

1                   A bill to be entitled  
2           An act relating to the discipline of students with  
3           disabilities; amending s. 1003.57, F.S.; providing  
4           definitions; providing legislative intent and findings;  
5           requiring the training of school personnel concerning  
6           procedures for safely restraining students with  
7           disabilities in an emergency; providing for reporting such  
8           procedures to the Department of Education by publication  
9           in the school district's policies and procedures manual;  
10          prohibiting school personnel from restraining a student  
11          with disabilities except in specified circumstances;  
12          prohibiting school personnel from restraining a student  
13          with disabilities for a behavioral intervention or when  
14          the student is prone; requiring a medical evaluation after  
15          school personnel restrain a student with disabilities;  
16          prohibiting school personnel from placing a student with  
17          disabilities in forced seclusion; prohibiting school  
18          personnel from threatening to place a student with  
19          disabilities in time-out; providing certain exceptions;  
20          requiring that a school prepare a incident report after  
21          each occasion that school personnel restrain a student  
22          with disabilities; providing requirements concerning the  
23          report's contents and completion; requiring that the  
24          school contact the parent or guardian of a student with  
25          disabilities who is placed in restraint by school  
26          personnel; providing requirements for making such contact  
27          and recording attempts to make contact; providing  
28          requirements concerning the provision of the incident

29 report to the student's parent or guardian, the Department  
 30 of Education, and the Advocacy Center for Persons with  
 31 Disabilities, Inc.; requiring that school districts, in  
 32 cooperation with parents of students with disabilities,  
 33 form a group to review incident reports; requiring that a  
 34 student's name be redacted from the incident report;  
 35 requiring that the school district cooperate with parents  
 36 of students with disabilities participating in the group;  
 37 providing an effective date.

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

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41 Section 1. Subsection (3) is added to section 1003.57,  
 42 Florida Statutes, to read:

43 1003.57 Exceptional students instruction.--

44 (3) (a) As used in this subsection, the term:

45 1. "Restrain" means to use a manual method, a device, or a  
 46 material to restrict the student's freedom of movement or normal  
 47 access to his or her body. The term includes, but is not limited  
 48 to, restricting such movement or access by using a mechanical  
 49 device, manual or physical restraint, or medication that is not  
 50 a standard treatment for the student's condition to manage his  
 51 or her behavior.

52 2. "Forced seclusion" means to remove the student from an  
 53 educational environment, involuntarily confine the student in a  
 54 room or area, and prevent the student from leaving the room or  
 55 area if achieved by a show of authority, a threat of physical  
 56 force or other consequences, or physical force. The term does

57 not include placing a student in time-out.

58 3. "Time-out" means to place a student who has displayed a  
59 well-defined and articulated behavior in a less reinforcing  
60 environment for a period of time. The term does not include  
61 placing a student in seclusion for an extended period.

62 (b) The Legislature intends that the least restrictive  
63 means of intervention be employed based on the needs of an  
64 individual student with disabilities. It is the policy of this  
65 state that the use of restraint on students with disabilities is  
66 justified only as an emergency measure and the use of forced  
67 seclusion on such students is not justified in any circumstance.  
68 The Legislature finds that restraint and forced seclusion are  
69 interventions that pose physical and psychological dangers for  
70 students and school personnel and that students with  
71 disabilities are especially vulnerable to the harmful effects of  
72 restraint and forced seclusion. For these reasons, the  
73 Legislature finds that school personnel should not place a  
74 student with disabilities in forced seclusion and should not  
75 restrain a student with disabilities except in an emergency  
76 situation when there is a demonstrable, imminent, and ongoing  
77 risk of significant physical danger to the student or others and  
78 no less intrusive alternative is feasible.

79 (c) School personnel who interact with students with  
80 disabilities must receive an initial training and periodic  
81 followup training in procedures for safely restraining such  
82 students in an emergency which are approved by the district  
83 school board. Each school district shall report such procedures  
84 to the Department of Education by publishing the procedures in

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85 the district's special policies and procedures manual.

86 (d) School personnel may not restrain a student with  
87 disabilities:

88 1. Except in an emergency when there is a demonstrable,  
89 imminent, and ongoing risk of significant physical danger to the  
90 student or others and a less intrusive alternative is not  
91 feasible.

92 2. As a behavioral intervention.

93 3. Solely for having caused property damage, except in an  
94 emergency when there is a demonstrable, imminent, and ongoing  
95 risk of significant physical danger to the student or others.

