

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; requiring school districts to prohibit the use
5 of seclusion on students with disabilities in public
6 schools; providing requirements for the use of
7 restraint; prohibiting specified restraint techniques;
8 revising school district policies and procedures
9 relating to restraint; requiring school districts to
10 adopt positive behavior interventions and supports and
11 certain policies and procedures; requiring each school
12 district to publicly post specified policies and
13 procedures; requiring school districts to provide
14 training on certain interventions and supports to
15 specified personnel; providing requirements for such
16 training; requiring each school district to publish
17 training procedures in its special policies and
18 procedures manual; requiring schools to develop a
19 crisis intervention plan for certain students;
20 providing requirements for such plans; revising the
21 requirements for documenting, reporting, and
22 monitoring the use of restraint; requiring the
23 department to make certain information available to
24 the public by a specified date; conforming provisions
25 to changes made by the act; creating s. 1003.574,
26 F.S.; defining terms; requiring a video camera to be
27 placed in specified classrooms upon the request of a
28 parent; requiring video cameras to be operational
29 within a specified time period; providing requirements

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30 for the discontinuation of such video cameras;
31 providing requirements for such video cameras;
32 providing an exception; requiring a written
33 explanation if the operation of such cameras is
34 interrupted; requiring district school boards to
35 maintain such explanation for a specified time;
36 requiring schools to provide written notice to certain
37 individuals of the placement of a video camera;
38 providing requirements for retaining and deleting
39 video recordings; providing prohibitions for the use
40 of such video cameras and recordings; providing that
41 school principals are the custodians of such video
42 cameras and recordings; providing requirements for
43 school principals and video recordings; providing
44 requirements relating to student privacy; providing
45 requirements for the viewing of such video recordings;
46 providing for an appeal process for actions of a
47 school or school district; providing that incidental
48 viewings of video recordings by specified individuals
49 are not a violation of certain provisions; providing
50 construction; requiring the Department of Education to
51 collect specified information; authorizing the State
52 Board of Education to adopt rules; amending s.
53 1012.582, F.S.; requiring continuing education and
54 inservice training for instructional personnel
55 teaching students with emotional or behavioral
56 disabilities; conforming provisions to changes made by
57 the act; providing an effective date.

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59 Be It Enacted by the Legislature of the State of Florida:

60
61 Section 1. Section 1003.573, Florida Statutes, is amended
62 to read:

63 1003.573 Seclusion and Use of restraint of and seclusion on
64 students with disabilities in public schools.-

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

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

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

73 (c) "Restraint" means the use of a mechanical or physical
74 restraint.

75 1. "Mechanical restraint" means the use of a device that
76 restricts a student's freedom of movement. The term does not
77 include the use of devices prescribed or recommended by physical
78 or behavioral health professionals when used for indicated
79 purposes.

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

86 (d) "Positive behavior interventions and supports" means
87 the use of behavioral interventions to prevent dangerous

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88 behaviors that may cause serious physical harm to the student or
89 others.

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

95 (f) "Student" means a child with an individual education
96 plan enrolled in grades kindergarten through 12 in a school, as
97 defined in s. 1003.01(2), or the Florida School for the Deaf and
98 Blind. The term does not include students in prekindergarten,
99 students who reside in residential care facilities under s.
100 1003.58, or students participating in a Department of Juvenile
101 Justice education program under s. 1003.53.

102 (2) SECLUSION.—Each school district shall prohibit school
103 personnel from using seclusion.

104 (3) RESTRAINT.—

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

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

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

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

120 (4)-(3) SCHOOL DISTRICT POLICIES AND PROCEDURES.-

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

126 1. Incident-reporting procedures.

127 2. Data collection and monitoring, including when, where,
 128 and why students are restrained and ~~or secluded~~; the frequency
 129 of occurrences of such restraint ~~or seclusion~~; and ~~the prone or~~
 130 ~~mechanical restraint that is most used.~~

131 3. Monitoring and reporting of data collected.

