

By Senator Flores

37-00565-16

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1 A bill to be entitled
2 An act relating to the seclusion and restraint of
3 students with disabilities in public schools; amending
4 s. 1003.573, F.S.; providing definitions; providing
5 legislative findings and intent; providing
6 requirements for the use of manual physical restraint
7 by school personnel; prohibiting specified manual
8 physical restraint techniques; requiring each school
9 to ensure medical evaluation of a student after the
10 student is manually physically restrained; prohibiting
11 school personnel from placing a student in seclusion;
12 providing requirements for the use of time-out;
13 requiring that a school district report its procedures
14 for training and certification in the use of manual
15 physical restraint to the Department of Education;
16 providing requirements for such training and
17 certification; requiring that a school review a
18 student's functional behavior assessment and positive
19 behavioral intervention plan under certain
20 circumstances; requiring that parents be notified of a
21 school district's policies regarding the use of manual
22 physical restraint; revising information to be
23 included in a school incident report; requiring that
24 each school send a redacted copy of any incident
25 report or other documentation to Disability Rights
26 Florida; requiring that the department make available
27 on its website data of incidents of manual physical
28 restraint; requiring that each school district develop
29 policies and procedures governing the authorized use

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30 of manual physical restraint, personnel authorized to
31 use such restraint, training procedures, analysis of
32 data, and the reduction of the use of manual physical
33 restraint; requiring that any revisions to a school
34 district's policies and procedures be filed with the
35 bureau chief of the Bureau of Exceptional Education
36 and Student Services; providing an effective date.
37

38 Be It Enacted by the Legislature of the State of Florida:
39

40 Section 1. Section 1003.573, Florida Statutes, is amended
41 to read:

42 1003.573 Seclusion and Use of restraint of and seclusion on
43 students with disabilities in public schools.-

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

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

46 (b) "Imminent risk of serious injury or death" means the
47 impending risk of a significant injury, such as a laceration,
48 bone fracture, substantial hematoma, or injury to an internal
49 organ, or death.

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

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

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59 1. Medical protective equipment;

60 2. Physical equipment or orthopedic appliances, surgical
61 dressings or bandages, or supportive body bands or other
62 restraints necessary for ongoing medical treatment in the
63 educational setting;

64 3. Devices used to support functional body position or
65 proper balance, or to prevent a person from falling out of a bed
66 or a wheelchair, except when such a device is used for a purpose
67 other than supporting a body position or proper balance, such as
68 coercion, discipline, convenience, or retaliation, to prevent
69 imminent risk of serious injury or death of the student or
70 others, or for any other behavior management reason; or

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

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

77 (f) "Seclusion" means the removal of a student from an
78 educational environment, involuntary confinement of the student
79 in a room or area, and prevention of the student from leaving
80 the room or area if achieved by locking the door or otherwise
81 physically blocking the student's way, threatening physical
82 force or other consequences, or using physical force. The term
83 does not include the use of time-out.

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

85 (h) "Time-out" means a procedure in which access to varied
86 sources of reinforcement is removed or reduced for a particular
87 time period contingent on a response, either by removing a

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88 student from the reinforcing environment or removing the
89 reinforcing environment from the student for some stipulated
90 duration. The term does not include the use of a locked room, a
91 blocked exit, or physical force or threats.

92 (2) LEGISLATIVE FINDINGS AND INTENT.—

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

98 (b) The Legislature finds that students, educators, and
99 families are concerned about the use of seclusion and restraint,
100 particularly on students in special education programs, in
101 response to a serious problem behavior that places the student
102 or others at risk of injury or harm. The Legislature is
103 concerned that seclusion and restraint are prone to
104 misapplication and abuse and place a student at an equal or
105 greater risk than the risk posed by the student's problem
106 behavior. Moreover, the Legislature is concerned about the
107 inadequate documentation of seclusion or restraint procedures,
108 the failure to notify parents when seclusion or restraint is
109 applied, and the failure to use data to analyze and address the
110 cause of the precipitating behavior. Particular concerns
111 include:

112 1. The inappropriate selection and implementation of
113 seclusion or restraint as a treatment or behavioral intervention
114 rather than as a safety procedure.

115 2. The inappropriate use of seclusion or restraint in
116 connection with behaviors, such as noncompliance, threats, or

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117 disruption, which do not place the student or others at risk of
118 injury or harm.

119 3. The potential for injury or harm to students, peers, or
120 staff during attempts to implement seclusion or restraint.

121 4. The potential for increased risk of injury or harm when
122 seclusion or restraint is implemented by staff who are not
123 adequately trained.

124 5. The potential for the inadvertent reinforcement or
125 magnification of the problem behavior with the use of seclusion
126 or restraint.

127 6. The implementation of seclusion or restraint
128 independently of comprehensive, function-based behavioral
129 intervention plans.

