

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 390

INTRODUCER: Senators Book and Rodrigues

SUBJECT: Restraint of Students with Disabilities in Public Schools

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AED</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 390 prohibits the use of mechanical restraint by school personnel except for school resource officers, school safety officers, school guardians, or school security guards, who may use mechanical restraint in the exercise of their duties to restrain students in grades 6 through 12.

The bill takes effect July 1, 2022.

II. Present Situation:

The Individuals with Disabilities Education Act (IDEA)¹ was enacted to ensure that all children with a disability have available to them a free appropriate public education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and ensuring that the rights of children with disabilities and parents of such children are protected.² Accordingly, Florida law specifies conditions regarding the use of restraint and seclusion on students with a disability.³

School District Responsibilities

School districts are required to have policies and procedures governing the use of restraint on students with disabilities, including the designation of school personnel authorized to use positive behavioral interventions and supports and restraint.⁴

¹ 20 U.S.C. s. 1400 et seq.

² U.S. Department of Education, *IDEA Purpose*, <https://sites.ed.gov/idea/about-idea> (last visited Jan. 27, 2022).

³ Section 1003.573, F.S.

⁴ Section 1003.573(4), F.S.

Prohibitions on the use of Restraint

Authorized school personnel may only use mechanical or physical restraint after all positive behavioral interventions and supports have been exhausted and only when there is an imminent risk of serious injury.⁵ The use of restraint must end once the imminent risk of serious injury has ended.⁶

School personnel are prohibited from using certain methods of restraint. Specifically, personnel may never use:⁷

- Restraint to inflict pain to induce compliance.
- Restraint for student discipline.
- Mechanical or physical restraint techniques or devices such as straightjackets, zip ties, handcuffs, or tie downs in a manner that may obstruct or restrict breathing or blood flow or that place a student in a face down position with the student's hands restrained behind the student's back.

Reporting of Incidents of Restraint

Florida law requires a school to prepare an incident report within 24 hours after a student is released from restraint or seclusion. The incident report must contain:⁸

- The name, age, grade, ethnicity, and disability of the student restrained or secluded.
- The date and time of the event and the duration of the restraint or seclusion.
- A description of the type of restraint.
- A description of the incident.

During August through November of the 2021-2022 school year, school districts reported 2,175 incidents of restraint on 1,546 students. Approximately three to four percent of the incidents involved mechanical restraint.⁹

Safe-School Officers

For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent is required to partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers options at each school facility within the district, including charter schools. These options include:¹⁰

- Establishing a School Resource Officer (SRO) program through a cooperative agreement with law enforcement agencies. SROs are certified law enforcement officers¹¹ who must

⁵ Section 1003.573(3)(a), F.S. The degree of force applied during the use of physical restraint must be limited to the degree of force necessary to protect the student or others from imminent risk of serious injury. Section 1003.573(3)(c), F.S.

⁶ Section 1003.573(3)(a), F.S.

⁷ Section 1003.573(a) and (b), F.S.

⁸ Section 1003.573(1), F.S. If the student's release occurs on a day before the school closes for the weekend, a holiday or another reason, the incident report must be completed by the end of the school day on the day the school reopens. *Id.*

⁹ Florida Department of Education, *Program Accountability, Assessment & Data Systems*, <https://www.fldoe.org/academics/exceptional-student-edu/data/> (last visited Jan. 27, 2022). (Tabulate the data in the pdf files in the section on SWD Restraint Data – SY 2021-22.)

¹⁰ Section 1006.12, F.S.

¹¹ "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary

meet specified screening requirements¹² and also complete mental health crisis intervention training.

- Commissioning one or more school safety officers. School safety officers are certified law enforcement officers with the power of arrest on district school property, who are employed by either a law enforcement agency or by the district school board. School safety officers must undergo the same screening requirements and crisis intervention training as an SRO.
- Participating in the Coach Aaron Feis Guardian Program.
- Contracting with a security agency¹³ to employ as a school security guard an individual who holds a Class “D” and Class “G” license¹⁴ and completes the same training and evaluation requirements as a school guardian.

Employing a school guardian is an option for district school boards to meet the safe-school officer requirements in law.¹⁵ Persons certified as school guardians have no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident.¹⁶

III. Effect of Proposed Changes:

SB 390 prohibits the use of mechanical restraint by school personnel except for school resource officers, school safety officers, school guardians, or school security guards, who may use mechanical restraint in the exercise of their duties to restrain students in grades 6 through 12.

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IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. Section 943.10(1), F.S.

¹² SROs must undergo criminal background checks, drug testing, and a psychological evaluation. Section 1006.12(1)(a), F.S.

¹³ “Security agency” means any person who, for consideration, advertises as providing or is engaged in the business of furnishing security services, armored car services, or transporting prisoners. This includes any person who utilizes dogs and individuals to provide security services. Section 493.6101(18), F.S.

¹⁴ License requirements are specified in chapter 493.

¹⁵ Section 1006.12(3), F.S.

¹⁶ Section 30.15(1)(k), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1003.573 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.