

1 A bill to be entitled
2 An act relating to the use, prevention, and reduction of
3 seclusion and restraint on students with disabilities in
4 public schools; creating s. 1003.573, F.S.; providing
5 definitions; providing legislative findings and intent;
6 providing that manual physical restraint shall be used
7 only in an emergency when there is an imminent risk of
8 serious injury or death to the student or others;
9 providing restrictions on the use of manual physical
10 restraint; prohibiting the use of manual physical
11 restraint by school personnel who are not certified to use
12 district-approved methods for applying restraint
13 techniques; prohibiting specified techniques; requiring
14 the school to medically evaluate a student as soon as
15 possible after the student is manually physically
16 restrained; prohibiting school personnel from placing a
17 student in seclusion; providing requirements for use of
18 time-out; requiring reporting of training and
19 certification procedures to the Department of Education;
20 requiring that school personnel be trained and certified
21 in the use of manual physical restraint; requiring student
22 followup in certain circumstances; requiring notification
23 to parents of school district policies regarding emergency
24 procedures; requiring the school to prepare an incident
25 report after each occasion of student restraint and
26 specifying contents of report; requiring certain reporting
27 and monitoring; requiring the development and revision of
28 school district policies and procedures; providing an

29 effective date.

30

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

32

33 Section 1. Section 1003.573, Florida Statutes, is created
34 to read:

35 1003.573 Use, prevention, and reduction of seclusion and
36 restraint on students with disabilities in public schools.--

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

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

39 (b) "Imminent risk of serious injury or death" means the
40 impending risk of a significant injury, such as a laceration,
41 bone fracture, substantial hematoma, or other injury to internal
42 organs, or death.

43 (c) "Manual physical restraint" means use of physical
44 restraint techniques that involve physical force applied by a
45 teacher or other staff member to restrict the movement of all or
46 part of a student's body.

47 (d) "Mechanical restraint" means a physical device used to
48 restrict a student's movement or restrict the normal function of
49 a student's body. Objects that fall within the term "mechanical
50 restraint" include straps, belts, tie-downs, calming blankets,
51 and chairs with straps. The term does not include:

52 1. Medical protective equipment;

53 2. Physical equipment or orthopedic appliances, surgical
54 dressings or bandages, or supportive body bands or other
55 restraints necessary for medical treatment that is ongoing in
56 the educational setting;

HB 81

2010

57 3. Devices used to support functional body position or
58 proper balance, or prevent a person from falling out of a bed or
59 a wheelchair, except that these exceptions to the definition of
60 mechanical restraint do not apply to any device when it is used
61 for any purpose other than supporting a body position or proper
62 balance, such as when used as coercion, discipline, convenience,
63 or retaliation, to prevent imminent risk of serious injury or
64 death of the student or others, or for any other behavior-
65 management reason; or

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

68 (e) "Medical protective equipment" means health-related
69 protective devices prescribed by a physician or dentist for use
70 as student protection in response to an existing medical
71 condition.

72 (f) "Seclusion" means removing a student from an
73 educational environment, involuntarily confining the student in
74 a room or area, and preventing the student from leaving the room
75 or area if achieved by locking the door or otherwise physically
76 blocking the student's way, threatening physical force or other
77 consequences, or using physical force. The term does not include
78 the use of time-out.

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

80 (h) "Time-out" means a procedure in which access to varied
81 sources of reinforcement is removed or reduced for a particular
82 time period contingent on a response. The opportunity to receive
83 reinforcement is contingently removed for a specified time.
84 Either a student is contingently removed from the reinforcing

HB 81

2010

85 environment or the reinforcing environment is contingently
86 removed for some stipulated duration. A time-out setting may not
87 be locked and the exit may not be blocked. Physical force or
88 threats may not be used to place a student in time-out.

