

By the Committee on Education; and Senator Book

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1 A bill to be entitled
2 An act relating to students with disabilities in
3 public schools; providing a short title; amending s.
4 1003.573, F.S.; defining terms; providing requirements
5 for the use of physical restraint; prohibiting
6 specified physical restraint techniques; providing
7 requirements for the use of exclusionary and
8 nonexclusionary time; providing requirements for
9 school districts to report and publish training
10 procedures; providing for student-centered followup;
11 providing requirements for documenting, reporting, and
12 monitoring the use of restraint and exclusionary or
13 nonexclusionary time; revising school district
14 policies and procedures relating to restraint;
15 prohibiting the use of seclusion; amending s.
16 1012.582, F.S.; requiring continuing education and
17 inservice training for instructional personnel in
18 teaching students with emotional or behavioral
19 disabilities; conforming provisions to changes made by
20 the act; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. This act may be cited as the "Dorothy L. Hukill
25 Student Safety Act."

26 Section 2. Section 1003.573, Florida Statutes, is amended
27 to read:

28 1003.573 Seclusion and Use of restraint of and seclusion on
29 students with disabilities in public schools.-

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30 (1) DEFINITIONS.—As used in this section, the term:

31 (a) "Exclusionary time" means the period during which a
32 student is removed from an event, activity, or instructional
33 environment to encourage reflection on his or her behavior and
34 allow space and time for understanding of choices and
35 consequences.

36 (b) "Imminent risk of serious injury or death" means the
37 impending risk of a significant injury, such as a laceration,
38 bone fracture, substantial hematoma, or injury to an internal
39 organ, or death.

40 (c) "Medical protective equipment" means health-related
41 protective devices prescribed by a physician or dentist for use
42 as student protection in response to an existing medical
43 condition.

44 (d) "Nonexclusionary time" means a period during which a
45 student remains at the event or in the instructional environment
46 but is redirected from the activities so that he or she has an
47 opportunity to reflect on his or her behavior and is given space
48 and time for understanding of choices and consequences.

49 (e) "Restraint" means the use of a mechanical or physical
50 restraint which may be used only when all other behavioral
51 strategies and intervention techniques have been exhausted.

52 1. "Mechanical restraint" means the use of a device that
53 restricts a student's freedom of movement. The term includes,
54 but is not limited to, the use of straps, belts, tie-downs, and
55 chairs with straps; however, the term does not include the use
56 of any of the following:

57 a. Medical protective equipment.

58 b. Behavioral protective equipment, including helmets,

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59 gloves, wraps, calming blankets, and other devices that are used
60 temporarily to prevent severe tissue damage caused by behavioral
61 excesses.

62 c. Physical equipment or orthopedic appliances, surgical
63 dressings or bandages, or supportive body bands or other
64 restraints necessary for ongoing medical treatment in the
65 educational setting.

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

73 e. Equipment used for safety during transportation, such as
74 seatbelts or wheelchair tie-downs.

75 2. "Physical restraint" means the use of manual restraint
76 techniques that involve significant physical force applied by a
77 teacher or other staff member to restrict the movement of all or
78 part of a student's body.

79 (f) "Seclusion" means the removal of a student from an
80 educational environment, involuntarily confining the student in
81 a room or area, and preventing the student from leaving the area
82 by locking or artificially blocking the door. The term does not
83 include exclusionary time.

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

85 (2) PHYSICAL RESTRAINT.—

86 (a) Physical restraint may be used only when there is an
87 imminent risk of serious injury or death to the student or

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88 others and only for the period of time necessary to eliminate
89 such risk.

90 (b) Notwithstanding the authority provided in s. 1003.32,
91 physical restraint may be used only to protect the safety of
92 students, school personnel, or others and may not be used for
93 student discipline, to correct student noncompliance, or for the
94 convenience of school district staff. Physical restraint may
95 only be used for the period needed to provide such protection.

96 (c) The degree of force applied during physical restraint
97 must be only that degree of force necessary to protect the
98 student or others from serious injury or death.

99 (d) School personnel who have received training that is not
100 associated with their employment with the school district, such
101 as a former law enforcement officer who is now a teacher, shall
102 receive training in the specific district-approved techniques
103 and may not apply techniques or procedures acquired elsewhere.

104 (e) School personnel may not use any of the following
105 physical restraint techniques on a student:

106 1. Pain inducement to obtain compliance.

107 2. Bone locks.

108 3. Hyperextension of joints.

109 4. Peer restraint.

110 5. Pressure or weight on the chest, lungs, sternum,
111 diaphragm, back, or abdomen causing chest compression.

