

1 A bill to be entitled
2 An act relating to public school education;
3 prohibiting a public high school student from leaving
4 school grounds during his or her designated lunch
5 period; requiring that district school boards
6 implement the prohibition by a specified date;
7 amending s. 1003.573, F.S., relating to the use,
8 prevention, and reduction of seclusion and restraint
9 on students with disabilities; providing definitions;
10 providing legislative findings and intent; requiring
11 that manual physical restraint be used only in an
12 emergency when there is an imminent risk of serious
13 injury or death to the student or others; providing
14 restrictions on the use of manual physical restraint;
15 prohibiting the use of manual physical restraint by
16 school personnel who are not certified to use
17 district-approved methods for applying restraint
18 techniques; prohibiting specified techniques;
19 requiring that each school medically evaluate a
20 student after the student is manually physically
21 restrained; prohibiting school personnel from placing
22 a student in seclusion; providing requirements for the
23 use of time-out; requiring that a school district
24 report its training and certification procedures to
25 the Department of Education; requiring that school
26 personnel be trained and certified in the use of
27 manual physical restraint; requiring that a school
28 review a student's functional behavior assessment and

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29 positive behavioral intervention plan under certain
30 circumstances; requiring that parents be notified of a
31 school district's policies regarding the use of manual
32 physical restraint; requiring that each school send a
33 redacted copy of any incident report or other
34 documentation to the Advocacy Center for Persons with
35 Disabilities, Inc.; requiring that the department make
36 available on its website data of incidents of manual
37 physical restraint by a specified date; requiring that
38 each school district develop policies and procedures
39 addressing the allowable use of manual physical
40 restraint, personnel authorized to use such restraint,
41 training procedures, analysis of data trends, and the
42 reduction of the use of manual physical restraint;
43 requiring that any revisions to a school district's
44 policies and procedures be filed with the bureau chief
45 of the Bureau of Exceptional Education and Student
46 Services by a specified date; providing an effective
47 date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. A public high school student may not leave
52 school grounds during his or her designated lunch period.
53 District school boards shall implement this section by July 1,
54 2016.

55 Section 2. Section 1003.573, Florida Statutes, is amended
56 to read:

57 | 1003.573 Use, prevention, and reduction of seclusion and
 58 | restraint on students with disabilities in public schools ~~Use of~~
 59 | ~~restraint and seclusion on students with disabilities.-~~

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

61 | (a) "Department" means the Department of Education.

62 | (b) "Imminent risk of serious injury or death" means the
 63 | impending risk of a significant injury, such as a laceration,
 64 | bone fracture, substantial hematoma, or other injury to internal
 65 | organs, or death.

66 | (c) "Manual physical restraint" means the use of physical
 67 | restraint techniques that involve physical force applied by a
 68 | teacher or other staff member to restrict the movement of all or
 69 | part of a student's body.

70 | (d) "Mechanical restraint" means the use of a physical
 71 | device that restricts a student's movement or restricts the
 72 | normal function of a student's body. The term includes the use
 73 | of straps, belts, tie-downs, calming blankets, and chairs with
 74 | straps; however, the term does not include the use of:

75 | 1. Medical protective equipment;

76 | 2. Physical equipment or orthopedic appliances, surgical
 77 | dressings or bandages, or supportive body bands or other
 78 | restraints necessary for ongoing medical treatment in the
 79 | educational setting;

80 | 3. Devices used to support functional body position or
 81 | proper balance, or to prevent a person from falling out of a bed
 82 | or a wheelchair, except when such device is used for any purpose
 83 | other than supporting a body position or proper balance, such as
 84 | coercion, discipline, convenience, or retaliation, to prevent

85 imminent risk of serious injury or death of the student or
 86 others, or for any other behavior-management reason; or

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

89 (e) "Medical protective equipment" means health-related
 90 protective devices prescribed by a physician or dentist for use
 91 as student protection in response to an existing medical
 92 condition.

