

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

29 | other documentation to Disability Rights Florida;
 30 | requiring that the department make available on its
 31 | website data of incidents of manual physical restraint
 32 | by a specified date; requiring that each school
 33 | district develop policies and procedures addressing
 34 | the allowable use of manual physical restraint,
 35 | personnel authorized to use such restraint, training
 36 | procedures, analysis of data trends, and the reduction
 37 | of the use of manual physical restraint; requiring
 38 | that any revisions to a school district's policies and
 39 | procedures be filed with the bureau chief of the
 40 | Bureau of Exceptional Education and Student Services
 41 | by a specified date; providing an effective date.

42 |

43 | Be It Enacted by the Legislature of the State of Florida:

44 |

45 | Section 1. Section 1003.573, Florida Statutes, is amended
 46 | to read:

47 | 1003.573 Use, prevention, and reduction of seclusion and
 48 | restraint on students with disabilities in public schools ~~Use of~~
 49 | ~~restraint and seclusion on students with disabilities.-~~

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

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

52 | (b) "Imminent risk of serious injury or death" means the
 53 | impending risk of a significant injury, such as a laceration,
 54 | bone fracture, substantial hematoma, or other injury to internal
 55 | organs, or death.

56 | (c) "Manual physical restraint" means the use of physical

57 restraint techniques that involve physical force applied by a
58 teacher or other staff member to restrict the movement of all or
59 part of a student's body.

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

65 1. Medical protective equipment;

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

70 3. Devices used to support functional body position or
71 proper balance, or to prevent a person from falling out of a bed
72 or a wheelchair, except when such device is used for any purpose
73 other than supporting a body position or proper balance, such as
74 coercion, discipline, convenience, or retaliation, to prevent
75 imminent risk of serious injury or death of the student or
76 others, or for any other behavior-management reason; or

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

79 (e) "Medical protective equipment" means health-related
80 protective devices prescribed by a physician or dentist for use
81 as student protection in response to an existing medical
82 condition.

83 (f) "Seclusion" means removing a student from an
84 educational environment, involuntarily confining the student in

85 a room or area, and preventing the student from leaving the room
 86 or area if achieved by locking the door or otherwise physically
 87 blocking the student's way, threatening physical force or other
 88 consequences, or using physical force. The term does not include
 89 the use of time-out.

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

91 (h) "Time-out" means a procedure in which access to varied
 92 sources of reinforcement is removed or reduced for a particular
 93 time period contingent on a response. The opportunity to receive
 94 reinforcement is contingently removed for a specified time.
 95 Either a student is contingently removed from the reinforcing
 96 environment or the reinforcing environment is contingently
 97 removed for some stipulated duration. A time-out setting may not
 98 be locked and the exit may not be blocked. Physical force or
 99 threats may not be used to place a student in time-out.

100 (2) LEGISLATIVE FINDINGS AND INTENT.—

101 (a) The Legislature finds that public schools have a
 102 responsibility to ensure that each student is treated with
 103 respect and dignity in a trauma-informed environment that
 104 provides for the physical safety and security of students and
 105 others.

106 (b) The Legislature finds that students, educators, and
 107 families are concerned about the use of seclusion and restraint,
 108 particularly when used on students in special education
 109 programs. Seclusion and restraint refer to safety procedures in
 110 which a student is isolated from others or physically held in
 111 response to serious problem behavior that places the student or
 112 others at risk of injury or harm. There is concern that these

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113 procedures are prone to misapplication and abuse and place a
114 student at an equal or greater risk than the risk of the
115 student's problem behavior. Particular concerns include:

116 1. Seclusion or restraint is inappropriately selected and
117 implemented as treatment or behavioral intervention rather than
118 as a safety procedure;

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

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

124 4. Risk of injury or harm is increased because seclusion
125 or restraint is implemented by staff who are not adequately
126 trained;

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

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

131
132 Moreover, there are concerns about the inadequate documentation
133 of seclusion or restraint procedures, the failure to notify
134 parents when seclusion or restraint is applied, and the failure
135 to use data to analyze and address the cause of the
136 precipitating behavior.

