional training in positive behavior interventions
 143 and supports. ~~behavioral support and crisis management;~~

144 b. Parental involvement. ~~;~~

145 c. Data review. ~~;~~

146 d. Updates of students' functional behavioral analysis and
 147 positive behavior intervention plans. ~~;~~

148 e. Additional student evaluations. ~~;~~

149 f. Debriefing with staff. ~~;~~

150 g. Use of schoolwide positive behavior support. ~~;~~ ~~and~~

151 h. Changes to the school environment.

152 i. Analysis of data to determine trends.

153 j. Ongoing reduction of the use of restraint.

154 (b) Any revisions a school district makes to its ~~to the~~
155 ~~district's~~ policies and procedures pursuant to this section,
156 ~~which must be prepared as part of its special policies and~~
157 ~~procedures,~~ must be filed with the bureau chief of the Bureau of
158 Exceptional Education and Student Services within 90 days after
159 the revision ~~no later than January 31, 2012.~~

160 (c) At the beginning of each school year, each school
161 district shall publicly post its policies and procedures on
162 positive behavior interventions and supports as adopted by the
163 school district.

164 (5) TRAINING.—Each school district shall provide training
165 to all school personnel authorized to use positive behavior
166 interventions and supports pursuant to school district policy.
167 Training shall be provided annually and must include:

168 (a) The use of positive behavior interventions and
169 supports.

170 (b) Risk assessment procedures to identify when restraint
171 may be used.

172 (c) Examples of when positive behavior interventions and
173 support techniques have failed to reduce the imminent risk of
174 serious injury.

175 (d) Examples of safe and appropriate restraint techniques
176 and how to use these techniques with multiple staff members
177 working as a team.

178 (e) Instruction in the district's documentation and
179 reporting requirements.

180 (f) Procedures to identify and deal with possible medical
181 emergencies arising during the use of restraint.

182 (g) Cardiopulmonary resuscitation.

183
184 Each school district shall publish the procedures for the
185 training required under this subsection in the district's
186 special policies and procedures manual.

187 (6) Crisis intervention plan.—

188 (a) Upon the second time a student is restrained during a
189 semester, the school shall develop a crisis intervention plan
190 for the student. The crisis intervention plan shall be developed
191 by a team comprised of the student's parent, school personnel,
192 and applicable physical and behavioral health professionals.

193 (b) The crisis intervention plan must include:

194 1. Specific positive behavior interventions and supports
195 to use in response to dangerous behaviors that create a threat
196 of imminent risk of serious injury.

197 2. Known physical and behavioral health concerns that will
198 limit the use of restraint for the student.

199 3. A timetable for the review and, if necessary, revision

200 of the crisis intervention plan.

201 (c) The school must provide a copy of the crisis
 202 intervention plan to the student's parent.

203 (7)(1) DOCUMENTATION AND REPORTING.—

204 (a) A school shall prepare an incident report within 24
 205 hours after a student is released from restraint ~~or seclusion~~.
 206 If the student's release occurs on a day before the school
 207 closes for the weekend, a holiday, or another reason, the
 208 incident report must be completed by the end of the school day
 209 on the day the school reopens.

210 (b) The following must be included in the incident report:

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

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

214 3. The date and time of the event and the duration of the
 215 restraint ~~or seclusion~~.

216 4. The location at which the restraint ~~or seclusion~~
 217 occurred.

218 5. A description of the type of restraint used in terms
 219 established by the department ~~of Education~~.

220 6. The name of the person using or assisting in the
 221 restraint ~~or seclusion~~ of the student and the date the person
 222 was last trained in the use of positive behavior interventions
 223 and supports.

224 7. The name of any nonstudent who was present to witness

225 | the restraint ~~or seclusion~~.

226 | 8. A description of the incident, including all of the
227 | following:

228 | a. The context in which the restraint ~~or seclusion~~
229 | occurred.

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

234 | c. The ~~specific~~ positive behavior interventions and
235 | supports ~~behavioral strategies~~ used to prevent and deescalate
236 | the behavior.

237 | d. What occurred with the student immediately after the
238 | termination of the restraint ~~or seclusion~~.

239 | e. Any injuries, visible marks, or possible medical
240 | emergencies that may have occurred during the restraint ~~or~~
241 | ~~seclusion~~, documented according to district policies.

242 | f. Evidence of steps taken to notify the student's parent
243 | or guardian.

244 | g. The date the crisis intervention plan was last reviewed
245 | and whether changes were recommended.

246 | (c) A school shall notify the parent or guardian of a
247 | student each time ~~manual or physical~~ restraint ~~or seclusion~~ is
248 | used. Such notification must be in writing and provided before
249 | the end of the school day on which the restraint ~~or seclusion~~

250 occurs. Reasonable efforts must also be taken to notify the
 251 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
 252 these efforts must be documented. The school shall obtain, and
 253 keep in its records, the parent's or guardian's signed
 254 acknowledgment that he or she was notified of his or her child's
 255 restraint ~~or seclusion~~.