93 (f) "Seclusion" means removing a student from an
 94 educational environment, involuntarily confining the student in
 95 a room or area, and preventing the student from leaving the room
 96 or area if achieved by locking the door or otherwise physically
 97 blocking the student's way, threatening physical force or other
 98 consequences, or using physical force. The term does not include
 99 the use of time-out.

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

101 (h) "Time-out" means a procedure in which access to varied
 102 sources of reinforcement is removed or reduced for a particular
 103 time period contingent on a response. The opportunity to receive
 104 reinforcement is contingently removed for a specified time.
 105 Either a student is contingently removed from the reinforcing
 106 environment or the reinforcing environment is contingently
 107 removed for some stipulated duration. A time-out setting may not
 108 be locked and the exit may not be blocked. Physical force or
 109 threats may not be used to place a student in time-out.

110 (2) LEGISLATIVE FINDINGS AND INTENT.—

111 (a) The Legislature finds that public schools have a
 112 responsibility to ensure that each student is treated with

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113 respect and dignity in a trauma-informed environment that
114 provides for the physical safety and security of students and
115 others.

116 (b) The Legislature finds that students, educators, and
117 families are concerned about the use of seclusion and restraint,
118 particularly when used on students in special education
119 programs. Seclusion and restraint refer to safety procedures in
120 which a student is isolated from others or physically held in
121 response to serious problem behavior that places the student or
122 others at risk of injury or harm. There is concern that these
123 procedures are prone to misapplication and abuse and place a
124 student at an equal or greater risk than the risk of the
125 student's problem behavior. Particular concerns include:

126 1. Seclusion or restraint is inappropriately selected and
127 implemented as treatment or behavioral intervention rather than
128 as a safety procedure;

129 2. Seclusion or restraint is inappropriately used for
130 behaviors, such as noncompliance, threats, or disruption, which
131 do not place the student or others at risk of injury or harm;

132 3. Students, peers, or staff may be injured or physically
133 harmed during attempts to conduct seclusion or restraint;

134 4. Risk of injury or harm is increased because seclusion
135 or restraint is implemented by staff who are not adequately
136 trained;

137 5. The use of seclusion or restraint may inadvertently
138 result in reinforcing or strengthening the problem behavior; and

139 6. Seclusion or restraint is implemented independent of
140 comprehensive, function-based behavioral intervention plans.

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142 Moreover, there are concerns about the inadequate documentation
143 of seclusion or restraint procedures, the failure to notify
144 parents when seclusion or restraint is applied, and the failure
145 to use data to analyze and address the cause of the
146 precipitating behavior.

147 (c) The Legislature finds that the majority of problem
148 behaviors that are currently used to justify seclusion or
149 restraint could be prevented with early identification and
150 intensive early intervention. The need for seclusion or
151 restraint is, in part, a result of insufficient investment in
152 prevention efforts. The Legislature further finds that the use
153 of seclusion or restraint may produce trauma in students. For
154 such students, who are already experiencing trauma, the use may
155 cause retraumatization. Left unaddressed, the lasting effects of
156 childhood trauma place a heavy burden on individuals, families,
157 and communities. Research has shown that trauma significantly
158 increases the risk of mental health problems, difficulties with
159 social relationships and behavior, physical illness, and poor
160 school performance.

161 (d) The Legislature intends that students be free from the
162 abusive and unnecessary use of seclusion or restraint in the
163 public schools. The Legislature further intends to prevent, and
164 achieve an ongoing reduction of, the use of manual physical
165 restraint in the public schools and, specifically, to prohibit
166 the use of seclusion, prone and supine restraint, and mechanical
167 restraint on students. The Legislature also intends that manual
168 physical restraint be used only when an imminent risk of serious

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169 injury or death exists; that manual physical restraint not be
170 employed as punishment, for the convenience of staff, or as a
171 substitute for a positive behavior-support plan; and that, when
172 used, persons applying manual physical restraint impose the
173 least possible restrictions and discontinue the restraint as
174 soon as the threat of imminent risk of serious injury or death
175 ceases.

