

By Senator Gardiner

9-01379-09

20092480__

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

9-01379-09

20092480__

30 contact the parent or guardian of a student with
31 disabilities who is placed in restraint by school
32 personnel; requiring the school to send the incident
33 report to the student's parent or guardian and the
34 department; providing an effective date.
35

36 Be It Enacted by the Legislature of the State of Florida:
37

38 Section 1. Section 1003.573, Florida Statutes, is created
39 to read:

40 1003.573 Use of restraint and seclusion on students with
41 disabilities in public schools.-

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

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

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

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

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

9-01379-09

20092480__

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

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

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 medical treatment that is ongoing in
70 the educational setting;

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

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

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

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

83 (2) LEGISLATIVE FINDINGS AND INTENT.—

84 (a) The Legislature intends that students with disabilities
85 be free from the unnecessary use of seclusion or restraint in
86 the public schools in this state. The Legislature finds that
87 students, educators, and families are concerned about the use of

9-01379-09

20092480

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

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

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

114 (d) The Legislature, through the Department of Education,
115 intends to achieve an ongoing reduction in the use of manual
116 physical restraint in the public schools and to prohibit the use

9-01379-09

20092480__

117 of forced seclusion or mechanical restraint on students with
118 disabilities.

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

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

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

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

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

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

142 2. As an appropriate behavioral intervention; or

143 3. When used to prevent property damage when damage to
144 property threatens the safety of the student.

145 (e) School personnel may not under any circumstances use

9-01379-09

20092480__

146 the following manual physical restraint techniques on a student
147 with disabilities:

- 148 1. Prone restraint;
149 2. Pain inducement to obtain compliance;
150 3. Bone locks;
151 4. Hyperextension of joints;
152 5. Peer restraint;
153 6. Mechanical restraint;
154 7. Pressure or weight on the chest, lungs, sternum,
155 diaphragm, back, or abdomen, causing chest compression;
156 8. Straddling or sitting on any part of the body, or any
157 maneuver that places pressure, weight, or leverage on the neck
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
160 circulation of blood or obstructs an airway;
161 9. Any type of choking, hand chokes, and any type of neck
162 or head hold;
163 10. Any technique that involves pushing on or into the
164 student's mouth, nose, eyes, or any part of the face, or
165 covering the face or body with anything, including soft objects
166 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; and
170 13. Water or lemon sprays.
171 (f) The school shall have the student medically evaluated
172 by a physician, nurse, or other qualified medical professional
173 as soon as possible after the student with disabilities has been
174 manually physically restrained by school personnel.

9-01379-09

20092480__

175 (4) FORCED SECLUSION.-

176 (a) School personnel may not place a student with
177 disabilities in forced seclusion.

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

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

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

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

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

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

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

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

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

201 (5) TRAINING.-

202 (a) Each school district shall report its training
203 procedures to the department by publishing the procedures in the

9-01379-09

20092480__

204 district's special policies and procedures manual.

205 (b) Training in the use of manual physical restraint must
206 include:

207 1. Procedures for deescalating problematic behaviors before
208 they increase to a level or intensity necessitating physical
209 intervention;

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

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

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

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

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

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

226 8. Cardiopulmonary resuscitation (CPR).

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

9-01379-09

20092480

233 whether it was initial training or refresher training, and
234 whether the individual successfully completed the training and
235 achieved proficiency.

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

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

255 (7) DOCUMENTATION AND REPORTING.—

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

9-01379-09

20092480__

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

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

269 1. The name of the student restrained;

270 2. The date and time of the event and the duration of the
271 restraint;

272 3. The location at which the restraint occurred;

273 4. The type of restraint used;

274 5. The name of the person using or assisting the physical
275 restraint of the student;

276 6. The name of any nonstudent who was present to witness
277 the restraint;

278 7. A description of the incident, including:

279 a. The context in which the restraint occurred;

280 b. The student's behavior leading up to and precipitating
281 the decision to use manual physical restraint, including an
282 indication as to why there was an imminent threat to the
283 physical safety of the student or others;

284 c. The specific positive behavior strategy used to prevent
285 and deescalate the behavior;

286 d. What occurred with the student immediately after the
287 termination of the restraint;

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

9-01379-09

20092480

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

296 g. Evidence of steps taken to notify parents or guardians.

297 (d) A school shall notify parents or legal guardians of the
298 student each time manual physical restraint is used. Such
299 notification must be provided before the end of the school day
300 on which the restraint occurred. Notifications shall be in
301 writing. Reasonable efforts must also be taken to notify parents
302 or legal guardians by telephone or computer e-mail, or both, and
303 these efforts must be documented. The school shall obtain, and
304 keep in its records, the parent's or guardian's signed
305 acknowledgement that he or she was notified of their child's
306 restraint.

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

313 (8) MONITORING.—

314 (a) Monitoring of the use of manual physical restrain with
315 students shall occur at the classroom, building, district, and
316 state level.

317 (b) Documentation prepared as required in subsection (7)
318 shall be provided to the school principal, district Exceptional
319 Student Education (ESE) director, and bureau chief of the Bureau

9-01379-09

20092480__

320 of Exceptional Education and Student Services each week that the
321 school is in session.

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

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

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

- 335 (a) Allowable use of restraints on students.
336 (b) Personnel authorized to use manual physical restraint.
337 (c) Training procedures.
338 (d) Incident-reporting procedures.
339 (e) Data collection.
340 (f) Monitoring and reporting of data collected.
341 (g) Analysis of data to determine trends.
342 (h) Ongoing reduction of the use of manual physical
343 restraint.

344
345 These policy and procedure revisions, which must be prepared as
346 part of the special policies and procedures, must be filed with
347 the bureau chief of the Bureau of Exceptional Education and
348 Student Services no later than October 1, 2009.

9-01379-09

20092480__

349

Section 2. This act shall take effect July 1, 2009.