

By Senator Flores

38-00163-12

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1                                   A bill to be entitled  
2           An act relating to the use, prevention, and reduction  
3           of seclusion and restraint on students with  
4           disabilities in public schools; amending s. 1003.573,  
5           F.S.; providing definitions; providing legislative  
6           findings and intent; requiring that manual physical  
7           restraint be used only in an emergency when there is  
8           an imminent risk of serious injury or death to the  
9           student or others; providing restrictions on the use  
10          of manual physical restraint; prohibiting the use of  
11          manual physical restraint by school personnel who are  
12          not certified to use district-approved methods for  
13          applying restraint techniques; prohibiting specified  
14          techniques; requiring that each school medically  
15          evaluate a student after the student is manually  
16          physically restrained; prohibiting school personnel  
17          from placing a student in seclusion; providing  
18          requirements for the use of time-out; requiring that a  
19          school district report its training and certification  
20          procedures to the Department of Education; requiring  
21          that school personnel be trained and certified in the  
22          use of manual physical restraint; requiring that a  
23          school review a student's functional behavior  
24          assessment and positive behavioral intervention plan  
25          under certain circumstances; requiring that parents be  
26          notified of a school district's policies regarding the  
27          use of manual physical restraint; requiring that each  
28          school send a redacted copy of any incident report or  
29          other documentation to the Advocacy Center for Persons

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30 with Disabilities, Inc.; requiring that the department  
31 make available on its website data of incidents of  
32 manual physical restraint by a specified date;  
33 requiring that each school district develop policies  
34 and procedures addressing the allowable use of manual  
35 physical restraint, personnel authorized to use such  
36 restraint, training procedures, analysis of data  
37 trends, and the reduction of the use of manual  
38 physical restraint; requiring that any revisions to a  
39 school district's policies and procedures be filed  
40 with the bureau chief of the Bureau of Exceptional  
41 Education and Student Services by a specified date;  
42 providing an effective date.

43  
44 Be It Enacted by the Legislature of the State of Florida:

45  
46 Section 1. Section 1003.573, Florida Statutes, is amended  
47 to read:

48 1003.573 Use, prevention, and reduction of seclusion and  
49 restraint on students with disabilities in public schools ~~Use of~~  
50 ~~restraint and seclusion on students with disabilities.~~

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

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

53 (b) "Imminent risk of serious injury or death" means the  
54 impending risk of a significant injury, such as a laceration,  
55 bone fracture, substantial hematoma, or other injury to internal  
56 organs, or death.

57 (c) "Manual physical restraint" means the use of physical  
58 restraint techniques that involve physical force applied by a

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59 teacher or other staff member to restrict the movement of all or  
60 part of a student's body.

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

66 1. Medical protective equipment;

67 2. Physical equipment or orthopedic appliances, surgical  
68 dressings or bandages, or supportive body bands or other  
69 restraints necessary for ongoing medical treatment in the  
70 educational setting;

71 3. Devices used to support functional body position or  
72 proper balance, or to prevent a person from falling out of a bed  
73 or a wheelchair, except when such device is used for any purpose  
74 other than supporting a body position or proper balance, such as  
75 coercion, discipline, convenience, or retaliation, to prevent  
76 imminent risk of serious injury or death of the student or  
77 others, or for any other behavior-management reason; or

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

80 (e) "Medical protective equipment" means health-related  
81 protective devices prescribed by a physician or dentist for use  
82 as student protection in response to an existing medical  
83 condition.

84 (f) "Seclusion" means removing a student from an  
85 educational environment, involuntarily confining the student in  
86 a room or area, and preventing the student from leaving the room  
87 or area if achieved by locking the door or otherwise physically

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88 blocking the student's way, threatening physical force or other  
89 consequences, or using physical force. The term does not include  
90 the use of time-out.

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

92 (h) "Time-out" means a procedure in which access to varied  
93 sources of reinforcement is removed or reduced for a particular  
94 time period contingent on a response. The opportunity to receive  
95 reinforcement is contingently removed for a specified time.  
96 Either a student is contingently removed from the reinforcing  
97 environment or the reinforcing environment is contingently  
98 removed for some stipulated duration. A time-out setting may not  
99 be locked and the exit may not be blocked. Physical force or  
100 threats may not be used to place a student in time-out.

