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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
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The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

1003.573 Use, prevention, and reduction of seclusion and restraint on students with disabilities in public schools ~~Use of restraint and seclusion on students with disabilities.~~

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

(a) "Department" means the Department of Education.

(b) "Imminent risk of serious injury or death" means the



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13 impending risk of a significant injury, such as a laceration,
14 bone fracture, substantial hematoma, or other injury to internal
15 organs, or death.

16 (c) "Manual physical restraint" means the use of physical
17 restraint techniques that involve physical force applied by
18 school personnel to restrict the movement of all or part of a
19 student's body.

20 (d) "Mechanical restraint" means the use of a physical
21 device that restricts a student's movement or restricts the
22 normal function of a student's body. The term includes the use
23 of straps, belts, tie-downs, calming blankets, and chairs with
24 straps; however, the term does not include the use of:

25 1. Medical protective equipment;

26 2. Physical equipment or orthopedic appliances, surgical
27 dressings or bandages, or supportive body bands or other
28 restraints necessary for ongoing medical treatment in the
29 educational setting;

30 3. Devices used to support functional body position or
31 proper balance, or to prevent a person from falling out of a bed
32 or a wheelchair, except when such device is used for any purpose
33 other than supporting a body position or proper balance, such as
34 coercion, discipline, convenience, or retaliation, to prevent
35 imminent risk of serious injury or death of the student or
36 others, or for any other behavior-management reason; or

37 4. Equipment used for safety during transportation, such as
38 seatbelts or wheelchair tie-downs.

39 (e) "Medical protective equipment" means health-related
40 protective devices prescribed by a physician or dentist for use
41 as student protection in response to an existing medical



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42 condition.

43 (f) "Seclusion" means the involuntary confinement of a
44 student alone in a room or area from which the student is
45 prevented from leaving. The term does not include the use of
46 time-out.

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

48 (h) "Time-out" means a procedure in which access to varied
49 sources of reinforcement is removed or reduced for a particular
50 time period contingent on a response. The opportunity to receive
51 reinforcement is contingently removed for a specified time.
52 Either a student is contingently removed from the reinforcing
53 environment or the reinforcing environment is contingently
54 removed for some stipulated duration. A time-out setting may not
55 be locked and the exit may not be blocked. Physical force or
56 threats may not be used to place a student in time-out.

57 (2) LEGISLATIVE FINDINGS AND INTENT.—

58 (a) The Legislature finds that public schools have a
59 responsibility to ensure that each student is treated with
60 respect and dignity in a trauma-informed environment that
61 provides for the physical safety and security of students and
62 others.

63 (b) The Legislature finds that students, educators, and
64 families are concerned about the use of seclusion and restraint,
65 particularly when used on students in special education
66 programs. Seclusion and restraint refer to safety procedures in
67 which a student is isolated from others or physically held in
68 response to serious problem behavior that places the student or
69 others at risk of injury or harm. There is concern that these
70 procedures are prone to misapplication and abuse and place a



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71 student at an equal or greater risk than the risk of the
72 student's problem behavior. Particular concerns include:

73 1. Seclusion or restraint is inappropriately selected and
74 implemented as treatment or behavioral intervention rather than
75 as a safety procedure;

76 2. Seclusion or restraint is inappropriately used for
77 behaviors, such as noncompliance, threats, or disruption, which
78 do not place the student or others at risk of injury or harm;

79 3. Students, peers, or staff may be injured or physically
80 harmed during attempts to conduct seclusion or restraint;

81 4. Risk of injury or harm is increased because seclusion or
82 restraint is implemented by staff who are not adequately
83 trained;

84 5. The use of seclusion or restraint may inadvertently
85 result in reinforcing or strengthening the problem behavior; and

86 6. Seclusion or restraint is implemented independent of
87 comprehensive, function-based behavioral intervention plans.

