

1 A bill to be entitled
2 An act relating to the use of restraint and seclusion on
3 students with disabilities in public schools; creating s.
4 1003.573, F.S.; providing definitions; providing
5 legislative intent and findings; prohibiting school
6 personnel from manually physically restraining a student
7 with disabilities; providing an exception in emergency
8 cases when there is an imminent and significant threat to
9 the physical safety of the student or others; prohibiting
10 school personnel from using force during manual physical
11 restraint; providing exceptions; prohibiting the use of
12 manual physical restraint by school personnel who are not
13 trained in district-approved methods for applying physical
14 restraint; prohibiting mechanical restraint, prone
15 restraint, and other specified methods of restraint;
16 requiring the school to medically evaluate a student as
17 soon as possible after the student is manually physically
18 restrained; prohibiting school personnel from placing a
19 student with disabilities in forced seclusion; prohibiting
20 time-out; providing exceptions; requiring that school
21 personnel be trained in seclusion and restraint; providing
22 for reporting such procedures to the Department of
23 Education by publication in the school district's policies
24 and procedures manual; requiring a school to prepare an
25 incident report after each occasion when a student is
26 physically restrained; requiring that the report contain
27 certain information; requiring the school to contact the
28 parent or guardian of a student with disabilities who is

29 placed in restraint by school personnel; requiring the
 30 school to send the incident report to the student's parent
 31 or guardian and the department; providing an effective
 32 date.

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

36 Section 1. Section 1003.573, Florida Statutes, is created
 37 to read:

38 1003.573 Use of restraint and seclusion on students with
 39 disabilities in public schools.--

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

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

42 (b) "Forced seclusion" means removing the student from an
 43 educational environment, involuntarily confining the student in
 44 a room or area, and preventing the student from leaving the room
 45 or area if achieved by locking the door or otherwise physically
 46 blocking the student's way, threatening physical force or other
 47 consequences, or using physical force. The term does not include
 48 placing a student in time-out.

49 (c) "Imminent and significant threat to the physical
 50 safety of the student or others" means serious aggression such
 51 as repeated kicking, head butting, or use of a body part or
 52 object that is likely to cause significant injury to another
 53 person or self-injury such as repeated head banging, face
 54 slapping, or eye-poking.

55 (d) "Manual physical restraint" means use of physical
 56 restraint techniques that involve physical force applied by a

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

59 (e) "Mechanical restraint" means a physical device used to
60 restrict a student's movement or restrict the normal function of
61 the student's body. Objects that fall within the term
62 "mechanical restraint" include straps, belts, tie-downs, and
63 calming blankets. The term does not include:

64 1. Medical protective equipment;

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

69 3. Devices used to support functional body position or
70 proper balance, or to prevent a person from falling out of bed
71 or a wheelchair; or

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

74 (f) "Medical protective equipment" means health-related
75 protective devices prescribed by a physician or dentist for use
76 as student protection in response to an existing medical
77 condition.

78 (g) "Time-out" means to place a student who has displayed
79 a well-defined and articulated behavior in a less reinforcing
80 environment for a period of time.

81 (2) LEGISLATIVE FINDINGS AND INTENT.--

82 (a) The Legislature intends that students with
83 disabilities be free from the unnecessary use of seclusion or
84 restraint in the public schools in this state. The Legislature

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85 finds that students, educators, and families are concerned about
86 the use of manual physical restraint, particularly when
87 restraint is used on students in special education programs. The
88 concerns include the use of manual physical restraint when less
89 intrusive measures of intervention are preferable, the lack of
90 adequate training for staff, inadequate documentation of
91 restraint procedures that are used, the failure of school
92 officials to notify parents when restraint is applied, and the
93 failure to use data to further analyze and address the cause of
94 the precipitating behavior.

95 (b) The Legislature finds that public schools have a
96 responsibility to ensure that all students are treated with
97 respect and dignity in an environment that provides for the
98 physical safety and security of students and staff.