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

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

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

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

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- 146 b. Parental involvement.~~†~~
- 147 c. Data review.~~†~~
- 148 d. Updates of students' functional behavioral analysis and
- 149 positive behavior intervention plans.~~†~~
- 150 e. Additional student evaluations.~~†~~
- 151 f. Debriefing with staff.~~†~~
- 152 g. Use of schoolwide positive behavior support.~~†~~ and
- 153 h. Changes to the school environment.
- 154 i. Analysis of data to determine trends.
- 155 j. Ongoing reduction of the use of restraint.
- 156 (b) Any revisions a school district makes to its ~~to the~~
- 157 ~~district's~~ policies and procedures pursuant to this section~~,~~
- 158 ~~which must be prepared as part of its special policies and~~
- 159 ~~procedures,~~ must be filed with the bureau chief of the Bureau of
- 160 Exceptional Education and Student Services within 90 days after
- 161 the revision ~~no later than January 31, 2012.~~
- 162 (c) At the beginning of each school year, each school
- 163 district shall publicly post its policies and procedures on
- 164 positive behavior interventions and supports as adopted by the
- 165 school district.
- 166 (5) TRAINING.—Each school district shall provide training
- 167 to all school personnel authorized to use positive behavior
- 168 interventions and supports pursuant to school district policy.
- 169 Training shall be provided annually and must include:
- 170 (a) The use of positive behavior interventions and
- 171 supports.
- 172 (b) Risk assessment procedures to identify when restraint
- 173 may be used.
- 174 (c) Examples of when positive behavior interventions and

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175 support techniques have failed to reduce the imminent risk of
176 serious injury.

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

180 (e) Instruction in the district's documentation and
181 reporting requirements.

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

184 (g) Cardiopulmonary resuscitation.

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

189 (6) CRISIS INTERVENTION PLAN.—

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

195 (b) The crisis intervention plan must include:

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

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

201 3. A timetable for the review and, if necessary, revision
202 of the crisis intervention plan.

203 (c) The school must provide a copy of the crisis

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204 intervention plan to the student's parent.

205 (7)~~(1)~~ DOCUMENTATION AND REPORTING.—

206 (a) A school shall prepare an incident report within 24
207 hours after a student is released from restraint ~~or seclusion~~.

208 If the student's release occurs on a day before the school
209 closes for the weekend, a holiday, or another reason, the
210 incident report must be completed by the end of the school day
211 on the day the school reopens.

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

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

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

216 3. The date and time of the event and the duration of the
217 restraint ~~or seclusion~~.

218 4. The location at which the restraint ~~or seclusion~~
219 occurred.

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

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

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

228 8. A description of the incident, including all of the
229 following:

230 a. The context in which the restraint ~~or seclusion~~
231 occurred.

232 b. The student's behavior leading up to and precipitating

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233 the decision to use ~~manual or physical~~ restraint ~~or seclusion~~,
234 including an indication as to why there was an imminent risk of
235 serious injury ~~or death~~ to the student or others.

236 c. The ~~specific~~ positive behavior interventions and
237 supports ~~behavioral strategies~~ used to prevent and deescalate
238 the behavior.

239 d. What occurred with the student immediately after the
240 termination of the restraint ~~or seclusion~~.

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

244 f. Evidence of steps taken to notify the student's parent
245 or guardian.

246 g. The date the crisis intervention plan was last reviewed
247 and whether changes were recommended.

248 (c) A school shall notify the parent or guardian of a
249 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is
250 used. Such notification must be in writing and provided before
251 the end of the school day on which the restraint ~~or seclusion~~
252 occurs. Reasonable efforts must also be taken to notify the
253 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
254 these efforts must be documented. The school shall obtain, and
255 keep in its records, the parent's or guardian's signed
256 acknowledgment that he or she was notified of his or her child's
257 restraint ~~or seclusion~~.

258 (d) A school shall also provide the parent or guardian with
259 the completed incident report in writing by mail within 3 school
260 days after a student was ~~manually or physically~~ restrained ~~or~~
261 ~~secluded~~. The school shall obtain, and keep in its records, the

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262 parent's or guardian's signed acknowledgment that he or she
263 received a copy of the incident report.