112 6. Straddling or sitting on any part of the body or any
113 maneuver that places pressure, weight, or leverage on the neck
114 or throat, on an artery, or on the back of the head or neck or
115 that otherwise obstructs or restricts the circulation of blood
116 or obstructs an airway.

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117 7. Any type of choking, including hand chokes, and any type
118 of neck or head hold.

119 8. A technique that involves spraying or pushing anything
120 on or into the mouth, nose, eyes, or any part of the face or
121 that involves covering the face or body with anything, including
122 soft objects such as pillows or washcloths.

123 9. Any maneuver that involves punching, hitting, poking,
124 pinching, or shoving.

125 10. Prone or supine restraint.

126 (3) EXCLUSIONARY AND NONEXCLUSIONARY TIME.-

127 (a) School personnel may place a student in exclusionary or
128 nonexclusionary time if all of the following conditions are met:

129 1. The exclusionary or nonexclusionary time is part of a
130 positive behavioral intervention plan developed for the student.

131 2. There is documentation that the exclusionary or
132 nonexclusionary time was preceded by the use of other positive
133 behavioral supports that were not effective.

134 3. The exclusionary or nonexclusionary time takes place in
135 a classroom or in another environment where class educational
136 activities are taking place.

137 4. The student is not physically prevented from leaving the
138 exclusionary or nonexclusionary time area.

139 5. The student is observed on a constant basis by an adult
140 for the duration of the exclusionary or nonexclusionary time.

141 6. The exclusionary or nonexclusionary time area and
142 process are free of any action that is likely to embarrass or
143 humiliate the student.

144 (b) Exclusionary or nonexclusionary time may be used for a
145 period of up to 1 minute for each year of a student's age or

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146 until the student is calm enough to return to his or her seat,
147 whichever is shorter.

148 (c) Exclusionary or nonexclusionary time may not be used as
149 a punishment for or negative consequence of a student's
150 behavior.

151 (4) TRAINING.—

152 (a) Each school district shall report its procedures for
153 training in the use of restraint to the department by publishing
154 the procedures in the district's special policies and procedures
155 manual.

156 (b) Training in the use of restraint must include all of
157 the following:

158 1. Procedures for deescalating a problem behavior before
159 the problem behavior increases to a level or intensity
160 necessitating physical intervention.

161 2. Information regarding the risks associated with
162 restraint and procedures for assessing individual situations and
163 students in order to determine whether the use of restraint is
164 appropriate and sufficiently safe.

165 3. The actual use of specific techniques that range from
166 the least to most restrictive, with ample opportunity for
167 trainees to demonstrate proficiency in the use of such
168 techniques.

169 4. Techniques for implementing restraint with multiple
170 staff members working as a team.

171 5. Techniques for assisting a student in reentering the
172 instructional environment and reengaging in learning.

173 6. Instruction in the district's documentation and
174 reporting requirements.

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175 7. Procedures for identifying and dealing with possible
176 medical emergencies arising during the use of restraint.

177 8. Cardiopulmonary resuscitation.

178 (5) STUDENT-CENTERED FOLLOWUP.—If a student is restrained
179 more than twice during a semester, the school must conduct a
180 review of each of the following:

181 (a) The incidents in which restraint was used and an
182 analysis of how future incidents may be avoided.

183 (b) The student's functional behavioral assessment and
184 positive behavioral intervention plan by the school personnel
185 and parent within 2 weeks before the end of the semester.

186 (c) The training provided to school personnel concerning
187 the use of restraint.

188 (6)~~(1)~~ DOCUMENTATION AND REPORTING.—

189 (a) At the beginning of each school year, a school district
190 shall publicly post its policies on all emergency procedures,
191 including its policies on the use of restraint.

192 (b)~~(a)~~ A school shall prepare an incident report within 24
193 hours after a student is released from restraint or exclusionary
194 or nonexclusionary time ~~seclusion~~. If the student's release
195 occurs on a day before the school closes for the weekend, a
196 holiday, or another reason, the incident report must be
197 completed by the end of the school day on the day the school
198 reopens.

199 (c)~~(b)~~ The following must be included in the incident
200 report:

201 1. The name of the student restrained or placed in
202 exclusionary or nonexclusionary time ~~secluded~~.

203 2. The age, grade, ethnicity, and disability of the student

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204 restrained or placed in exclusionary or nonexclusionary time
205 ~~secluded~~.

206 3. The date and time of the event and the duration of the
207 restraint or exclusionary or nonexclusionary time ~~seclusion~~.

208 4. The location at which the restraint or exclusionary or
209 nonexclusionary time ~~seclusion~~ occurred.

210 5. If a restraint is used, a description of the type of
211 restraint used in terms established by the department ~~of~~
212 Education.