137 (c) The Legislature finds that the majority of problem
138 behaviors that are currently used to justify seclusion or
139 restraint could be prevented with early identification and
140 intensive early intervention. The need for seclusion or

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141 restraint is, in part, a result of insufficient investment in
142 prevention efforts. The Legislature further finds that the use
143 of seclusion or restraint may produce trauma in students. For
144 such students, who are already experiencing trauma, the use may
145 cause retraumatization. Left unaddressed, the lasting effects of
146 childhood trauma place a heavy burden on individuals, families,
147 and communities. Research has shown that trauma significantly
148 increases the risk of mental health problems, difficulties with
149 social relationships and behavior, physical illness, and poor
150 school performance.

151 (d) The Legislature intends that students be free from the
152 abusive and unnecessary use of seclusion or restraint in the
153 public schools. The Legislature further intends to prevent, and
154 achieve an ongoing reduction of, the use of manual physical
155 restraint in the public schools and, specifically, to prohibit
156 the use of seclusion, prone and supine restraint, and mechanical
157 restraint on students. The Legislature also intends that manual
158 physical restraint be used only when an imminent risk of serious
159 injury or death exists; that manual physical restraint not be
160 employed as punishment, for the convenience of staff, or as a
161 substitute for a positive behavior-support plan; and that, when
162 used, persons applying manual physical restraint impose the
163 least possible restrictions and discontinue the restraint as
164 soon as the threat of imminent risk of serious injury or death
165 ceases.

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

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

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

175 (c) Manual physical restraint shall be used only by school
176 personnel who are qualified and certified to use the district-
177 approved methods for the appropriate application of specific
178 restraint techniques. School personnel who have received
179 training that is not associated with their employment with the
180 school district, such as a former law enforcement officer who is
181 now a teacher, shall be certified in the specific district-
182 approved techniques and may not apply techniques or procedures
183 acquired elsewhere.

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

187 (e) School personnel may not use any of the following
188 manual physical restraint techniques on a student:

- 189 1. Prone and supine restraint.
- 190 2. Pain inducement to obtain compliance.
- 191 3. Bone locks.
- 192 4. Hyperextension of joints.
- 193 5. Peer restraint.
- 194 6. Mechanical restraint.
- 195 7. Pressure or weight on the chest, lungs, sternum,
196 diaphragm, back, or abdomen, causing chest compression.

197 8. Straddling or sitting on any part of the body or any
 198 maneuver that places pressure, weight, or leverage on the neck
 199 or throat, on any artery, or on the back of the student's head
 200 or neck or that otherwise obstructs or restricts the circulation
 201 of blood or obstructs an airway.

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

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

208 11. Any maneuver that involves punching, hitting, poking,
 209 pinching, or shoving.

210 12. Any type of mat or blanket restraint.

211 13. Water or lemon sprays.

212 (f) The school shall ensure that a student is medically
 213 evaluated by a physician, nurse, or other qualified medical
 214 professional as soon as possible after the student has been
 215 manually physically restrained by school personnel.

216 (4) SECLUSION; TIME-OUT.—

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

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

220 1. The time-out is part of a positive behavioral
 221 intervention plan developed for that student from a functional
 222 behavioral assessment and referenced in the student's individual
 223 education plan.

224 2. There is documentation that the time-out was preceded

225 by the use of other positive behavioral supports that were not
226 effective.

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

229 4. The student is not physically prevented from leaving
230 the time-out area.

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

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

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

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

241 (5) TRAINING AND CERTIFICATION.—

242 (a) Each school district shall report its training and
243 certification procedures to the department by publishing the
244 procedures in the district's special policies and procedures
245 manual.