264 (8)~~(2)~~ MONITORING.—

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

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

274 (c) The department shall maintain aggregate data of
275 incidents of ~~manual or physical~~ restraint ~~and seclusion~~ and
276 disaggregate the data for analysis by county, school, student
277 exceptionality, and other variables, including the type and
278 method of restraint ~~or seclusion~~ used. This information shall be
279 updated monthly, de-identified, and made available to the public
280 through the department's website no later than October 1, 2020.

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

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

289 ~~(5) SECLUSION. School personnel may not close, lock, or~~
290 ~~physically block a student in a room that is unlit and does not~~

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291 ~~meet the rules of the State Fire Marshal for seclusion time out~~
292 ~~rooms.~~

293 Section 2. Section 1003.574, Florida Statutes, is created
294 to read:

295 1003.574 Video cameras in public school classrooms.-

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

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

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

300 2. Another student.

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

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

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

314 (3) If the student who is the subject of the initial
315 request is no longer in attendance in the classroom and a school
316 discontinues operation of a video camera during a school year,
317 no later than the fifth school day before the date the operation
318 of the video camera is discontinued, the school must notify the
319 parents of each student in regular attendance in the classroom

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

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

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

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

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

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

345 (d) If there is an interruption in the operation of the
346 video camera for any reason, an explanation must be submitted in
347 writing to the school principal and the district school board
348 which explains the reason for and duration of the interruption.

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349 The written explanation must be maintained at the district
350 school board office for at least 1 year.

351 (5) Before a school initially places a video camera in a
352 self-contained classroom pursuant to this section, the school
353 shall provide written notice of the placement of such video
354 camera to all of the following:

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

357 (b) Each student who is assigned to the self-contained
358 classroom.

359 (c) The school district.

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

362 (6) A school shall:

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

367 (b) Retain the recording until the conclusion of any
368 investigation or any administrative or legal proceedings that
369 result from the recording have been completed, including,
370 without limitation, the exhaustion of all appeals.

371 (7) A school or school district may not:

372 (a) Allow regular, continuous, or continual monitoring of
373 videos recorded under this section; or

374 (b) Use videos recorded under this section for teacher
375 evaluations or any purpose other than for ensuring the health,
376 safety, and well-being of students receiving special education
377 services in a self-contained classroom.

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

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

383 (b) A school or school district shall:

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

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

391 (9) (a) Within 7 days after receiving a request to view a
392 video recording, a school or school district shall allow the
393 following individuals to view a video recording made under this
394 section:

395 1. A school or school district employee who is involved in
396 an alleged incident that is documented by the video recording as
397 part of the investigative process;

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

401 3. A school or school district employee as part of an
402 investigation into an alleged incident that is documented by the
403 video recording and has been reported to the school or school
404 district;

405 4. A law enforcement officer as part of an investigation
406 into an alleged incident that is documented by the video

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407 recording and has been reported to the law enforcement agency;
408 or

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

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

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

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

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

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

428 (a) The installation, operation, or maintenance of video
429 equipment; or

430 (b) The retention of video recordings.

431 (12) This section does not:

432 (a) Limit the access of the parent of a student, under the
433 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.
434 1232g, or any other law, to a video recording regarding his or
435 her student.

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

438 (c) Create any liability for a cause of action against a
439 school or school district or an employee of a school or school
440 district carrying out the duties and responsibilities required
441 by this section.

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

445 (13) The department shall collect information relating to
446 the installation and maintenance of video cameras under this
447 section.

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

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

452 1012.582 Continuing education and inservice training for
453 teaching students with developmental and emotional or behavioral
454 disabilities.—

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

461 (a) Early identification of, and intervention for, students
462 who have autism spectrum disorder, Down syndrome, ~~or~~ other
463 developmental disabilities, or emotional or behavioral
464 disabilities.

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465 (b) Curriculum planning and curricular and instructional
466 modifications, adaptations, and specialized strategies and
467 techniques.

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

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

471 (e) The Appropriate use of manual physical restraint and
472 ~~seclusion~~ techniques, positive behavior interventions and
473 supports, and effective classroom behavior management
474 strategies.

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

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