

By Senator Deutch

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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 an 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

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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 a
50 standard treatment for the student's condition to manage his or
51 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 not
57 include placing a student in time-out.

58 3. "Time-out" means to place a student who has displayed a

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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 disabilities
71 are especially vulnerable to the harmful effects of restraint and
72 forced seclusion. For these reasons, the Legislature finds that
73 school personnel should not place a student with disabilities in
74 forced seclusion and should not restrain a student with
75 disabilities except in an emergency situation when there is a
76 demonstrable, imminent, and ongoing risk of significant physical
77 danger to the student or others and no less intrusive alternative
78 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
85 the district's special policies and procedures manual.

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

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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
113 plan;

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

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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 the
121 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 that
125 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 the
136 release occurs on a day before the school closes for the weekend,
137 a holiday, or for another reason, the report must be completed by
138 the end of the school day after the school reopens. Each incident
139 report must include, but need not be limited to:

140 1. The name or initials of the student;

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;

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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
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

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175 obtain, and keep in its records, the parent's or guardian's
176 signed acknowledgement of receipt of the report. The school shall
177 also provide a copy of the incident report to the Bureau of
178 Exceptional Education and Student Services of the Department of
179 Education and the Advocacy Center for Persons with Disabilities,
180 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 incident
184 when school personnel restrain a student with disabilities who is
185 enrolled in a school within the district. At least half of the
186 members of the community review group must be parents or
187 guardians of students with disabilities. Each school that
188 prepares an incident report under paragraph (h) shall provide the
189 community review group with a copy of the incident report upon
190 which any student names are redacted. The group shall conduct a
191 timely review of each report provided. The school district shall
192 cooperate with parents of students with disabilities in
193 participating in the review group.

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