130 (c) The Legislature finds that the majority of problem
131 behaviors that are currently used to justify seclusion or
132 restraint could be prevented with early identification and
133 intensive early intervention. The need for seclusion or
134 restraint is, in part, a result of an insufficient investment in
135 prevention efforts. The Legislature further finds that the use
136 of seclusion or restraint may produce trauma in students. For
137 students who are already experiencing trauma, the use may cause
138 retraumatization. The lasting effects of unaddressed childhood
139 trauma place a heavy burden on individuals, families, and
140 communities. Research has shown that trauma significantly
141 increases the risk of mental health problems, difficulties with
142 social relationships and behavior, physical illness, and poor
143 school performance.

144 (d) The Legislature intends that students be free from
145 seclusion and free from the abusive and unnecessary use of

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146 restraint in public schools. The Legislature further intends to
147 achieve an ongoing reduction of, leading to the prevention of,
148 the use of manual physical restraint in public schools and,
149 specifically, to prohibit the use of seclusion, prone and supine
150 restraint, and mechanical restraint on students. The Legislature
151 also intends that manual physical restraint be used only when an
152 imminent risk of serious injury or death exists; that manual
153 physical restraint not be employed as punishment, for the
154 convenience of staff, or as a substitute for a positive
155 behavior-support plan; and that, if manual physical restraint is
156 used, persons applying such restraint impose the least possible
157 restrictions and discontinue the restraint as soon as the threat
158 of imminent risk of serious injury or death ceases.

159 (3) MANUAL PHYSICAL RESTRAINT.—

160 (a) Manual physical restraint may be used only when there
161 is an imminent risk of serious injury or death to the student or
162 others and only for the period of time necessary to eliminate
163 such risk.

164 (b) The degree of force applied during manual physical
165 restraint must be only that degree of force necessary to protect
166 the student or others from bodily injury or death.

167 (c) Manual physical restraint shall be used only by school
168 personnel who are qualified and certified to use the district-
169 approved methods for the appropriate application of specific
170 restraint techniques. School personnel who have received
171 training that is not associated with their employment with the
172 school district, such as a former law enforcement officer who is
173 now a teacher, shall be certified in the specific district-
174 approved techniques and may not apply techniques or procedures

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175 acquired elsewhere.

176 (d) School personnel may not use any of the following
177 manual physical restraint techniques on a 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 an artery, or on the back of the head or neck or
189 that otherwise obstructs or restricts the circulation of blood
190 or obstructs an airway.

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

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

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 (e) The school shall ensure that a student is medically
202 evaluated by a physician, nurse, or other qualified medical
203 professional as soon as possible after the student has been

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204 manually physically 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 the
208 following conditions are met:

209 1. The time-out is part of a positive behavioral
210 intervention plan developed for the 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 by
214 the use of other positive behavioral supports that were not
215 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 the
219 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 are 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
225 minute for each year of a student's age and must end immediately
226 when the student is calm enough to return to his or her seat.

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

229 (5) TRAINING AND CERTIFICATION.—

230 (a) Each school district shall report its procedures for
231 training and certification in the use of manual physical
232 restraint to the department by publishing the procedures in the

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233 district's special policies and procedures manual.

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

236 1. Procedures for deescalating a problem behavior before
237 the problem increases to a level or intensity necessitating
238 physical intervention.

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

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

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

249 5. Techniques for assisting a student in reentering the
250 instructional environment and reengaging 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.

256 (c) Each school district shall provide refresher
257 certification training courses in manual physical restraint
258 techniques at least annually to all staff members who have
259 successfully completed the initial certification program. The
260 district must identify those persons to be certified and
261 maintain a record that includes the name and position of the

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262 person certified, the date of the person's most recent
263 certification and whether it is an initial or refresher
264 certification, and whether the individual successfully completed
265 the certification and achieved proficiency.

266 (d) School district policies regarding the use of manual
267 physical restraint must address whether it is appropriate for an
268 employee working in a specific setting, 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 may be used.

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

279 (7) ~~(1)~~ DOCUMENTATION AND REPORTING.—

280 (a) At the beginning of each school year, a school district
281 shall provide a copy of its policies on emergency procedures,
282 including its policies on the use of manual physical restraint,
283 to each student's parent or guardian. The student's parent or
284 guardian must sign a form indicating that he or she has received
285 and read the district's policies, which the student's school
286 shall retain on file.

287 (b) ~~(a)~~ A school shall prepare an incident report within 24
288 hours after a student is released from restraint ~~or seclusion.~~
289 If the student's release occurs on a day before the school
290 closes for the weekend, a holiday, or another reason, the

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291 incident report must be completed by the end of the school day
292 on the day the school reopens.

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

295 1. The name of the student restrained ~~or secluded~~.

296 2. The age, grade, ethnicity, and disability of the student
297 restrained ~~or secluded~~.

298 3. The date and time of the event and the duration of the
299 restraint ~~or seclusion~~.

300 4. The location at which the restraint ~~or seclusion~~
301 occurred.

302 5. A description of the type of restraint used in terms
303 established by the department ~~of Education~~.

304 6. The name of the person using or assisting in the
305 restraint ~~or seclusion~~ of the student.

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

308 8. A description of the incident, including:

309 a. The context in which the restraint ~~or seclusion~~
310 occurred.