256 (d) A school shall also provide the parent or guardian
 257 with the completed incident report in writing by mail within 3
 258 school days after a student was ~~manually or physically~~
 259 restrained ~~or secluded~~. The school shall obtain, and keep in its
 260 records, the parent's or guardian's signed acknowledgment that
 261 he or she received a copy of the incident report.

262 (8) ~~(2)~~ MONITORING.—

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

266 (b) Any documentation prepared by a school pursuant to as
 267 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
 268 principal, the district director of Exceptional Student
 269 Education, and the bureau chief of the Bureau of Exceptional
 270 Education and Student Services electronically each month that
 271 the school is in session.

272 (c) The department shall maintain aggregate data of
 273 incidents of ~~manual or physical~~ restraint ~~and seclusion~~ and
 274 disaggregate the data for analysis by county, school, student

275 | exceptional, and other variables, including the type and
276 | method of restraint ~~or seclusion~~ used. This information shall be
277 | updated monthly, de-identified, and made available to the public
278 | through the department's website no later than October 1, 2020.

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

284 | ~~(4) PROHIBITED RESTRAINT. School personnel may not use a~~
285 | ~~mechanical restraint or a manual or physical restraint that~~
286 | ~~restricts a student's breathing.~~

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

291 | Section 2. Section 1003.574, Florida Statutes, is created
292 | to read:

293 | 1003.574 Video cameras in public school classrooms; pilot
294 | program.—Beginning with the 2020-2021 school year, the Video
295 | Cameras in Public School Classrooms Pilot Program is created for
296 | a period of 3 school years.

297 | (1) As used in this section, the term:

298 | (a) "Incident" means an event, a circumstance, an act, or
299 | an omission that results in the abuse or neglect of a student

300 by:

301 1. An employee of a public school or school district; or

302 2. Another student.

303 (b) "School district" means the Broward County Public
304 Schools and the Volusia County Schools.

305 (c) "Self-contained classroom" means a classroom at a
306 public school in which a majority of the students in regular
307 attendance are provided special education services and are
308 assigned to one or more such classrooms for at least 50 percent
309 of the instructional day.

310 (2) (a) A school district shall provide a video camera to
311 any school with a self-contained classroom upon the written
312 request of a parent of a student in the classroom.

313 (b) Within 30 days after receipt of the request from a
314 parent, a video camera shall be operational in each self-
315 contained classroom in which the parent's student is in regular
316 attendance for the remainder of the school year, unless the
317 parent withdraws his or her request in writing.

318 (3) If the student who is the subject of the initial
319 request is no longer in attendance in the classroom and a school
320 discontinues operation of a video camera during a school year,
321 no later than the 5th school day before the date the operation
322 of the video camera is discontinued, the school must notify the
323 parents of each student in regular attendance in the classroom
324 that operation of the video camera will cease unless the

325 continued use of the camera is requested by a parent. No later
326 than the 10th school day before the end of each school year, the
327 school must notify the parents of each student in regular
328 attendance in the classroom that operation of the video camera
329 will not continue during the following school year unless a
330 written request is submitted by a parent for the next school
331 year.

332 (4) (a) A video camera placed in a self-contained classroom
333 must be capable of all of the following:

334 1. Monitoring all areas of the self-contained classroom,
335 including, without limitation, any room attached to the self-
336 contained classroom which is used for other purposes.

337 2. Recording audio from all areas of the self-contained
338 classroom, including, without limitation, any room attached to
339 the self-contained classroom which is used for other purposes.

340 (b) A video camera placed in a self-contained classroom
341 may not monitor a restroom or any other area in the self-
342 contained classroom where a student changes his or her clothes,
343 except for the entryway, exitway, or hallway outside a restroom
344 or other area where a student changes his or her clothes because
345 of the layout of the self-contained classroom.

346 (c) A video camera placed in a self-contained classroom is
347 not required to be in operation when students are not present in
348 the self-contained classroom.

349 (d) If there is an interruption in the operation of the

350 video camera for any reason, an explanation must be submitted in
351 writing to the school principal and the district school board
352 which explains the reason for and duration of the interruption.
353 The written explanation must be maintained at the district
354 school board office for at least 1 year.

355 (5) Before a school initially places a video camera in a
356 self-contained classroom pursuant to this section, the school
357 shall provide written notice of the placement of such video
358 camera to all of the following:

359 (a) The parent of each student who is assigned to the
360 self-contained classroom.

361 (b) Each student who is assigned to the self-contained
362 classroom.

363 (c) The school district.

364 (d) Each school employee who is assigned to work with one
365 or more students in the self-contained classroom.

366 (6) A school shall:

367 (a) Retain video recorded from a video camera placed
368 pursuant to this section for at least 3 months after the date
369 the video was recorded, after which the recording shall be
370 deleted or otherwise made unretrievable; or

371 (b) Retain the recording until the conclusion of any
372 investigation or any administrative or legal proceedings that
373 result from the recording have been completed, including,
374 without limitation, the exhaustion of all appeals.