99 (c) The Legislature further finds that use of manual
100 physical restraint may have a long-lasting emotional effect on
101 the student being restrained and that manual physical restraint
102 can cause serious injury or death to the student. Manual
103 physical restraint must be employed only to protect the student
104 or others from imminent and significant threat to the physical
105 safety of the student or others. Manual physical restraint may
106 not be employed as punishment, for the convenience of staff, or
107 as a substitute for a behavior-support plan. When it is used,
108 persons applying manual physical restraint shall impose the
109 least possible restrictions consistent with its purpose and
110 shall discontinue the restraint when the threat of imminent
111 danger ends.

112 (d) The Legislature, through the Department of Education,

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113 intends to achieve an ongoing reduction in the use of manual
114 physical restraint in the public schools and to prohibit the use
115 of forced seclusion or mechanical restraint on students with
116 disabilities.

117 (3) MANUAL PHYSICAL RESTRAINT.--Manual physical restraint
118 shall be used only in an emergency when there is an imminent and
119 significant threat to the physical safety of the student or
120 others.

121 (a) Manual physical restraint shall be used only for the
122 period needed in order to eliminate the imminent threat of harm
123 to the student or others.

124 (b) The degree of force applied during manual physical
125 restraint must be only that degree of force necessary to protect
126 the student or another from bodily injury.

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

136 (d) School personnel may not manually physically restrain
137 a student with disabilities except:

138 1. When there exists an imminent and significant threat to
139 the physical safety of the student or others;

140 2. As an appropriate behavioral intervention; or

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141 3. When used to prevent property damage when damage to
142 property threatens the safety of the student.

143 (e) School personnel may not under any circumstances use
144 the following manual physical restraint techniques on a student
145 with disabilities:

146 1. Prone 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;

154 8. Straddling or sitting on any part of the body, or any
155 maneuver that places pressure, weight, or leverage on the neck
156 or throat, on any artery, or on the back of the student's head
157 or neck, or that otherwise obstructs or restricts the
158 circulation of blood or obstructs an airway;

159 9. Any type of choking, hand chokes, and any type of neck
160 or head hold;

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

165 11. Any maneuver that involves punching, hitting, poking,
166 pinching, or shoving;

167 12. Any type of mat or blanket restraint; and

168 13. Water or lemon sprays.

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169 (f) The school shall have the student medically evaluated
170 by a physician, nurse, or other qualified medical professional
171 as soon as possible after the student with disabilities has been
172 manually physically restrained by school personnel.

173 (4) FORCED SECLUSION.--

174 (a) School personnel may not place a student with
175 disabilities in forced seclusion.

176 (b) School personnel may place a student with disabilities
177 in time-out if:

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

182 2. There is documentation that the time-out was preceded
183 by other interventions that used positive behavioral supports
184 that were not effective;

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

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

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

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

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

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

199 (5) TRAINING.--

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

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

205 1. Procedures for deescalating problematic behaviors
206 before they increase to a level or intensity necessitating
207 physical 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 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 their use;

215 4. Techniques for implementing manual physical restraint
216 with multiple staff members working as a team;

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

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

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

223 and

224 8. Cardiopulmonary resuscitation (CPR).

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

234 (d) School districts policies regarding the use of manual
235 restraint shall address whether it is appropriate for an
236 employee working in specific settings, such as for a school bus
237 driver, bus aide, job coach, employment specialist, or cafeteria
238 worker, to be trained in manual physical restraint techniques.
239 School district policies shall guide staff members who have not
240 received training in how to address an emergency situation that
241 poses an imminent and significant threat to the physical safety
242 of a student or others in a manner consistent with ss. 1003.32
243 and 1006.11, and rule 6A-1.0404(8)(m), Florida Administrative
244 Code, regarding the use of reasonable force in order to maintain
245 a safe learning environment. In the case of school resource
246 officers or others who may be employed by other agencies when
247 working in a school, administrators shall review each agency's
248 specific policies to be aware of techniques that might be used.

249 (6) STUDENT-CENTERED FOLLOWUP.--If a student is manually
250 physically restrained more than twice in a school year, the
251 student's functional behavior analysis and behavior intervention
252 plan must be reviewed.

