

By Senator Flores

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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.; defining terms; 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 that a student who has been manually
10 physically restrained receive a medical evaluation
11 after such restraint; prohibiting school personnel
12 from placing a student in seclusion; providing
13 requirements for the use of time-out; requiring that a
14 school district report its procedures for training and
15 certification in the use of manual physical restraint
16 to the Department of Education; providing requirements
17 for such training and certification; requiring each
18 school district to annually provide refresher
19 certification; requiring a school district's manual
20 physical restraint policies to address certain issues;
21 requiring that a school review a student's functional
22 behavior assessment and positive behavioral
23 intervention plan under certain circumstances;
24 requiring that parents be notified of a school
25 district's policies regarding the use of manual
26 physical restraint; revising information to be
27 included in a school incident report; requiring that
28 each school send a redacted copy of any incident
29 report or other documentation to Disability Rights

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30 Florida; requiring that the department make available
31 on its website data of incidents of manual physical
32 restraint; requiring that each school district develop
33 policies and procedures governing the authorized use
34 of manual physical restraint, the personnel authorized
35 to use such restraint, training procedures, analysis
36 of data, and the reduction of the use of manual
37 physical restraint; requiring that any revisions to a
38 school district's policies and procedures be filed
39 with the bureau chief of the Bureau of Exceptional
40 Education and Student Services; providing an effective
41 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 Seclusion and Use of restraint of and seclusion on
48 students with disabilities in public schools.-

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

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

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

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

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

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 a device is used for a 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.

77 4. Equipment used for safety during transportation, such as
78 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 the removal of a student from an
84 educational environment, involuntary confinement of the student
85 in a room or area, and prevention of the student from leaving
86 the room or area if achieved by locking the door or otherwise
87 physically blocking the student's way, threatening physical

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88 force or other consequences, or using physical force. The term
89 does not include 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, either by removing a
94 student from the reinforcing environment or removing the
95 reinforcing environment from the student for some stipulated
96 duration. The term does not include the use of a locked room, a
97 blocked exit, or physical force or threats.

98 (2) LEGISLATIVE FINDINGS AND INTENT.-

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

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

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117 all of the following:

118 1. The inappropriate selection and implementation of
119 seclusion or restraint as a treatment or behavioral intervention
120 rather than as a safety procedure.

121 2. The inappropriate use of seclusion or restraint in
122 connection with behaviors, such as noncompliance, threats, or
123 disruption, which do not place the student or others at risk of
124 injury or harm.

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

127 4. The potential for increased risk of injury or harm when
128 seclusion or restraint is implemented by staff who are not
129 adequately trained.

130 5. The potential for the inadvertent reinforcement or
131 magnification of the problem behavior through the use of
132 seclusion or restraint.

133 6. The implementation of seclusion or restraint
134 independently of comprehensive, function-based behavioral
135 intervention plans.

136 (c) The Legislature finds that the majority of problem
137 behaviors that are currently used to justify seclusion or
138 restraint could be prevented with early identification and
139 intensive early intervention. The need for seclusion or
140 restraint is, in part, a result of an insufficient investment in
141 prevention efforts. The Legislature further finds that the use
142 of seclusion or restraint may produce trauma in students. For
143 students who are already experiencing trauma, the use may cause
144 retraumatization. The lasting effects of unaddressed childhood
145 trauma place a heavy burden on individuals, families, and

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146 communities. Research has shown that trauma significantly
147 increases the risk of mental health problems, difficulties with
148 social relationships and behavior, physical illness, and poor
149 school performance.

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

165 (3) MANUAL PHYSICAL RESTRAINT.—

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

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

173 (c) Manual physical restraint shall be used only by school
174 personnel who are qualified and certified to use the district-

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175 approved methods for the appropriate application of specific
176 restraint techniques. School personnel who have received
177 training that is not associated with their employment with the
178 school district, such as a former law enforcement officer who is
179 now a teacher, shall be certified in the specific district-
180 approved techniques and may not apply techniques or procedures
181 acquired elsewhere.