375 (7) A school or school district may not:
 376 (a) Allow regular, continuous, or continual monitoring of
 377 video recorded under this section; or

378 (b) Use video recorded under this section for teacher
 379 evaluations or any purpose other than for ensuring the health,
 380 safety, and well-being of students receiving special education
 381 services in a self-contained classroom.

382 (8) The principal of the school is the custodian of a
 383 video camera operated pursuant to this section, all recordings
 384 generated by that video camera, and access to such recordings.

385 (a) The release or viewing of any video recording under
 386 this section must comply with s. 1002.22.

387 (b) A school or school district shall:

388 1. Conceal the identity of any student who appears in a
 389 video recording, but is not involved in the alleged incident
 390 documented by the video recording, which the school allows to be
 391 viewed under subsection (9), including, without limitation,
 392 blurring the face of the uninvolved student.

393 2. Protect the confidentiality of all student records
 394 contained in a video recording in accordance with s. 1002.22.

395 (9) (a) Within 7 days after receiving a request to view a
 396 video recording, a school or school district shall allow the
 397 following individuals to view a video recording made under this
 398 section:

399 1. A school or school district employee who is involved in

400 an alleged incident that is documented by the video recording as
401 part of the investigative process;

402 2. A parent of a student who is involved in an alleged
403 incident that is documented by the video recording and has been
404 reported to the school or school district;

405 3. A school or school district employee as part of an
406 investigation into an alleged incident that is documented by the
407 video recording and has been reported to the school or school
408 district;

409 4. A law enforcement officer as part of an investigation
410 into an alleged incident that is documented by the video
411 recording and has been reported to the law enforcement agency;
412 or

413 5. The Department of Children and Families as part of a
414 child abuse or neglect investigation.

415 (b) A person who requests to view a recording shall make
416 himself or herself available for viewing the recording within 30
417 days after being notified by the school or school district that
418 the person's request has been granted.

419 (c) A person who views the recording and suspects that
420 child abuse has occurred must report the suspected child abuse
421 to the Department of Children and Families.

422 (10) (a) Any individual may appeal to the State Board of
423 Education an action by a school or school district which the
424 individual alleges to be in violation of this section.

425 (b) The state board shall grant a hearing on an appeal
426 under this subsection within 45 days after receiving the appeal.

427 (11) A school or school district does not violate
428 subsection (8) if a contractor or other employee of the school
429 or school district incidentally views a video recording made
430 under this section in connection with the performance of his or
431 her duties related to either of the following:

432 (a) The installation, operation, or maintenance of video
433 equipment; or

434 (b) The retention of video recordings.

435 (12) This section does not:

436 (a) Limit the access of the parent of a student, under the
437 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.
438 1232g, or any other law, to a video recording regarding his or
439 her student.

440 (b) Waive any immunity from liability of a school district
441 or an employee of a school district.

442 (c) Create any liability for a cause of action against a
443 school or school district or an employee of a school or school
444 district carrying out the duties and responsibilities required
445 by this section.

446 (d) Apply to self-contained classrooms in which the only
447 students receiving special education services are those who have
448 been deemed gifted.

449 (13) The department shall collect information relating to

450 the installation and maintenance of video cameras under this
 451 section.

452 (14) The State Board of Education may adopt rules to
 453 implement this section.

454 Section 3. Subsections (1) and (2) of section 1012.582,
 455 Florida Statutes, are amended to read:

456 1012.582 Continuing education and inservice training for
 457 teaching students with developmental and emotional or behavioral
 458 disabilities.—

459 (1) The Commissioner of Education shall develop
 460 recommendations to incorporate instruction regarding autism
 461 spectrum disorder, Down syndrome, ~~and~~ other developmental
 462 disabilities, and emotional or behavioral disabilities into
 463 continuing education or inservice training requirements for
 464 instructional personnel. These recommendations shall address:

465 (a) Early identification of, and intervention for,
 466 students who have autism spectrum disorder, Down syndrome, ~~or~~
 467 other developmental disabilities, or emotional or behavioral
 468 disabilities.

469 (b) Curriculum planning and curricular and instructional
 470 modifications, adaptations, and specialized strategies and
 471 techniques.

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

473 (d) The use of positive behavior interventions and
 474 ~~behavioral~~ supports to deescalate problem behaviors.

475 (e) The ~~Appropriate~~ use of ~~manual physical~~ restraint and
476 ~~seclusion~~ techniques, positive behavior interventions and
477 supports, and effective classroom behavior management
478 strategies.

479 (2) In developing the recommendations, the commissioner
480 shall consult with the State Surgeon General, the Director of
481 the Agency for Persons with Disabilities, representatives from
482 the education community in the state, and representatives from
483 entities that promote awareness about autism spectrum disorder,
484 Down syndrome, ~~and~~ other developmental disabilities, and
485 emotional or behavioral disabilities and provide programs and
486 services to persons with ~~developmental~~ disabilities, including,
487 but not limited to, regional autism centers pursuant to s.
488 1004.55.

489 Section 4. This act shall take effect July 1, 2020.