176 (3) MANUAL PHYSICAL RESTRAINT.—Manual physical restraint
177 shall be used only in an emergency when there is an imminent
178 risk of serious injury or death to the student or others.

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

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

185 (c) Manual physical restraint shall be used only by school
186 personnel who are qualified and certified to use the district-
187 approved methods for the appropriate application of specific
188 restraint techniques. School personnel who have received
189 training that is not associated with their employment with the
190 school district, such as a former law enforcement officer who is
191 now a teacher, shall be certified in the specific district-
192 approved techniques and may not apply techniques or procedures
193 acquired elsewhere.

194 (d) School personnel may not manually physically restrain
195 a student except when an imminent risk of serious injury or
196 death to the student or others exists.

197 (e) School personnel may not use any of the following
 198 manual physical restraint techniques on a student:
 199 1. Prone and supine restraint.
 200 2. Pain inducement to obtain compliance.
 201 3. Bone locks.
 202 4. Hyperextension of joints.
 203 5. Peer restraint.
 204 6. Mechanical restraint.
 205 7. Pressure or weight on the chest, lungs, sternum,
 206 diaphragm, back, or abdomen, causing chest compression.
 207 8. Straddling or sitting on any part of the body or any
 208 maneuver that places pressure, weight, or leverage on the neck
 209 or throat, on any artery, or on the back of the student's head
 210 or neck or that otherwise obstructs or restricts the circulation
 211 of blood or obstructs an airway.
 212 9. Any type of choking, including hand chokes, and any
 213 type of neck or head hold.
 214 10. Any technique that involves pushing anything on or
 215 into the student's mouth, nose, eyes, or any part of the face or
 216 that involves covering the face or body with anything, including
 217 soft objects such as pillows or washcloths.
 218 11. Any maneuver that involves punching, hitting, poking,
 219 pinching, or shoving.
 220 12. Any type of mat or blanket restraint.
 221 13. Water or lemon sprays.
 222 (f) The school shall ensure that a student is medically
 223 evaluated by a physician, nurse, or other qualified medical
 224 professional as soon as possible after the student has been

225 manually physically restrained by school personnel.

226 (4) SECLUSION; TIME-OUT.-

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

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

230 1. The time-out is part of a positive behavioral
 231 intervention plan developed for that student from a functional
 232 behavioral assessment and referenced in the student's individual
 233 education plan.

234 2. There is documentation that the time-out was preceded
 235 by the use of other positive behavioral supports that were not
 236 effective.

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

239 4. The student is not physically prevented from leaving
 240 the time-out area.

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

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

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

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

251 (5) TRAINING AND CERTIFICATION.-

252 (a) Each school district shall report its training and

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253 certification procedures to the department by publishing the
254 procedures in the district's special policies and procedures
255 manual.

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

258 1. Procedures for deescalating problem behaviors before
259 the problems increase to a level or intensity necessitating
260 physical intervention.

261 2. Information regarding the risks associated with manual
262 physical restraint and procedures for assessing individual
263 situations and students in order to determine if the use of
264 manual physical restraint is appropriate and sufficiently safe.

265 3. The actual use of specific techniques that range from
266 the least to most restrictive, with ample opportunity for
267 trainees to demonstrate proficiency in the use of such
268 techniques.

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

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

273 6. Instruction in the district's documentation and
274 reporting requirements.

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

277 8. Cardiopulmonary resuscitation.

278 (c) School districts shall provide refresher certification
279 training courses in manual physical restraint techniques at
280 least annually to all staff members who have successfully

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281 completed the initial certification program. The district must
282 identify those persons to be certified and maintain a record
283 that includes the name and position of the person certified, the
284 date of the most recent certification, an indication of whether
285 it was an initial certification or a refresher certification,
286 and whether the individual successfully completed the
287 certification and achieved proficiency.