88
89 Moreover, there are concerns about the inadequate
90 documentation of seclusion or restraint procedures, the failure
91 to notify parents when seclusion or restraint is applied, and
92 the failure to use data to analyze and address the cause of the
93 precipitating behavior.

94 (c) The Legislature finds that the majority of problem
95 behaviors that are currently used to justify seclusion or
96 restraint could be prevented with early identification and
97 intensive early intervention. The need for seclusion or
98 restraint is, in part, a result of insufficient investment in
99 prevention efforts. The Legislature further finds that the use



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100 of seclusion or restraint may produce trauma in students. For
101 such students, who are already experiencing trauma, the use may
102 cause retraumatization. Left unaddressed, the lasting effects of
103 childhood trauma place a heavy burden on individuals, families,
104 and communities. Research has shown that trauma significantly
105 increases the risk of mental health problems, difficulties with
106 social relationships and behavior, physical illness, and poor
107 school performance.

108 (d) The Legislature intends that students be free from the
109 abusive and unnecessary use of seclusion or restraint in the
110 public schools. The Legislature further intends to prevent, and
111 achieve an ongoing reduction of, the use of manual physical
112 restraint in the public schools and, specifically, to prohibit
113 the use of seclusion, prone and supine restraint, and mechanical
114 restraint on students. The Legislature also intends that manual
115 physical restraint be used only when an imminent risk of serious
116 injury or death exists; that manual physical restraint not be
117 employed as punishment, for the convenience of staff, or as a
118 substitute for a positive behavior-support plan; and that, when
119 used, persons applying manual physical restraint impose the
120 least possible restrictions and discontinue the restraint as
121 soon as the threat of imminent risk of serious injury or death
122 ceases.

123 (3) MANUAL PHYSICAL RESTRAINT.—Manual physical restraint
124 shall be used only in an emergency when there is an imminent
125 risk of serious injury or death to the student or others.

126 (a) Manual physical restraint shall be used only for the
127 period needed in order to eliminate the imminent risk of serious
128 injury or death to the student or others.



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129 (b) The degree of force applied during manual physical
130 restraint must be only that degree of force necessary to protect
131 the student or others from bodily injury.

132 (c) Manual physical restraint shall be used only by school
133 personnel who are qualified and certified to use the district-
134 approved methods for the appropriate application of specific
135 restraint techniques. School personnel who have received
136 training that is not associated with their employment with the
137 school district, such as a former law enforcement officer who is
138 now a teacher, shall be certified in the specific district-
139 approved techniques and may not apply techniques or procedures
140 acquired elsewhere.

141 (d) School personnel may not manually physically restrain a
142 student except when an imminent risk of serious injury or death
143 to the student or others exists.

144 (e) School personnel may not use any of the following
145 manual physical restraint techniques on a student:

- 146 1. Prone and supine restraint.
- 147 2. Pain inducement to obtain compliance.
- 148 3. Bone locks.
- 149 4. Hyperextension of joints.
- 150 5. Peer restraint.
- 151 6. Mechanical restraint.
- 152 7. Pressure or weight on the chest, lungs, sternum,
153 diaphragm, back, or abdomen, causing chest compression. This
154 provision does not prohibit the use of cardiopulmonary
155 resuscitation.
- 156 8. Straddling or sitting on any part of the body or any
157 maneuver that places pressure, weight, or leverage on the neck



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158 or throat, on any artery, or on the back of the student's head
159 or neck or that otherwise obstructs or restricts the circulation
160 of blood or obstructs an airway.

161 9. Any type of choking, including hand chokes, and any type
162 of neck or head hold.

163 10. Any technique that involves pushing anything on or into
164 the student's mouth, nose, eyes, or any part of the face or that
165 involves covering the face or body with anything, including soft
166 objects such as pillows or washcloths.

167 11. Any maneuver that involves punching, hitting, poking,
168 pinching, or shoving.

169 12. Any type of mat or blanket restraint.

170 13. Water or lemon sprays.