89 (2) LEGISLATIVE FINDINGS AND INTENT.--

90 (a) The Legislature finds that public schools have a
91 responsibility to ensure that each student is treated with
92 respect and dignity in a trauma-informed environment that
93 provides for the physical safety and security of students and
94 others.

95 (b) The Legislature finds that students, educators, and
96 families are concerned about the use of seclusion and restraint,
97 particularly when used on students in special education
98 programs. Seclusion and restraint refer to safety procedures in
99 which a student is isolated from others or physically held in
100 response to serious problem behavior that places the student or
101 others at risk of injury or harm. Concern exists that these
102 procedures are prone to misapplication and abuse, placing a
103 student at an equal or greater risk than the risk of the
104 student's problem behavior. Concerns include the following:
105 seclusion or restraint is inappropriately selected and
106 implemented as treatment or behavioral intervention rather than
107 as a safety procedure; seclusion or restraint is inappropriately
108 used for behaviors, such as noncompliance, threats, or
109 disruption, that do not place the student or others at risk of
110 injury or harm; students, peers, or staff may be injured or
111 physically harmed during attempts to conduct seclusion or
112 restraint; risk of injury or harm is increased because seclusion

HB 81

2010

113 or restraint is implemented by staff who are not adequately
114 trained; use of seclusion or restraint may inadvertently result
115 in reinforcing or strengthening the problem behavior; and
116 seclusion or restraint is implemented independent of
117 comprehensive, function-based behavioral intervention plans.
118 Moreover, there are concerns about inadequate documentation of
119 seclusion or restraint procedures, failure to notify parents
120 when seclusion or restraint is applied, and failure to use data
121 to analyze and address the cause of the precipitating behavior.

122 (c) The Legislature finds that the majority of problem
123 behaviors that are currently used to justify seclusion or
124 restraint could be prevented with early identification and
125 intensive early intervention. The need for seclusion or
126 restraint is, in part, a result of insufficient investment in
127 prevention efforts.

128 (d) The Legislature further finds that the use of
129 seclusion or restraint may produce trauma in students. For such
130 students, who are already experiencing trauma, the use may cause
131 retraumatization. Left unaddressed, the lasting effects of
132 childhood trauma place a heavy burden on individuals, families,
133 and communities. Research has shown that trauma significantly
134 increases the risk of mental health problems, difficulties with
135 social relationships and behavior, physical illness, and poor
136 school performance.

137 (e) The Legislature intends that students be free from the
138 abusive and unnecessary use of seclusion or restraint in the
139 public schools.

140 (f) The Legislature intends to prevent and achieve an

HB 81

2010

141 ongoing reduction of the use of manual physical restraint in the
142 public schools and, specifically, to prohibit the use of
143 seclusion, prone and supine restraint, and mechanical restraint
144 on students.

145 (g) The Legislature also intends that manual physical
146 restraint shall be used only when an imminent risk of serious
147 injury or death exists; that manual physical restraint shall not
148 be employed as punishment, for the convenience of staff, or as a
149 substitute for a positive behavior-support plan; and that, when
150 used, persons applying manual physical restraint shall impose
151 the least possible restrictions and shall discontinue the
152 restraint as soon as the threat of imminent risk of serious
153 injury or death ceases.

154 (3) MANUAL PHYSICAL RESTRAINT.--Manual physical restraint
155 shall be used only in an emergency when there is an imminent
156 risk of serious injury or death to the student or others.

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

160 (b) The degree of force applied during manual physical
161 restraint must be only that degree of force necessary to protect
162 the student or others from bodily injury.

163 (c) Manual physical restraint shall be used only by school
164 personnel who are qualified and certified to use the district-
165 approved methods for the appropriate application of specific
166 restraint techniques. School personnel who have received
167 training not associated with their employment with the school
168 district, such as a former law enforcement officer who is now a

169 teacher, shall be certified in the specific district-approved
170 techniques and may not apply techniques or procedures acquired
171 elsewhere.

172 (d) School personnel may not manually physically restrain
173 a student except when there exists an imminent risk of serious
174 injury or death to the student or others.