101 (2) LEGISLATIVE FINDINGS AND INTENT.—

102 (a) The Legislature finds that public schools have a  
103 responsibility to ensure that each student is treated with  
104 respect and dignity in a trauma-informed environment that  
105 provides for the physical safety and security of students and  
106 others.

107 (b) The Legislature finds that students, educators, and  
108 families are concerned about the use of seclusion and restraint,  
109 particularly when used on students in special education  
110 programs. Seclusion and restraint refer to safety procedures in  
111 which a student is isolated from others or physically held in  
112 response to serious problem behavior that places the student or  
113 others at risk of injury or harm. There is concern that these  
114 procedures are prone to misapplication and abuse and place a  
115 student at an equal or greater risk than the risk of the  
116 student's problem behavior. Particular concerns include:

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117 1. Seclusion or restraint is inappropriately selected and  
118 implemented as treatment or behavioral intervention rather than  
119 as a safety procedure;

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

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

125 4. Risk of injury or harm is increased because seclusion or  
126 restraint is implemented by staff who are not adequately  
127 trained;

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

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

132  
133 Moreover, there are concerns about the inadequate documentation  
134 of seclusion or restraint procedures, the failure to notify  
135 parents when seclusion or restraint is applied, and the failure  
136 to use data to analyze and address the cause of the  
137 precipitating behavior.

138 (c) The Legislature finds that the majority of problem  
139 behaviors that are currently used to justify seclusion or  
140 restraint could be prevented with early identification and  
141 intensive early intervention. The need for seclusion or  
142 restraint is, in part, a result of insufficient investment in  
143 prevention efforts. The Legislature further finds that the use  
144 of seclusion or restraint may produce trauma in students. For  
145 such students, who are already experiencing trauma, the use may

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146 cause retraumatization. Left unaddressed, the lasting effects of  
147 childhood trauma place a heavy burden on individuals, families,  
148 and communities. Research has shown that trauma significantly  
149 increases the risk of mental health problems, difficulties with  
150 social relationships and behavior, physical illness, and poor  
151 school performance.

152 (d) The Legislature intends that students be free from the  
153 abusive and unnecessary use of seclusion or restraint in the  
154 public schools. The Legislature further intends to prevent, and  
155 achieve an ongoing reduction of, the use of manual physical  
156 restraint in the public schools and, specifically, to prohibit  
157 the use of seclusion, prone and supine restraint, and mechanical  
158 restraint on students. The Legislature also intends that manual  
159 physical restraint be used only when an imminent risk of serious  
160 injury or death exists; that manual physical restraint not be  
161 employed as punishment, for the convenience of staff, or as a  
162 substitute for a positive behavior-support plan; and that, when  
163 used, persons applying manual physical restraint impose the  
164 least possible restrictions and discontinue the restraint as  
165 soon as the threat of imminent risk of serious injury or death  
166 ceases.

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

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

173 (b) The degree of force applied during manual physical  
174 restraint must be only that degree of force necessary to protect

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175 the student or others from bodily injury.

176 (c) Manual physical restraint shall be used only by school  
177 personnel who are qualified and certified to use the district-  
178 approved methods for the appropriate application of specific  
179 restraint techniques. School personnel who have received  
180 training that is not associated with their employment with the  
181 school district, such as a former law enforcement officer who is  
182 now a teacher, shall be certified in the specific district-  
183 approved techniques and may not apply techniques or procedures  
184 acquired elsewhere.

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

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

- 190 1. Prone and supine restraint.
- 191 2. Pain inducement to obtain compliance.
- 192 3. Bone locks.
- 193 4. Hyperextension of joints.
- 194 5. Peer restraint.
- 195 6. Mechanical restraint.
- 196 7. Pressure or weight on the chest, lungs, sternum,  
197 diaphragm, back, or abdomen, causing chest compression.
- 198 8. Straddling or sitting on any part of the body or any  
199 maneuver that places pressure, weight, or leverage on the neck  
200 or throat, on any artery, or on the back of the student's head  
201 or neck or that otherwise obstructs or restricts the circulation  
202 of blood or obstructs an airway.
- 203 9. Any type of choking, including hand chokes, and any type

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204 of neck or head hold.

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

209 11. Any maneuver that involves punching, hitting, poking,  
210 pinching, or shoving.

211 12. Any type of mat or blanket restraint.

212 13. Water or lemon sprays.