171 (f) The school shall ensure that a student is medically
172 evaluated by a physician, nurse, or other qualified medical
173 professional as soon as possible after the student has been
174 manually physically restrained by school personnel.

175 (4) SECLUSION; TIME-OUT.—

176 (a) School personnel may not place a student in seclusion.

177 (b) School personnel may place a student in time-out if the
178 following conditions are met:

179 1. The time-out is part of a positive behavioral
180 intervention plan developed for that student from a functional
181 behavioral assessment and referenced in the student's individual
182 education plan.

183 2. There is documentation that the time-out was preceded by
184 the use of other positive behavioral supports that were not
185 effective.

186 3. The time-out takes place in a classroom or in another



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187 environment where class educational activities are taking place.

188 4. The student is not physically prevented from leaving the
189 time-out area.

190 5. The student is observed on a constant basis by an adult
191 for the duration of the time-out.

192 (c) Time-out may not be used for a period that exceeds 1
193 minute for each year of a student's age and time-out must end
194 immediately when the student is calm enough to return to his or
195 her seat.

196 (d) Time-out may not be used as a punishment or negative
197 consequence of a student's behavior.

198 (5) TRAINING AND CERTIFICATION.-

199 (a) Each school district shall report its training and
200 certification procedures to the department by publishing the
201 procedures in the district's special policies and procedures
202 manual.

203 (b) Training for initial certification in the use of manual
204 physical restraint must include:

205 1. Procedures for deescalating problem behaviors before the
206 problems increase to a level or intensity necessitating physical
207 intervention.

208 2. Information regarding the risks associated with manual
209 physical restraint and procedures for assessing individual
210 situations and students in order to determine if the use of
211 manual physical restraint is appropriate and sufficiently safe.

212 3. The actual use of specific techniques that range from
213 the least to most restrictive, with ample opportunity for
214 trainees to demonstrate proficiency in the use of such
215 techniques.



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216 4. Techniques for implementing manual physical restraint
217 with multiple school personnel working as a team.

218 5. Techniques for assisting a student to reenter the
219 instructional environment and again engage in learning.

220 6. Instruction in the district's documentation and
221 reporting requirements.

222 7. Procedures to identify and deal with possible medical
223 emergencies arising during the use of manual physical restraint.

224 8. Cardiopulmonary resuscitation.

225 (c) School districts shall provide refresher certification
226 training courses in manual physical restraint techniques at
227 least annually to all school personnel who have successfully
228 completed the initial certification program. The district must
229 identify those persons to be certified and maintain a record
230 that includes the name and position of the person certified, the
231 date of the most recent certification, an indication of whether
232 it was an initial certification or a refresher certification,
233 and whether the individual successfully completed the
234 certification and achieved proficiency.

235 (d) School district policies regarding the use of manual
236 physical restraint must address whether it is appropriate for an
237 employee working in specific settings, such as a school bus
238 driver, school bus aide, job coach, employment specialist, or
239 cafeteria worker, to be certified in manual physical restraint
240 techniques. In the case of school resource officers or others
241 who may be employed by other agencies when working in a school,
242 administrators shall review each agency's specific policies to
243 be aware of techniques that may be used.

244 (6) STUDENT-CENTERED FOLLOWUP.—If a student is manually



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245 physically restrained more than twice during a school year, the
246 school shall review the student's functional behavioral
247 assessment and positive behavioral intervention plan.

248 (7)(1) DOCUMENTATION AND REPORTING.—

249 (a) At the beginning of each school year, a school district
250 shall provide a copy of its policies on all emergency
251 procedures, including its policies on the use of manual physical
252 restraint, to each student's parent or guardian. The student's
253 parent or guardian must sign a form indicating that he or she
254 has read and received the district's policies, which the
255 student's school shall retain on file.

256 (b)(a) A school shall prepare an incident report within 24
257 hours after a student is released from a restraint ~~or seclusion~~.
258 If the student's release occurs on a day before the school
259 closes for the weekend, a holiday, or another reason, the
260 incident report must be completed by the end of the school day
261 on the day the school reopens.