175 (e) School personnel may not under any circumstances use
176 any of the following manual physical restraint techniques on a
177 student:

178 1. Prone and supine restraint.

179 2. Pain inducement to obtain compliance.

180 3. Bone locks.

181 4. Hyperextension of joints.

182 5. Peer restraint.

183 6. Mechanical restraint.

184 7. Pressure or weight on the chest, lungs, sternum,
185 diaphragm, back, or abdomen, causing chest compression.

186 8. Straddling or sitting on any part of the body or any
187 maneuver that places pressure, weight, or leverage on the neck
188 or throat, on any artery, or on the back of the student's head
189 or neck or that otherwise obstructs or restricts the circulation
190 of blood or obstructs an airway.

191 9. Any type of choking, including hand chokes, and any
192 type of neck or head hold.

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

HB 81

2010

197 11. Any maneuver that involves punching, hitting, poking,
198 pinching, or shoving.

199 12. Any type of mat or blanket restraint.

200 13. Water or lemon sprays.

201 (f) The school shall have a student medically evaluated by
202 a physician, nurse, or other qualified medical professional as
203 soon as possible after the student has been manually physically
204 restrained by school personnel.

205 (4) SECLUSION; TIME-OUT.--

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

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

209 1. The time-out is part of a positive behavioral
210 intervention plan developed for that student from a functional
211 behavioral assessment and referenced in the student's individual
212 education plan.

213 2. There is documentation that the time-out was preceded
214 by other interventions that used positive behavioral supports
215 that were not effective.

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

218 4. The student is not physically prevented from leaving
219 the time-out area.

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

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

224 (c) Time-out may not be used for a period that exceeds 1

HB 81

2010

225 minute for each year of a student's age, and time-out must end
226 immediately when the student is calm enough to return to his or
227 her seat.

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

230 (5) TRAINING AND CERTIFICATION.--

231 (a) Each school district shall report its training and
232 certification procedures to the department by publishing the
233 procedures in the district's special policies and procedures
234 manual.

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

237 1. Procedures for deescalating problem behaviors before
238 they increase to a level or intensity necessitating physical
239 intervention.

240 2. Information regarding the risks associated with manual
241 physical restraint and procedures for assessing individual
242 situations and students in order to determine if the use of
243 manual physical restraint is appropriate and sufficiently safe.

244 3. The actual use of specific techniques that range from
245 the least to most restrictive, with ample opportunity for
246 trainees to demonstrate proficiency in their use.

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

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

251 6. Instruction in the district's documentation and
252 reporting requirements.

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

255 8. Cardiopulmonary resuscitation (CPR).

256 (c) School districts shall provide refresher certification
 257 in manual physical restraint techniques at least annually to all
 258 staff members who have successfully completed the initial
 259 certification program. The district must identify those persons
 260 to be certified and maintain a record that includes the name and
 261 position of the person certified, the date of the most recent
 262 certification, an indication of whether it was an initial
 263 certification or a refresher certification, and whether the
 264 individual successfully completed the certification and achieved
 265 proficiency.

266 (d) School district policies regarding the use of manual
 267 physical restraint shall address whether it is appropriate for
 268 an employee working in specific settings, such as a school bus
 269 driver, school bus aide, job coach, employment specialist, or
 270 cafeteria worker, to be certified in manual physical restraint
 271 techniques. In the case of school resource officers or others
 272 who may be employed by other agencies when working in a school,
 273 administrators shall review each agency's specific policies to
 274 be aware of techniques that might be used.

275 (6) STUDENT-CENTERED FOLLOWUP.--If a student is manually
 276 physically restrained more than twice in a school year, the
 277 student's functional behavioral assessment and positive
 278 behavioral intervention plan must be reviewed.