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

217 (4) SECLUSION; TIME-OUT.—

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

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

221 1. The time-out is part of a positive behavioral  
222 intervention plan developed for that student from a functional  
223 behavioral assessment and referenced in the student's individual  
224 education plan.

225 2. There is documentation that the time-out was preceded by  
226 the use of other positive behavioral supports that were not  
227 effective.

228 3. The time-out takes place in a classroom or in another  
229 environment where class educational activities are taking place.

230 4. The student is not physically prevented from leaving the  
231 time-out area.

232 5. The student is observed on a constant basis by an adult



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233 for the duration of the time-out.

234 6. The time-out area and process are free of any action  
235 that is likely to embarrass or humiliate the student.

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

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

242 (5) TRAINING AND CERTIFICATION.—

243 (a) Each school district shall report its training and  
244 certification procedures to the department by publishing the  
245 procedures in the district's special policies and procedures  
246 manual.

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

249 1. Procedures for deescalating problem behaviors before the  
250 problems increase to a level or intensity necessitating physical  
251 intervention.

252 2. Information regarding the risks associated with manual  
253 physical restraint and procedures for assessing individual  
254 situations and students in order to determine if the use of  
255 manual physical restraint is appropriate and sufficiently safe.

256 3. The actual use of specific techniques that range from  
257 the least to most restrictive, with ample opportunity for  
258 trainees to demonstrate proficiency in the use of such  
259 techniques.

260 4. Techniques for implementing manual physical restraint  
261 with multiple staff members working as a team.

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

264 6. Instruction in the district's documentation and  
265 reporting requirements.

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

268 8. Cardiopulmonary resuscitation.

269 (c) School districts shall provide refresher certification  
270 training courses in manual physical restraint techniques at  
271 least annually to all staff members who have successfully  
272 completed the initial certification program. The district must  
273 identify those persons to be certified and maintain a record  
274 that includes the name and position of the person certified, the  
275 date of the most recent certification, an indication of whether  
276 it was an initial certification or a refresher certification,  
277 and whether the individual successfully completed the  
278 certification and achieved proficiency.

279 (d) School district policies regarding the use of manual  
280 physical restraint must address whether it is appropriate for an  
281 employee working in specific settings, such as a school bus  
282 driver, school bus aide, job coach, employment specialist, or  
283 cafeteria worker, to be certified in manual physical restraint  
284 techniques. In the case of school resource officers or others  
285 who may be employed by other agencies when working in a school,  
286 administrators shall review each agency's specific policies to  
287 be aware of techniques that may be used.

288 (6) STUDENT-CENTERED FOLLOWUP.—If a student is manually  
289 physically restrained more than twice during a school year, the  
290 school shall review the student's functional behavioral

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291 assessment and positive behavioral intervention plan.

292 (7)~~(1)~~ DOCUMENTATION AND REPORTING.—

293 (a) At the beginning of each school year, a school district  
294 shall provide a copy of its policies on all emergency  
295 procedures, including its policies on the use of manual physical  
296 restraint, to each student's parent or guardian. The student's  
297 parent or guardian must sign a form indicating that he or she  
298 has read and received the district's policies, which the  
299 student's school shall retain on file.

300 (b)~~(a)~~ A school shall prepare an incident report within 24  
301 hours after a student is released from a restraint ~~or seclusion.~~  
302 If the student's release occurs on a day before the school  
303 closes for the weekend, a holiday, or another reason, the  
304 incident report must be completed by the end of the school day  
305 on the day the school reopens.

306 (c)~~(b)~~ The following must be included in the incident  
307 report:

- 308 1. The name of the student restrained ~~or secluded.~~
- 309 2. The age, grade, ethnicity, and disability of the student  
310 restrained or secluded.
- 311 3. The date and time of the event and the duration of the  
312 restraint or seclusion.
- 313 4. The location at which the restraint ~~or seclusion~~  
314 occurred.
- 315 5. A description of the type of restraint used in terms  
316 established by the Department of Education.
- 317 6. The name of the person using or assisting in the  
318 restraint ~~or seclusion~~ of the student.
- 319 7. The name of any nonstudent who was present to witness

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320 the restraint ~~or seclusion~~.

321 8. A description of the incident, including:

322 a. The context in which the restraint ~~or seclusion~~  
323 occurred.

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

328 c. The specific positive behavioral strategies used to  
329 prevent and deescalate the behavior.