262 (c)(b) The following must be included in the incident
263 report:

- 264 1. The name of the student restrained ~~or secluded~~.
- 265 2. The age, grade, ethnicity, and disability of the student
266 restrained ~~or secluded~~.
- 267 3. The date and time of the event and the duration of the
268 restraint ~~or seclusion~~.
- 269 4. The location at which the restraint ~~or seclusion~~
270 occurred.
- 271 5. A description of the type of restraint used in terms
272 established by the Department of Education.
- 273 6. The name of the person using or assisting in the



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274 restraint ~~or seclusion~~ of the student.

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

277 8. A description of the incident, including:

278 a. The context in which the restraint ~~or seclusion~~
279 occurred.

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

284 c. The specific positive behavioral strategies used to
285 prevent and deescalate the behavior.

286 d. What occurred with the student immediately after the
287 termination of the restraint ~~or seclusion~~.

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

291 f. The results of the medical evaluation and a copy of any
292 report by the medical professionals conducting the evaluation,
293 if available. If the medical report is not available within 24
294 hours, the district must submit the medical report separately as
295 soon as it is available.

296 ~~g.f.~~ Evidence of steps taken to notify the student's parent
297 or guardian.

298 ~~(d)-(e)~~ A school shall notify the parent or guardian of a
299 student each time manual ~~or~~ physical restraint ~~or seclusion~~ is
300 used. Such notification must be in writing and provided before
301 the end of the school day on which the restraint ~~or seclusion~~
302 occurs. Reasonable efforts must also be taken to notify the



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303 parent or guardian by telephone or computer e-mail, or both, and
304 these efforts must be documented. The school shall obtain, and
305 keep in its records, the parent's or guardian's signed
306 acknowledgment that he or she was notified of his or her child's
307 restraint ~~or seclusion~~.

308 (e) ~~(d)~~ A school shall also provide the parent or guardian
309 with the completed incident report in writing by mail within 3
310 school days after a student was ~~manually or physically~~
311 restrained ~~or secluded~~. The school shall obtain, and keep in its
312 records, the parent's or guardian's signed acknowledgment that
313 he or she received a copy of the incident report.

314 (8) ~~(2)~~ MONITORING.—

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

318 (b) Any documentation prepared by a school pursuant to ~~as~~
319 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
320 principal, the district director of Exceptional Student
321 Education, and the bureau chief of the Bureau of Exceptional
322 Education and Student Services ~~electronically~~ each week ~~month~~
323 that the school is in session.

324 (c) Four times during the school year, the school shall
325 send a redacted copy of any incident report and other
326 documentation prepared pursuant to subsection (7) to Disability
327 Rights Florida.

328 (d) ~~(e)~~ The department shall maintain aggregate data of
329 incidents of manual ~~or~~ physical restraint ~~and seclusion~~ and
330 disaggregate the data for analysis by county, school, student
331 exceptionality, and other variables, including the type and



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332 method of restraint ~~or seclusion~~ used. This information shall be
333 updated monthly and made available to the public through the
334 department's website no later than January 31, 2013.

335 (e)~~(d)~~ The department shall establish standards for
336 documenting, reporting, and monitoring the use of manual ~~or~~
337 physical restraint ~~or mechanical restraint, and occurrences of~~
338 ~~seclusion~~. These standards shall be provided to school districts
339 ~~by October 1, 2011.~~

340 (9)~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

341 (a) Each school district shall develop policies and
342 procedures that are consistent with this section and that govern
343 the following:

344 1. Allowable use of manual physical restraint on students.

345 2. Personnel authorized to use manual physical restraint.

346 3. Training procedures.

347 4.1. Incident-reporting procedures.

348 5.2. Data collection and monitoring, including when, where,
349 and why students are restrained ~~or secluded~~; the frequency of
350 occurrences of such restraint ~~or seclusion~~; and the ~~prone or~~
351 ~~mechanical~~ restraint that is most used.