288 (d) School district policies regarding the use of manual
289 physical restraint must address whether it is appropriate for an
290 employee working in specific settings, such as a school bus
291 driver, school bus aide, job coach, employment specialist, or
292 cafeteria worker, to be certified in manual physical restraint
293 techniques. In the case of school resource officers or others
294 who may be employed by other agencies when working in a school,
295 administrators shall review each agency's specific policies to
296 be aware of techniques that may be used.

297 (6) STUDENT-CENTERED FOLLOWUP.-If a student is manually
298 physically restrained more than twice during a school year, the
299 school shall review the student's functional behavioral
300 assessment and positive behavioral intervention plan.

301 (7) ~~(1)~~ DOCUMENTATION AND REPORTING.-

302 (a) At the beginning of each school year, a school
303 district shall provide a copy of its policies on all emergency
304 procedures, including its policies on the use of manual physical
305 restraint, to each student's parent or guardian. The student's
306 parent or guardian must sign a form indicating that he or she
307 has read and received the district's policies, which the
308 student's school shall retain on file.

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309 (b) ~~(a)~~ A school shall prepare an incident report within 24
310 hours after a student is released from a restraint ~~or seclusion~~.
311 If the student's release occurs on a day before the school
312 closes for the weekend, a holiday, or another reason, the
313 incident report must be completed by the end of the school day
314 on the day the school reopens.

315 (c) ~~(b)~~ The following must be included in the incident
316 report:

- 317 1. The name of the student restrained ~~or secluded~~.
- 318 2. The age, grade, ethnicity, and disability of the
319 student restrained or secluded.
- 320 3. The date and time of the event and the duration of the
321 restraint or seclusion.
- 322 4. The location at which the restraint ~~or seclusion~~
323 occurred.
- 324 5. A description of the type of restraint used in terms
325 established by the Department of Education.
- 326 6. The name of the person using or assisting in the
327 restraint ~~or seclusion~~ of the student.
- 328 7. The name of any nonstudent who was present to witness
329 the restraint ~~or seclusion~~.
- 330 8. A description of the incident, including:
 - 331 a. The context in which the restraint ~~or seclusion~~
332 occurred.
 - 333 b. The student's behavior leading up to and precipitating
334 the decision to use manual or physical restraint ~~or seclusion~~,
335 including an indication as to why there was an imminent risk of
336 serious injury or death to the student or others.

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337 c. The specific positive behavioral strategies used to
338 prevent and deescalate the behavior.

339 d. What occurred with the student immediately after the
340 termination of the restraint ~~or seclusion~~.

341 e. Any injuries, visible marks, or possible medical
342 emergencies that may have occurred during the restraint ~~or~~
343 ~~seclusion~~, documented according to district policies.

344 f. The results of the medical evaluation and a copy of any
345 report by the medical professionals conducting the evaluation,
346 if available. If the medical report is not available within 24
347 hours, the district must submit the medical report separately as
348 soon as it is available.

349 ~~g.f.~~ Evidence of steps taken to notify the student's
350 parent or guardian.

351 (d)(e) A school shall notify the parent or guardian of a
352 student each time manual or physical restraint ~~or seclusion~~ is
353 used. Such notification must be in writing and provided before
354 the end of the school day on which the restraint ~~or seclusion~~
355 occurs. Reasonable efforts must also be taken to notify the
356 parent or guardian by telephone or computer e-mail, or both, and
357 these efforts must be documented. The school shall obtain, and
358 keep in its records, the parent's or guardian's signed
359 acknowledgment that he or she was notified of his or her child's
360 restraint ~~or seclusion~~.

361 (e)(d) A school shall also provide the parent or guardian
362 with the completed incident report in writing by mail within 3
363 school days after a student was manually or physically
364 restrained ~~or secluded~~. The school shall obtain, and keep in its

365 records, the parent's or guardian's signed acknowledgment that
 366 he or she received a copy of the incident report.