182 (d) School personnel may not use any of the following
183 manual physical restraint techniques on a student:

- 184 1. Prone and supine restraint.
- 185 2. Pain inducement to obtain compliance.
- 186 3. Bone locks.
- 187 4. Hyperextension of joints.
- 188 5. Peer restraint.
- 189 6. Mechanical restraint.
- 190 7. Pressure or weight on the chest, lungs, sternum,
191 diaphragm, back, or abdomen, causing chest compression.
- 192 8. Straddling or sitting on any part of the body or any
193 maneuver that places pressure, weight, or leverage on the neck
194 or throat, on an artery, or on the back of the head or neck or
195 that otherwise obstructs or restricts the circulation of blood
196 or obstructs an airway.
- 197 9. Any type of choking, including hand chokes, and any type
198 of neck or head hold.
- 199 10. Any technique that involves pushing anything on or into
200 the mouth, nose, eyes, or any part of the face or that involves
201 covering the face or body with anything, including soft objects
202 such as pillows or washcloths.
- 203 11. Any maneuver that involves punching, hitting, poking,

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204 pinching, or shoving.

205 12. Any type of mat or blanket restraint.

206 13. Water or lemon sprays.

207 (e) The school shall ensure that a student is medically
208 evaluated by a physician, nurse, or other qualified medical
209 professional as soon as possible after the student has been
210 manually physically restrained by school personnel.

211 (4) SECLUSION; TIME-OUT.—

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

213 (b) School personnel may place a student in time-out if all
214 of the following conditions are met:

215 1. The time-out is part of a positive behavioral
216 intervention plan developed for the student from a functional
217 behavioral assessment and referenced in the student's individual
218 education plan.

219 2. There is documentation that the time-out was preceded by
220 the use of other positive behavioral supports that were not
221 effective.

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

224 4. The student is not physically prevented from leaving the
225 time-out area.

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

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

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

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

235 (5) TRAINING AND CERTIFICATION.—

236 (a) Each school district shall report its procedures for
237 training and certification in the use of manual physical
238 restraint to the department by publishing the procedures in the
239 district's special policies and procedures manual.

240 (b) Training for initial certification in the use of manual
241 physical restraint must include all of the following:

242 1. Procedures for deescalating a problem behavior before
243 the problem increases to a level or intensity necessitating
244 physical intervention.

245 2. Information regarding the risks associated with manual
246 physical restraint and procedures for assessing individual
247 situations and students in order to determine whether the use of
248 manual physical restraint is appropriate and sufficiently safe.

249 3. The actual use of specific techniques that range from
250 the least to most restrictive, with ample opportunity for
251 trainees to demonstrate proficiency in the use of such
252 techniques.

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

255 5. Techniques for assisting a student in reentering the
256 instructional environment and reengaging in learning.

257 6. Instruction in the district's documentation and
258 reporting requirements.

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

261 8. Cardiopulmonary resuscitation.

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262 (c) Each school district shall provide refresher
263 certification training courses in manual physical restraint
264 techniques at least annually to all staff members who have
265 successfully completed the initial certification program. The
266 district must identify those persons to be certified and
267 maintain a record that includes the name and position of the
268 person certified, the date of the person's most recent
269 certification and whether it is an initial or refresher
270 certification, and whether the individual successfully completed
271 the certification and achieved proficiency.

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

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

285 (7)~~(1)~~ DOCUMENTATION AND REPORTING.—

286 (a) At the beginning of each school year, a school district
287 shall provide a copy of its policies on emergency procedures,
288 including its policies on the use of manual physical restraint,
289 to each student's parent or guardian. The student's parent or
290 guardian must sign a form indicating that he or she has received

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291 and read the district's policies, which the student's school
292 shall retain on file.

293 (b)~~(a)~~ A school shall prepare an incident report within 24
294 hours after a student is released from restraint ~~or seclusion~~.
295 If the student's release occurs on a day before the school
296 closes for the weekend, a holiday, or another reason, the
297 incident report must be completed by the end of the school day
298 on the day the school reopens.

299 (c)~~(b)~~ All of the following must be included in the
300 incident report:

- 301 1. The name of the student restrained ~~or secluded~~.
- 302 2. The age, grade, ethnicity, and disability of the student
303 restrained ~~or secluded~~.
- 304 3. The date and time of the event and the duration of the
305 restraint ~~or seclusion~~.
- 306 4. The location at which the restraint ~~or seclusion~~
307 occurred.
- 308 5. A description of the type of restraint used in terms
309 established by the department ~~of Education~~.
- 310 6. The name of the person using or assisting in the
311 restraint ~~or seclusion~~ of the student.
- 312 7. The name of any nonstudent who was present to witness
313 the restraint ~~or seclusion~~.
- 314 8. A description of the incident, including all of the
315 following:
 - 316 a. The context in which the restraint ~~or seclusion~~
317 occurred.
 - 318 b. The student's behavior leading up to and precipitating
319 the decision to use manual ~~or physical~~ restraint ~~or seclusion~~,

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320 including an indication as to why there was an imminent risk of
321 serious injury or death to the student or others.