279 (7) DOCUMENTATION AND REPORTING.--

280 (a) The school district's policy regarding the use of

281 manual physical restraint must be thoroughly explained to
282 parents annually. At the beginning of each school year, the
283 district shall provide parents with a copy of the district's
284 policies on all emergency procedures, including the use of
285 manual physical restraint. A parent should indicate receipt of
286 the district policies by his or her signature, which should be
287 retained on file by the student's school.

288 (b) A school shall prepare an incident report within 24
289 hours after a student is released from a restraint. If the
290 student's release occurs on a day before the school closes for
291 the weekend, a holiday, or another reason, the incident report
292 must be completed by the end of the school day on the day the
293 school reopens.

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

295 1. The name of the student restrained.

296 2. The date and time of the event and the duration of the
297 restraint.

298 3. The location at which the restraint occurred.

299 4. The type of restraint used.

300 5. The name of the person using or assisting the restraint
301 of the student.

302 6. The name of any nonstudent who was present to witness
303 the restraint.

304 7. A description of the incident, including:

305 a. The context in which the restraint occurred.

306 b. The student's behavior leading up to and precipitating
307 the decision to use manual physical restraint, including an
308 indication as to why there was an imminent risk of serious

HB 81

2010

309 injury or death to the student or others.

310 c. The specific positive behavioral strategies used to
311 prevent and deescalate the behavior.

312 d. What occurred with the student immediately after the
313 termination of the restraint.

314 e. Any injuries, visible marks, or possible medical
315 emergencies that may have occurred during the restraint,
316 documented according to district policies.

317 f. The results of the medical evaluation and a copy of any
318 report by the medical professionals conducting the evaluation if
319 available. If the medical report is not available within 24
320 hours, the district must submit the medical report separately as
321 soon as it is available.

322 g. Evidence of steps taken to notify the parent.

323 (d) A school shall notify the parent of a student each
324 time manual physical restraint is used. Such notification must
325 be in writing and provided before the end of the school day on
326 which the restraint occurs. Reasonable efforts must also be
327 taken to notify the parent by telephone or computer e-mail, or
328 both, and these efforts must be documented. The school shall
329 obtain, and keep in its records, the parent's signed
330 acknowledgement that he or she was notified of his or her
331 child's restraint.

332 (e) A school shall also provide the parent with the
333 completed incident report in writing by mail within 3 school
334 days after a student was manually physically restrained. The
335 school shall obtain, and keep in its records, the parent's
336 signed acknowledgement that he or she received a copy of the

HB 81

2010

337 incident report.

338 (8) MONITORING.--

339 (a) Monitoring of the use of manual physical restraint on
340 students shall occur at the classroom, building, district, and
341 state levels.

342 (b) Documentation prepared as required in subsection (7)
343 shall be provided to the school principal, the district
344 Exceptional Student Education (ESE) director, and the bureau
345 chief of the Bureau of Exceptional Education and Student
346 Services each week that the school is in session.

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

351 (d) The department shall maintain aggregate data of
352 incidents of manual physical restraint and disaggregate the data
353 for analysis by county, school, student exceptionality, and
354 other variables. This information shall be updated monthly and
355 made available to the public through the department's website no
356 later than January 31, 2011.

357 (9) DISTRICT POLICIES AND PROCEDURES.--School districts
358 shall develop policies and procedures consistent with this
359 section and governing the following:

360 (a) Allowable use of manual physical restraint on
361 students.

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

363 (c) Training procedures.

364 (d) Incident-reporting procedures.

HB 81

2010

365 (e) Data collection.
 366 (f) Monitoring and reporting of data collected.
 367 (g) Analysis of data to determine trends.
 368 (h) Ongoing reduction of the use of manual physical
 369 restraint.
 370
 371 Policy and procedure revisions pursuant to this section, which
 372 must be prepared as part of the district's special policies and
 373 procedures, must be filed with the bureau chief of the Bureau of
 374 Exceptional Education and Student Services no later than January
 375 31, 2011.
 376 Section 2. This act shall take effect July 1, 2010.