213 6. The name of the person using or assisting in the
214 restraint of or imposition of exclusionary or nonexclusionary
215 time on ~~seclusion of~~ the student and the date the person was
216 last trained in the use of restraint on students.

217 7. The name of any nonstudent who was present to witness
218 the restraint or exclusionary or nonexclusionary time ~~seclusion~~.

219 8. A description of the incident, including all of the
220 following:

221 a. The context in which the restraint or exclusionary or
222 nonexclusionary time ~~seclusion~~ occurred.

223 b. The student's behavior leading up to and precipitating
224 the decision to use ~~manual or physical~~ restraint or exclusionary
225 or nonexclusionary time ~~seclusion~~, including an indication as to
226 why there was an imminent risk of serious injury or death to the
227 student or others if a student was subject to restraint.

228 c. The specific positive behavioral strategies used to
229 prevent and deescalate the behavior.

230 d. What occurred with the student immediately after the
231 termination of the restraint or exclusionary or nonexclusionary
232 time ~~seclusion~~.

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233 e. Any injuries, visible marks, or possible medical
234 emergencies that may have occurred during the restraint or
235 exclusionary or nonexclusionary time seclusion, documented
236 according to district policies.

237 f. Evidence of steps taken to notify the student's parent
238 or guardian.

239 (d)~~(e)~~ A school shall notify the parent or guardian of a
240 student each time ~~manual or physical~~ restraint or exclusionary
241 or nonexclusionary time seclusion is used. Such notification
242 must be in writing and provided before the end of the school day
243 on which the restraint or exclusionary or nonexclusionary time
244 ~~seclusion~~ occurs. Reasonable efforts must also be taken to
245 notify the parent or guardian by telephone or ~~computer~~ e-mail,
246 or both, and these efforts must be documented. The school shall
247 obtain, and keep in its records, the parent's or guardian's
248 signed acknowledgment that he or she was notified of his or her
249 child's restraint or exclusionary or nonexclusionary time
250 ~~seclusion~~.

251 (e)~~(d)~~ A school shall also provide the parent or guardian
252 with the completed incident report in writing by mail within 3
253 school days after a student was ~~manually or physically~~
254 restrained or placed in exclusionary or nonexclusionary time
255 ~~secluded~~. The school shall obtain, and keep in its records, the
256 parent's or guardian's signed acknowledgment that he or she
257 received a copy of the incident report.

258 (7)~~(2)~~ MONITORING.—

259 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint
260 or exclusionary or nonexclusionary time seclusion on students
261 must be monitored ~~shall occur~~ at the classroom, building,

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262 district, and state levels.

263 (b) Any documentation prepared by a school pursuant to as
264 required in subsection (6) (1) shall be provided to the school
265 principal, the district director of Exceptional Student
266 Education, and the bureau chief of the Bureau of Exceptional
267 Education and Student Services electronically each month that
268 the school is in session. Redacted copies of such documentation
269 must be updated monthly and made available to the public through
270 the department's website no later than October 1, 2019.

271 (c) The department shall maintain aggregate data of
272 incidents of ~~manual or physical~~ restraint or exclusionary or
273 nonexclusionary time and seclusion and disaggregate the data for
274 analysis by county, school, student exceptionality, and other
275 variables, including the type and method of restraint or
276 exclusionary or nonexclusionary time seclusion used. This
277 information must shall be updated monthly and made available to
278 the public through the department's website beginning no later
279 than October 1, 2019.

280 (d) The department shall establish and provide to school
281 districts standards for documenting, reporting, and monitoring
282 the use of ~~manual or physical~~ restraint ~~or mechanical restraint~~,
283 and occurrences of exclusionary or nonexclusionary time
284 seclusion. ~~These standards shall be provided to school districts~~
285 ~~by October 1, 2011.~~

286 (8)(3) SCHOOL DISTRICT POLICIES AND PROCEDURES REGARDING
287 RESTRAINT.—

288 (a) School districts shall develop policies and procedures
289 that provide for the physical safety and security of all
290 students and school personnel and treat all students with

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291 respect and dignity in an environment that promotes a positive
292 school culture and climate. Such ~~Each school district shall~~
293 ~~develop~~ policies and procedures must be ~~that are~~ consistent with
294 this section and must ~~that~~ govern the following:

295 1. A description of escalating behavioral strategies that
296 may be used.

297 2. Allowable use of restraint on students.

298 3. Training procedures.

299 4.1. Incident-reporting procedures.

300 5.2. Data collection and monitoring, including when, where,
301 and why students are restrained and ~~or secluded~~, the frequency
302 of occurrences of such restraint ~~or seclusion~~, and the ~~prone or~~
303 ~~mechanical restraint that is most used.~~

304 6.3. Monitoring and reporting of data collected.