352 6.3. Monitoring and reporting of data collected.

353 7.4. Training programs relating to manual ~~or~~ physical
354 restraint ~~and seclusion~~.

355 8.5. The district's plan for selecting personnel to be
356 trained.

357 9.6. The district's plan for reducing the use of restraint
358 ~~and seclusion~~ particularly in settings in which it occurs
359 frequently or with students who are restrained repeatedly, ~~and~~
360 ~~for reducing the use of prone restraint and mechanical~~



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361 ~~restraint~~. The plan must include a goal for reducing the use of
362 restraint ~~and seclusion~~ and must include activities, skills, and
363 resources needed to achieve that goal. Activities may include,
364 but are not limited to:

- 365 a. Additional training in positive behavioral support and
366 crisis management;
- 367 b. Parental involvement;
- 368 c. Data review;
- 369 d. Updates of students' functional behavioral analysis and
370 positive behavior intervention plans;
- 371 e. Additional student evaluations;
- 372 f. Debriefing with staff;
- 373 g. Use of schoolwide positive behavior support; and
- 374 h. Changes to the school environment.

375 10. Analysis of data to determine trends.

376 11. Ongoing reduction of the use of manual physical
377 restraint.

378 (b) Any revisions that a school district makes to its ~~to~~
379 ~~the district's~~ policies and procedures, which are ~~must be~~
380 prepared as part of the school district's ~~its~~ special policies
381 and procedures, must be filed with the bureau chief of the
382 Bureau of Exceptional Education and Student Services ~~no later~~
383 ~~than January 31, 2012.~~

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

387 ~~(5) SECLUSION. School personnel may not close, lock, or~~
388 ~~physically block a student in a room that is unlit and does not~~
389 ~~meet the rules of the State Fire Marshal for seclusion time-out~~



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390 ~~rooms.~~

391 Section 2. This act shall take effect July 1, 2012.

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393

394 ===== T I T L E A M E N D M E N T =====

395 And the title is amended as follows:

396 Delete everything before the enacting clause

397 and insert:

398 A bill to be entitled

399 An act relating to ; providing an effective date.

400 An act relating to the use, prevention, and reduction

401 of seclusion and restraint on students with

402 disabilities in public schools; amending s. 1003.573,

403 F.S.; providing definitions; providing legislative

404 findings and intent; requiring that manual physical

405 restraint be used only in an emergency when there is

406 an imminent risk of serious injury or death to the

407 student or others; providing restrictions on the use

408 of manual physical restraint; prohibiting the use of

409 manual physical restraint by school personnel who are

410 not certified to use district-approved methods for

411 applying restraint techniques; prohibiting specified

412 techniques; requiring that each school medically

413 evaluate a student after the student is manually

414 physically restrained; prohibiting school personnel

415 from placing a student in seclusion; providing

416 requirements for the use of time-out; requiring that a

417 school district report its training and certification

418 procedures to the Department of Education; requiring



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419 that school personnel be trained and certified in the
420 use of manual physical restraint; requiring that a
421 school review a student's functional behavior
422 assessment and positive behavioral intervention plan
423 under certain circumstances; requiring that parents be
424 notified of a school district's policies regarding the
425 use of manual physical restraint; requiring that each
426 school send a redacted copy of any incident report or
427 other documentation to Disability Rights Florida;
428 requiring that the department make available on its
429 website data of incidents of manual physical restraint
430 by a specified date; requiring that each school
431 district develop policies and procedures addressing
432 the allowable use of manual physical restraint,
433 personnel authorized to use such restraint, training
434 procedures, analysis of data trends, and the reduction
435 of the use of manual physical restraint; requiring
436 that any revisions to a school district's policies and
437 procedures be filed with the bureau chief of the
438 Bureau of Exceptional Education and Student Services
439 by a specified date; providing an effective date.