367 (8)~~(2)~~ MONITORING.—

368 (a) ~~Monitoring of~~ The use of manual or physical restraint
 369 ~~or seclusion~~ on students shall be monitored ~~occur~~ at the
 370 classroom, building, district, and state levels.

371 (b) Any documentation prepared by a school pursuant to ~~as~~
 372 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
 373 principal, the district director of Exceptional Student
 374 Education, and the bureau chief of the Bureau of Exceptional
 375 Education and Student Services ~~electronically~~ each week ~~month~~
 376 that the school is in session.

377 (c) Each week that a school is in session, the school
 378 shall send a redacted copy of any incident report and other
 379 documentation prepared pursuant to subsection (7) to the
 380 Advocacy Center for Persons with Disabilities, Inc.

381 (d)~~(e)~~ The department shall maintain aggregate data of
 382 incidents of manual or physical restraint ~~and seclusion~~ and
 383 disaggregate the data for analysis by county, school, student
 384 exceptionality, and other variables, including the type and
 385 method of restraint or seclusion used. This information shall be
 386 updated monthly and made available to the public through the
 387 department's website no later than January 31, 2013.

388 (e)~~(d)~~ The department shall establish standards for
 389 documenting, reporting, and monitoring the use of manual or
 390 physical restraint or mechanical restraint, and occurrences of
 391 seclusion. These standards shall be provided to school districts
 392 ~~by October 1, 2011.~~

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393 | (9)~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

394 | (a) Each school district shall develop policies and
395 | procedures that are consistent with this section and that govern
396 | the following:

397 | 1. Allowable use of manual physical restraint on students.

398 | 2. Personnel authorized to use manual physical restraint.

399 | 3. Training procedures.

400 | 4.1. Incident-reporting procedures.

401 | 5.2. Data collection and monitoring, including when,
402 | where, and why students are restrained or secluded; the
403 | frequency of occurrences of such restraint or seclusion; and the
404 | prone or mechanical restraint that is most used.

405 | 6.3. Monitoring and reporting of data collected.

406 | 7.4. Training programs relating to manual or physical
407 | restraint and seclusion.

408 | 8.5. The district's plan for selecting personnel to be
409 | trained.

410 | 9.6. The district's plan for reducing the use of restraint
411 | and seclusion particularly in settings in which it occurs
412 | frequently or with students who are restrained repeatedly, and
413 | for reducing the use of prone restraint and mechanical
414 | restraint. The plan must include a goal for reducing the use of
415 | restraint and seclusion and must include activities, skills, and
416 | resources needed to achieve that goal. Activities may include,
417 | but are not limited to:

418 | a. Additional training in positive behavioral support and
419 | crisis management;

420 | b. Parental involvement;

- 421 c. Data review;
- 422 d. Updates of students' functional behavioral analysis and
- 423 positive behavior intervention plans;
- 424 e. Additional student evaluations;
- 425 f. Debriefing with staff;
- 426 g. Use of schoolwide positive behavior support; and
- 427 h. Changes to the school environment.

428 10. Analysis of data to determine trends.

429 11. Ongoing reduction of the use of manual physical
 430 restraint.

431 (b) Any revisions that a school district makes to its ~~to~~
 432 ~~the district's~~ policies and procedures, which are ~~must be~~
 433 prepared as part of the school district's ~~its~~ special policies
 434 and procedures, must be filed with the bureau chief of the
 435 Bureau of Exceptional Education and Student Services ~~no later~~
 436 ~~than January 31, 2012.~~

437 ~~(4) PROHIBITED RESTRAINT. School personnel may not use a~~
 438 ~~mechanical restraint or a manual or physical restraint that~~
 439 ~~restricts a student's breathing.~~

440 ~~(5) SECLUSION. School personnel may not close, lock, or~~
 441 ~~physically block a student in a room that is unlit and does not~~
 442 ~~meet the rules of the State Fire Marshal for seclusion time-out~~
 443 ~~rooms.~~

444 Section 3. This act shall take effect July 1, 2012.