305 7.4. Training programs and procedures relating to ~~manual or~~
306 ~~physical restraint and seclusion.~~

307 8.5. The district's plan for selecting personnel to be
308 trained and the timeframe for completing such training pursuant
309 to subsection (4).

310 9.6. The district's plan for reducing the use of restraint,
311 ~~and seclusion~~ particularly in settings in which it occurs
312 frequently or with students who are restrained repeatedly, ~~and~~
313 ~~for reducing the use of prone restraint and mechanical~~
314 ~~restraint.~~ The plan must include a goal for reducing the use of
315 restraint ~~and seclusion~~ and must include activities, skills, and
316 resources needed to achieve that goal. Activities may include,
317 but are not limited to, all of the following:

318 a. Additional training in positive behavioral support and
319 crisis management. ~~†~~

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- 320 b. Parental involvement.~~†~~
- 321 c. Data review.~~†~~
- 322 d. Updates of students' functional behavioral analysis and
- 323 positive behavior intervention plans.~~†~~
- 324 e. Additional student evaluations.~~†~~
- 325 f. Debriefing with staff.~~†~~
- 326 g. Use of schoolwide positive behavior support.~~†~~ and
- 327 h. Changes to the school environment.

328 10. Analysis of data to determine trends.

329 11. Ongoing reduction of the use of restraint.

330 (b) Any revisions a school district makes to its ~~to the~~
 331 ~~district's~~ policies and procedures, which must be prepared as
 332 part of the school district's ~~its~~ special policies and
 333 procedures, must be filed with the bureau chief of the Bureau of
 334 Exceptional Education and Student Services ~~no later than January~~
 335 ~~31, 2012.~~

336 (9) ~~(4)~~ PROHIBITED RESTRAINT.—School personnel may not use a
 337 mechanical restraint or a ~~manual or physical~~ restraint that
 338 restricts a student's breathing.

339 (10) ~~(5)~~ SECLUSION.—School personnel may not place a student
 340 in seclusion ~~close, lock, or physically block a student in a~~
 341 ~~room that is unlit and does not meet the rules of the State Fire~~
 342 ~~Marshal for seclusion time-out rooms.~~

343 Section 3. Section 1012.582, Florida Statutes, is amended
 344 to read:

345 1012.582 Continuing education and inservice training for
 346 teaching students with developmental and emotional or behavioral
 347 disabilities.—

348 (1) The Commissioner of Education shall develop

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349 recommendations to incorporate instruction regarding autism
350 spectrum disorder, Down syndrome, ~~and~~ other developmental
351 disabilities, and emotional or behavioral disabilities into
352 continuing education or inservice training requirements for
353 instructional personnel. These recommendations must ~~shall~~
354 address:

355 (a) Early identification of, and intervention for, students
356 who have autism spectrum disorder, Down syndrome, ~~or~~ other
357 developmental disabilities, or emotional or behavioral
358 disabilities.

359 (b) Curriculum planning and curricular and instructional
360 modifications, adaptations, and specialized strategies and
361 techniques.

362 (c) The use of available state and local resources.

363 (d) The use of positive behavioral supports to deescalate
364 problem behaviors.

365 (e) Appropriate use of ~~manual~~ physical restraint and
366 effective classroom behavior management strategies, including,
367 but not limited to, differential reinforcement, precision
368 commands, minimizing attention or access to other reinforcers,
369 and exclusionary and nonexclusionary time methods ~~seclusion~~
370 ~~techniques~~.

371 (2) In developing the recommendations, the commissioner
372 shall consult with the State Surgeon General, the Director of
373 the Agency for Persons with Disabilities, representatives from
374 the education community in the state, and representatives from
375 entities that promote awareness about autism spectrum disorder,
376 Down syndrome, ~~and~~ other developmental disabilities, and
377 emotional or behavioral disabilities and provide programs and

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378 services to persons with ~~developmental~~ disabilities, including,
379 but not limited to, regional autism centers pursuant to s.
380 1004.55.

381 (3) Beginning with the 2010-2011 school year, the
382 Department of Education shall incorporate the course curricula
383 recommended by the Commissioner of Education, pursuant to
384 subsection (1), into existing requirements for the continuing
385 education or inservice training of instructional personnel. The
386 requirements of this section may not add to the total hours
387 required for continuing education or inservice training as
388 currently established by the department.

389 (4) The State Board of Education may adopt rules pursuant
390 to ss. 120.536(1) and 120.54 to implement this section.

391 Section 4. This act shall take effect July 1, 2019.