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

248 1. Procedures for deescalating problem behaviors before
249 the problems increase to a level or intensity necessitating
250 physical intervention.

251 2. Information regarding the risks associated with manual
252 physical restraint and procedures for assessing individual

253 situations and students in order to determine if the use of
254 manual physical restraint is appropriate and sufficiently safe.

255 3. The actual use of specific techniques that range from
256 the least to most restrictive, with ample opportunity for
257 trainees to demonstrate proficiency in the use of such
258 techniques.

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

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

263 6. Instruction in the district's documentation and
264 reporting requirements.

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

267 8. Cardiopulmonary resuscitation.

268 (c) School districts shall provide refresher certification
269 training courses in manual physical restraint techniques at
270 least annually to all staff members who have successfully
271 completed the initial certification program. The district must
272 identify those persons to be certified and maintain a record
273 that includes the name and position of the person certified, the
274 date of the most recent certification, an indication of whether
275 it was an initial certification or a refresher certification,
276 and whether the individual successfully completed the
277 certification and achieved proficiency.

278 (d) School district policies regarding the use of manual
279 physical restraint must address whether it is appropriate for an
280 employee working in specific settings, such as a school bus

281 driver, school bus aide, job coach, employment specialist, or
 282 cafeteria worker, to be certified in manual physical restraint
 283 techniques. In the case of school resource officers or others
 284 who may be employed by other agencies when working in a school,
 285 administrators shall review each agency's specific policies to
 286 be aware of techniques that may be used.

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

291 (7) ~~(1)~~ DOCUMENTATION AND REPORTING.-

292 (a) At the beginning of each school year, a school
 293 district shall provide a copy of its policies on all emergency
 294 procedures, including its policies on the use of manual physical
 295 restraint, to each student's parent or guardian. The student's
 296 parent or guardian must sign a form indicating that he or she
 297 has read and received the district's policies, which the
 298 student's school shall retain on file.

299 (b) ~~(a)~~ A school shall prepare an incident report within 24
 300 hours after a student is released from a restraint ~~or seclusion.~~
 301 If the student's release occurs on a day before the school
 302 closes for the weekend, a holiday, or another reason, the
 303 incident report must be completed by the end of the school day
 304 on the day the school reopens.

305 (c) ~~(b)~~ The following must be included in the incident
 306 report:

- 307 1. The name of the student restrained ~~or secluded.~~
- 308 2. The age, grade, ethnicity, and disability of the

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309 student restrained or secluded.

310 3. The date and time of the event and the duration of the
311 restraint or seclusion.

312 4. The location at which the restraint ~~or seclusion~~
313 occurred.

314 5. A description of the type of restraint used in terms
315 established by the Department of Education.

316 6. The name of the person using or assisting in the
317 restraint ~~or seclusion~~ of the student.

318 7. The name of any nonstudent who was present to witness
319 the restraint ~~or seclusion~~.

320 8. A description of the incident, including:

321 a. The context in which the restraint ~~or seclusion~~
322 occurred.

323 b. The student's behavior leading up to and precipitating
324 the decision to use manual or physical restraint ~~or seclusion~~,
325 including an indication as to why there was an imminent risk of
326 serious injury or death to the student or others.

327 c. The specific positive behavioral strategies used to
328 prevent and deescalate the behavior.

329 d. What occurred with the student immediately after the
330 termination of the restraint ~~or seclusion~~.

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

334 f. The results of the medical evaluation and a copy of any
335 report by the medical professionals conducting the evaluation,
336 if available. If the medical report is not available within 24

337 | hours, the district must submit the medical report separately as
338 | soon as it is available.

339 | g.f. Evidence of steps taken to notify the student's
340 | parent or guardian.