330 d. What occurred with the student immediately after the  
331 termination of the restraint ~~or seclusion~~.

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

335 f. The results of the medical evaluation and a copy of any  
336 report by the medical professionals conducting the evaluation,  
337 if available. If the medical report is not available within 24  
338 hours, the district must submit the medical report separately as  
339 soon as it is available.

340 g.f. Evidence of steps taken to notify the student's parent  
341 or guardian.

342 (d) (e) A school shall notify the parent or guardian of a  
343 student each time manual or physical restraint ~~or seclusion~~ is  
344 used. Such notification must be in writing and provided before  
345 the end of the school day on which the restraint ~~or seclusion~~  
346 occurs. Reasonable efforts must also be taken to notify the  
347 parent or guardian by telephone or computer e-mail, or both, and  
348 these efforts must be documented. The school shall obtain, and

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349 keep in its records, the parent's or guardian's signed  
 350 acknowledgment that he or she was notified of his or her child's  
 351 restraint ~~or seclusion~~.

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

358 (8) ~~(2)~~ MONITORING.—

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

362 (b) Any documentation prepared by a school pursuant to ~~as~~  
 363 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school  
 364 principal, the district director of Exceptional Student  
 365 Education, and the bureau chief of the Bureau of Exceptional  
 366 Education and Student Services ~~electronically~~ each week ~~month~~  
 367 that the school is in session.

368 (c) Each week that a school is in session, the school shall  
 369 send a redacted copy of any incident report and other  
 370 documentation prepared pursuant to subsection (7) to the  
 371 Advocacy Center for Persons with Disabilities, Inc.

372 (d) ~~(e)~~ The department shall maintain aggregate data of  
 373 incidents of manual or physical restraint ~~and seclusion~~ and  
 374 disaggregate the data for analysis by county, school, student  
 375 exceptionality, and other variables, including the type and  
 376 method of restraint or seclusion used. This information shall be  
 377 updated monthly and made available to the public through the

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378 department's website no later than January 31, 2013.

379 (e)~~(d)~~ The department shall establish standards for  
380 documenting, reporting, and monitoring the use of manual or  
381 physical restraint or mechanical restraint, and occurrences of  
382 seclusion. These standards shall be provided to school districts  
383 ~~by October 1, 2011.~~

384 (9)~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

385 (a) Each school district shall develop policies and  
386 procedures that are consistent with this section and that govern  
387 the following:

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

389 2. Personnel authorized to use manual physical restraint.

390 3. Training procedures.

391 ~~4.1.~~ Incident-reporting procedures.

392 ~~5.2.~~ Data collection and monitoring, including when, where,  
393 and why students are restrained or secluded; the frequency of  
394 occurrences of such restraint or seclusion; and the prone or  
395 mechanical restraint that is most used.

396 ~~6.3.~~ Monitoring and reporting of data collected.

397 ~~7.4.~~ Training programs relating to manual or physical  
398 restraint and seclusion.

399 ~~8.5.~~ The district's plan for selecting personnel to be  
400 trained.

401 ~~9.6.~~ The district's plan for reducing the use of restraint  
402 and seclusion particularly in settings in which it occurs  
403 frequently or with students who are restrained repeatedly, and  
404 for reducing the use of prone restraint and mechanical  
405 restraint. The plan must include a goal for reducing the use of  
406 restraint and seclusion and must include activities, skills, and

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407 resources needed to achieve that goal. Activities may include,  
408 but are not limited to:

- 409 a. Additional training in positive behavioral support and  
410 crisis management;  
411 b. Parental involvement;  
412 c. Data review;  
413 d. Updates of students' functional behavioral analysis and  
414 positive behavior intervention plans;  
415 e. Additional student evaluations;  
416 f. Debriefing with staff;  
417 g. Use of schoolwide positive behavior support; and  
418 h. Changes to the school environment.

419 10. Analysis of data to determine trends.

420 11. Ongoing reduction of the use of manual physical  
421 restraint.

422 (b) Any revisions that a school district makes to its ~~to~~  
423 ~~the district's~~ policies and procedures, which are ~~must be~~  
424 prepared as part of the school district's ~~its~~ special policies  
425 and procedures, must be filed with the bureau chief of the  
426 Bureau of Exceptional Education and Student Services ~~no later~~  
427 ~~than January 31, 2012.~~

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

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

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