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253 (7) DOCUMENTATION AND REPORTING.--

254 (a) The school district's policy regarding the use of
255 manual physical restraint must be discussed with parents
256 annually. At the beginning of each school year, the district
257 shall provide parents with a copy of the district's policies on
258 all emergency procedures, including the use of manual physical
259 restraint.

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

266 (c) The following must be included in the incident report:

267 1. The name of the student restrained;

268 2. The date and time of the event and the duration of the
269 restraint;

270 3. The location at which the restraint occurred;

271 4. The type of restraint used;

272 5. The name of the person using or assisting the physical
273 restraint of the student;

274 6. The name of any nonstudent who was present to witness
275 the restraint;

276 7. A description of the incident, including:

277 a. The context in which the restraint occurred;

278 b. The student's behavior leading up to and precipitating
279 the decision to use manual physical restraint, including an
280 indication as to why there was an imminent threat to the

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281 physical safety of the student or others;
282 c. The specific positive behavior strategy used to prevent
283 and deescalate the behavior;
284 d. What occurred with the student immediately after the
285 termination of the restraint;
286 e. Any injuries, visible marks, or possible medical
287 emergencies that may have occurred during the restraint and
288 documented according to district guidelines;
289 f. The results of the medical assessment and a copy of any
290 report by the medical professionals conducting the assessment if
291 available. If the medical report is not available within 24
292 hours, the district shall submit the medical report separately
293 as soon as it is available; and
294 g. Evidence of steps taken to notify parents or guardians.
295 (d) A school shall notify parents or legal guardians of
296 the student each time manual physical restraint is used. Such
297 notification must be provided before the end of the school day
298 on which the restraint occurred. Notifications shall be in
299 writing. Reasonable efforts must also be taken to notify parents
300 or legal guardians by telephone or computer e-mail, or both, and
301 these efforts must be documented. The school shall obtain, and
302 keep in its records, the parent's or guardian's signed
303 acknowledgement that he or she was notified of their child's
304 restraint.
305 (e) A school shall also provide the parents or legal
306 guardians with the completed incident report in writing by mail
307 within 3 school days after the student was manually physically
308 restrained. The school shall obtain, and keep in its records,

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309 the parent's or guardian's signed acknowledgement that he or she
310 received a copy of the incident report.

311 (8) MONITORING.--

312 (a) Monitoring of the use of manual physical restraint with
313 students shall occur at the classroom, building, district, and
314 state level.

315 (b) Documentation prepared as required in subsection (7)
316 shall be provided to the school principal, district Exceptional
317 Student Education (ESE) director, and bureau chief of the Bureau
318 of Exceptional Education and Student Services each week that the
319 school is in session.

320 (c) A school shall send each week to the Advocacy Center
321 for Persons with Disabilities, Inc., a redacted copy of any
322 incident report and other documentation prepared as required in
323 subsection (7) each week that the school is in session.

324 (d) The department shall maintain aggregate data of
325 incidents of restraint and disaggregate the data for analysis by
326 county, school, student exceptionality, and other variables.
327 This information shall be updated monthly and made available to
328 the public through the department's website no later than
329 October 1, 2009.

330 (9) DISTRICT POLICIES AND PROCEDURES.--School districts
331 shall develop policies and procedures consistent with this
332 section further governing the following:

333 (a) Allowable use of restraints on students.

334 (b) Personnel authorized to use manual physical restraint.

335 (c) Training procedures.

336 (d) Incident-reporting procedures.

337 (e) Data collection.
 338 (f) Monitoring and reporting of data collected.
 339 (g) Analysis of data to determine trends.
 340 (h) Ongoing reduction of the use of manual physical
 341 restraint.
 342
 343 These policy and procedure revisions, which must be prepared as
 344 part of the special policies and procedures, must be filed with
 345 the bureau chief of the Bureau of Exceptional Education and
 346 Student Services no later than October 1, 2009.
 347 Section 2. This act shall take effect July 1, 2009.