341 | (d)(e) A school shall notify the parent or guardian of a
342 | student each time manual or physical restraint ~~or seclusion~~ is
343 | used. Such notification must be in writing and provided before
344 | the end of the school day on which the restraint ~~or seclusion~~
345 | occurs. Reasonable efforts must also be taken to notify the
346 | parent or guardian by telephone or computer e-mail, or both, and
347 | these efforts must be documented. The school shall obtain, and
348 | keep in its records, the parent's or guardian's signed
349 | acknowledgment that he or she was notified of his or her child's
350 | restraint ~~or seclusion~~.

351 | (e)(d) A school shall also provide the parent or guardian
352 | with the completed incident report in writing by mail within 3
353 | school days after a student was manually or physically
354 | restrained ~~or secluded~~. The school shall obtain, and keep in its
355 | records, the parent's or guardian's signed acknowledgment that
356 | he or she received a copy of the incident report.

357 | (8)(2) MONITORING.—

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

361 | (b) Any documentation prepared by a school pursuant to ~~as~~
362 | ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
363 | principal, the district director of Exceptional Student
364 | Education, and the bureau chief of the Bureau of Exceptional

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365 Education and Student Services ~~electronically~~ each week ~~month~~
366 that the school is in session.

367 (c) Each week that a school is in session, the school
368 shall send a redacted copy of any incident report and other
369 documentation prepared pursuant to subsection (7) to Disability
370 Rights Florida.

371 (d) ~~(e)~~ The department shall maintain aggregate data of
372 incidents of manual or physical restraint ~~and seclusion~~ and
373 disaggregate the data for analysis by county, school, student
374 exceptionality, and other variables, including the type and
375 method of restraint or seclusion used. This information shall be
376 updated monthly and made available to the public through the
377 department's website no later than January 31, 2014.

378 (e) ~~(d)~~ The department shall establish standards for
379 documenting, reporting, and monitoring the use of manual or
380 physical restraint or mechanical restraint, and occurrences of
381 seclusion. These standards shall be provided to school districts
382 ~~by October 1, 2011.~~

383 (9) ~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

384 (a) Each school district shall develop policies and
385 procedures that are consistent with this section and that govern
386 the following:

387 1. Allowable use of manual physical restraint on students.

388 2. Personnel authorized to use manual physical restraint.

389 3. Training procedures.

390 4.1. Incident-reporting procedures.

391 5.2. Data collection and monitoring, including when,
392 where, and why students are restrained or secluded; the

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393 frequency of occurrences of such restraint or seclusion; and the
394 prone or mechanical restraint that is most used.

395 ~~6.3.~~ Monitoring and reporting of data collected.

396 ~~7.4.~~ Training programs relating to manual or physical
397 restraint and seclusion.

398 ~~8.5.~~ The district's plan for selecting personnel to be
399 trained.

400 ~~9.6.~~ The district's plan for reducing the use of restraint
401 and seclusion particularly in settings in which it occurs
402 frequently or with students who are restrained repeatedly, and
403 for reducing the use of prone restraint and mechanical
404 restraint. The plan must include a goal for reducing the use of
405 restraint and seclusion and must include activities, skills, and
406 resources needed to achieve that goal. Activities may include,
407 but are not limited to:

408 a. Additional training in positive behavioral support and
409 crisis management;

410 b. Parental involvement;

411 c. Data review;

412 d. Updates of students' functional behavioral analysis and
413 positive behavior intervention plans;

414 e. Additional student evaluations;

415 f. Debriefing with staff;

416 g. Use of schoolwide positive behavior support; and

417 h. Changes to the school environment.

418 10. Analysis of data to determine trends.

419 11. Ongoing reduction of the use of manual physical
420 restraint.

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421 (b) Any revisions that a school district makes to its ~~to~~
422 ~~the district's~~ policies and procedures, which are ~~must be~~
423 prepared as part of the school district's ~~its~~ special policies
424 and procedures, must be filed with the bureau chief of the
425 Bureau of Exceptional Education and Student Services ~~no later~~
426 ~~than January 31, 2012.~~

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

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

434 Section 2. This act shall take effect July 1, 2013.