322 c. The specific positive behavioral strategies used to
323 prevent and deescalate the behavior.

324 d. What occurred with the student immediately after the
325 termination of the restraint ~~or seclusion~~.

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

329 f. The results of the medical evaluation and a copy of any
330 report by the medical professionals conducting the evaluation,
331 if available. If the medical report is not available within 24
332 hours, the district must submit the medical report separately as
333 soon as it becomes available.

334 g.f. Evidence of steps taken to notify the student's parent
335 or guardian.

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

346 (e)(d) A school shall also provide the parent or guardian
347 with the completed incident report in writing by mail within 3
348 school days after a student was manually ~~or~~ physically

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349 restrained ~~or secluded~~. The school shall obtain, and keep in its
350 records, the parent's or guardian's signed acknowledgment that
351 he or she received a copy of the incident report.

352 (8)~~(2)~~ MONITORING.—

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

356 (b) Any documentation prepared by a school pursuant to ~~as~~
357 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
358 principal, the district director of Exceptional Student
359 Education, and the bureau chief of the Bureau of Exceptional
360 Education and Student Services ~~electronically~~ each week ~~month~~
361 that the school is in session.

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

366 (d)~~(e)~~ The department shall maintain aggregate data of
367 incidents of manual ~~or~~ physical restraint ~~and seclusion~~ and
368 disaggregate the data for analysis by county, school, student
369 exceptionality, and other variables, including the type and
370 method of restraint ~~or seclusion~~ used. This information shall be
371 updated monthly and made available to the public through the
372 department's website beginning no later than January 31, 2018.

373 (e)~~(d)~~ The department shall establish standards for
374 documenting, reporting, and monitoring the use of manual ~~or~~
375 physical restraint ~~or mechanical restraint, and occurrences of~~
376 ~~seclusion~~. These standards shall be provided to school districts
377 ~~by October 1, 2011.~~

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378 (9)~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.-

379 (a) Each school district shall develop policies and
380 procedures that are consistent with this section and that govern
381 all of the following:

382 1. Authorized use of manual physical restraint on students.

383 2. Personnel authorized to use manual physical restraint.

384 3. Training procedures.

385 ~~4.1.~~ Incident-reporting procedures.

386 ~~5.2.~~ Data collection and monitoring, including when, where,
387 and why students are restrained and ~~or secluded;~~ the frequency
388 of occurrences of such restraint ~~or seclusion;~~ and ~~the prone or~~
389 ~~mechanical restraint that is most used.~~

390 ~~6.3.~~ Monitoring and reporting of data collected.

391 ~~7.4.~~ Training programs relating to manual ~~or~~ physical
392 restraint ~~and seclusion.~~

393 ~~8.5.~~ The district's plan for selecting personnel to be
394 trained.

395 ~~9.6.~~ The district's plan for reducing the use of restraint,
396 ~~and seclusion~~ particularly in settings in which it occurs
397 frequently or with students who are restrained repeatedly, ~~and~~
398 ~~for reducing the use of prone restraint and mechanical~~
399 ~~restraint.~~ The plan must include a goal for reducing the use of
400 restraint ~~and seclusion~~ and must include activities, skills, and
401 resources needed to achieve that goal. Activities may include,
402 but are not limited to, all of the following:

403 a. Additional training in positive behavioral support and
404 crisis management. †

405 b. Parental involvement. †

406 c. Data review. †

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407 d. Updates of students' functional behavioral analysis and
408 positive behavior intervention plans.†

409 e. Additional student evaluations.†

410 f. Debriefing with staff.†

411 g. Use of schoolwide positive behavior support.† ~~and~~

412 h. Changes to the school environment.

413 10. Analysis of data to determine trends.

414 11. Ongoing reduction of the use of manual physical
415 restraint.

416 (b) Any revisions a school district makes to its ~~to the~~
417 ~~district's~~ policies and procedures, which must be prepared as
418 part of the school district's ~~its~~ special policies and
419 procedures, must be filed with the bureau chief of the Bureau of
420 Exceptional Education and Student Services ~~no later than January~~
421 ~~31, 2012.~~

422 ~~(4) PROHIBITED RESTRAINT.—School personnel may not use a~~
423 ~~mechanical restraint or a manual or physical restraint that~~
424 ~~restricts a student's breathing.~~

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

429 Section 2. This act shall take effect July 1, 2017.