96 4. As a response to one or more behaviors that have  
97 occurred, except in an emergency when there is a demonstrable,  
98 imminent, and ongoing risk of significant physical danger to the  
99 student or others.

100 5. While the student is lying prone.

101 (e) As soon as possible after a student with disabilities  
102 is placed in restraint by school personnel, the school shall  
103 ensure that the student is medically evaluated by a physician,  
104 nurse, or other qualified medical personnel.

105 (f) School personnel may not place a student with  
106 disabilities in forced seclusion.

107 (g) School personnel may not threaten to place a student  
108 with disabilities in time-out. School personnel may place a  
109 student with disabilities in time-out if:

110 1. The time-out is part of a behavior-intervention plan  
111 developed for that student from a functional behavioral  
112 assessment and documented on that student's individual education

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113 plan;

114 2. There is documentation that the time-out was preceded  
115 by other interventions that used positive behavioral supports  
116 that were not effective;

117 3. The time-out takes place in the classroom or in another  
118 environment where the class educational activities are taking  
119 place;

120 4. The student is not physically prevented from leaving  
121 the time-out area;

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

124 6. The time-out area and process is free of any action  
125 that is likely to embarrass or humiliate the student;

126 7. The time-out is for a period that does not exceed 1  
127 minute for each year of the student's age and the time-out ends  
128 immediately when the student is calm enough to return to his or  
129 her seat; or

130 8. The time-out is not used as a punishment or a negative  
131 consequence of a child's behavior.

132 (h) The school shall prepare a written report after each  
133 incident in which school personnel restrain a student with  
134 disabilities. The incident report must be prepared within 24  
135 hours after the student is released from the restraint or, if  
136 the release occurs on a day before the school closes for the  
137 weekend, a holiday, or for another reason, the report must be  
138 completed by the end of the school day after the school reopens.

139 Each incident report must include, but need not be limited to:

140 1. The name or initials of the student;

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- 141        2. The date, time, and duration of the incident;  
142        3. The type of restraint used;  
143        4. The location of incident;  
144        5. The names and job titles of all school personnel who  
145 were involved in the incident;  
146        6. The names and job titles of all school personnel who  
147 observed the incident;  
148        7. The names or initials of all students who observed the  
149 incident;  
150        8. A specific description of the behavior that resulted in  
151 the restraint;  
152        9. A statement of how the determination was made that the  
153 criteria in paragraph (d) were satisfied;  
154        10. A description of each intervention that was attempted  
155 before the restraint;  
156        11. The results of the medical assessment required under  
157 paragraph (e) and a copy of any report by the medical  
158 professionals conducting the assessment; and  
159        12. The date of the student's most recent functional  
160 behavior assessment and behavior-intervention plan and a copy of  
161 the student's current behavior-intervention plan.  
162        (i)1. If school personnel restrain a student with  
163 disabilities, the school shall contact the student's parent or  
164 guardian as soon as practically possible. The first attempt to  
165 contact the student's parent or guardian must be made within 1  
166 hour after the student is released from the restraint. If school  
167 personnel are unable to reach the parent or guardian by  
168 telephone, the school shall keep a record that documents each

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169 attempt to make such contact, including the name of each staff  
170 member who called, the time of the call, and the number called.

171 2. The school shall provide the student's parent or  
172 guardian with a copy of the incident report as soon as possible,  
173 but no later than 24 hours after the time that the report is  
174 required to be prepared under paragraph (h). The school shall  
175 obtain, and keep in its records, the parent's or guardian's  
176 signed acknowledgement of receipt of the report. The school  
177 shall also provide a copy of the incident report to the Bureau  
178 of Exceptional Education and Student Services of the Department  
179 of Education and the Advocacy Center for Persons with  
180 Disabilities, Inc.

181 (j) Each school district, in cooperation with parents or  
182 guardians of students with disabilities, shall form a group of  
183 school personnel and parents or guardians to review each  
184 incident when school personnel restrain a student with  
185 disabilities who is enrolled in a school within the district. At  
186 least half of the members of the community review group must be  
187 parents or guardians of students with disabilities. Each school  
188 that prepares an incident report under paragraph (h) shall  
189 provide the community review group with a copy of the incident  
190 report upon which any student names are redacted. The group  
191 shall conduct a timely review of each report provided. The  
192 school district shall cooperate with parents of students with  
193 disabilities in participating in the review group.

194 Section 2. This act shall take effect July 1, 2008.