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

315 c. The specific positive behavioral strategies used to
316 prevent and deescalate the behavior.

317 d. What occurred with the student immediately after the
318 termination of the restraint ~~or seclusion~~.

319 e. Any injuries, visible marks, or possible medical

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320 emergencies that may have occurred during the restraint ~~or~~
321 ~~seclusion~~, documented according to district policies.

322 f. The results of the medical evaluation and a copy of any
323 report by the medical professionals conducting the evaluation,
324 if available. If the medical report is not available within 24
325 hours, the district must submit the medical report separately as
326 soon as it becomes available.

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

329 ~~(d)(e)~~ A school shall notify the parent or guardian of a
330 student each time manual ~~or~~ physical restraint ~~or seclusion~~ is
331 used. Such notification must be in writing and provided before
332 the end of the school day on which the restraint ~~or seclusion~~
333 occurs. Reasonable efforts must also be taken to notify the
334 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
335 these efforts must be documented. The school shall obtain, and
336 keep in its records, the parent's or guardian's signed
337 acknowledgment that he or she was notified of his or her child's
338 restraint ~~or seclusion~~.

339 ~~(e)(d)~~ A school shall also provide the parent or guardian
340 with the completed incident report in writing by mail within 3
341 school days after a student was manually ~~or~~ physically
342 restrained ~~or secluded~~. The school shall obtain, and keep in its
343 records, the parent's or guardian's signed acknowledgment that
344 he or she received a copy of the incident report.

345 ~~(8)(2)~~ MONITORING.—

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

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349 (b) Any documentation prepared by a school pursuant to ~~as~~
350 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
351 principal, the district director of Exceptional Student
352 Education, and the bureau chief of the Bureau of Exceptional
353 Education and Student Services ~~electronically~~ each week ~~month~~
354 that the school is in session.

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

359 (d) ~~(e)~~ The department shall maintain aggregate data of
360 incidents of manual ~~or~~ physical restraint ~~and seclusion~~ and
361 disaggregate the data for analysis by county, school, student
362 exceptionality, and other variables, including the type and
363 method of restraint ~~or seclusion~~ used. This information shall be
364 updated monthly and made available to the public through the
365 department's website beginning no later than January 31, 2017.

366 (e) ~~(d)~~ The department shall establish standards for
367 documenting, reporting, and monitoring the use of manual ~~or~~
368 physical restraint ~~or mechanical restraint, and occurrences of~~
369 ~~seclusion~~. These standards shall be provided to school districts
370 ~~by October 1, 2011.~~

371 (9) ~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

372 (a) Each school district shall develop policies and
373 procedures that are consistent with this section and that govern
374 the following:

- 375 1. Authorized use of manual physical restraint on students.
- 376 2. Personnel authorized to use manual physical restraint.
- 377 3. Training procedures.

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- 378 ~~4.1.~~ Incident-reporting procedures.
- 379 ~~5.2.~~ Data collection and monitoring, including when, where,
- 380 and why students are restrained and ~~or secluded~~, the frequency
- 381 of occurrences of such restraint ~~or seclusion~~; ~~and the prone or~~
- 382 ~~mechanical restraint that is most used.~~
- 383 ~~6.3.~~ Monitoring and reporting of data collected.
- 384 ~~7.4.~~ Training programs relating to manual ~~or~~ physical
- 385 restraint ~~and seclusion.~~
- 386 ~~8.5.~~ The district's plan for selecting personnel to be
- 387 trained.
- 388 ~~9.6.~~ The district's plan for reducing the use of restraint
- 389 ~~and seclusion~~ particularly in settings in which it occurs
- 390 frequently or with students who are restrained repeatedly, ~~and~~
- 391 ~~for reducing the use of prone restraint and mechanical~~
- 392 ~~restraint.~~ The plan must include a goal for reducing the use of
- 393 restraint ~~and seclusion~~ and must include activities, skills, and
- 394 resources needed to achieve that goal. Activities may include,
- 395 but are not limited to:
- 396 a. Additional training in positive behavioral support and
- 397 crisis management .~~†~~
- 398 b. Parental involvement .~~†~~
- 399 c. Data review .~~†~~
- 400 d. Updates of students' functional behavioral analysis and
- 401 positive behavior intervention plans .~~†~~
- 402 e. Additional student evaluations .~~†~~
- 403 f. Debriefing with staff .~~†~~
- 404 g. Use of schoolwide positive behavior support .~~†~~ ~~and~~
- 405 h. Changes to the school environment.
- 406 10. Analysis of data to determine trends.

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407 11. Ongoing reduction of the use of manual physical
408 restraint.

409 (b) Any revisions a school district makes to its ~~to the~~
410 ~~district's~~ policies and procedures, which must be prepared as
411 part of the school district's ~~its~~ special policies and
412 procedures, must be filed with the bureau chief of the Bureau of
413 Exceptional Education and Student Services ~~no later than January~~
414 ~~31, 2012.~~

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

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

422 Section 2. This act shall take effect July 1, 2016.