

1 A bill to be entitled
2 An act relating to students with disabilities in
3 public schools; amending s. 1003.573, F.S.; providing
4 definitions; requiring school districts to prohibit
5 the use of seclusion; providing requirements for the
6 use of restraint; prohibiting specified restraint
7 techniques; revising school district policies and
8 procedures relating to restraint; requiring school
9 districts to adopt positive behavior interventions and
10 supports and certain policies and procedures;
11 requiring school districts to publicly post specified
12 policies and procedures; requiring school districts to
13 provide training on certain interventions and supports
14 to specified personnel; providing requirements for
15 such training; requiring school districts to publish
16 training procedures; requiring a school to develop a
17 crisis intervention plan for certain students;
18 providing requirements for such plans; providing
19 requirements for documenting, reporting, and
20 monitoring the use of restraint; conforming provisions
21 to changes made by the act; requiring the department
22 to make certain information available to the public by
23 a specified date; creating s. 1003.574, F.S.;;
24 providing definitions; requiring a video camera be
25 placed in specified classrooms upon the request of a

26 parent; requiring a video camera to be operational
27 within a specified time period; providing requirements
28 for the discontinuation of such video cameras;
29 providing requirements for such video cameras;
30 requiring a written explanation if the operation of
31 such cameras is interrupted; requiring district school
32 boards to maintain such explanation for a specified
33 time period; requiring a school to provide written
34 notice of the placement of a video camera to certain
35 individuals; providing requirements for retaining and
36 deleting video recordings; providing prohibitions for
37 the use of such video cameras and recordings;
38 providing that a school principal is the custodian of
39 such video cameras and recordings; providing
40 requirements for school principals and video
41 recordings; providing requirements relating to student
42 privacy; providing requirements for the viewing of
43 such video recordings; providing for an appeal process
44 for actions of a school or school district; providing
45 that incidental viewings of video recordings by
46 specified individuals are not a violation of certain
47 provisions; providing construction; requiring the
48 Department of Education to collect specified
49 information; authorizing the State Board of Education
50 to adopt rules; amending s. 1012.582, F.S.; requiring

51 continuing education and inservice training for
52 teaching students with emotional or behavioral
53 disabilities; conforming provisions to changes made by
54 the act; providing an effective date.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Section 1003.573, Florida Statutes, is amended
59 to read:

60 1003.573 Seclusion and Use of restraint of and seclusion
61 ~~en~~ students with disabilities in public schools.-

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

63 (a) "Crisis Intervention Plan" means an individualized
64 action plan for school personnel to implement when a student
65 exhibits dangerous behavior that may lead to imminent risk of
66 serious injury.

67 (b) "Imminent risk of serious injury" means the threat
68 posed by dangerous behavior that may cause serious physical harm
69 to self or others.

70 (c) "Restraint" means the use of a mechanical or physical
71 restraint.

72 1. "Mechanical restraint" means the use of a device that
73 restricts a student's freedom of movement. The term does not
74 include the use of devices prescribed or recommended by physical
75 or behavioral health professionals when used for indicated

76 purposes.

77 2. "Physical restraint" means the use of manual restraint
78 techniques that involve significant physical force applied by a
79 teacher or other staff member to restrict the movement of all or
80 part of a student's body. The term does not include briefly
81 holding a student in order to calm or comfort the student or
82 physically escorting a student to a safe location.

83 (d) "Positive behavior interventions and supports" means
84 the use of behavioral interventions to prevent dangerous
85 behaviors that may cause serious physical harm to the student or
86 others.

87 (e) "Seclusion" means the involuntary confinement of a
88 student in a room or area alone and preventing the student from
89 leaving the room or area. The term does not include time-out
90 used as a behavior management technique intended to calm a
91 student.

92 (f) "Student" means a child with an individual education
93 plan enrolled in grades kindergarten through 12 in a school, as
94 defined in s. 1003.01(2), or the Florida School for the Deaf and
95 Blind. The term does not include students in prekindergarten,
96 students who reside in residential care facilities under s.
97 1003.58, or students participating in a Department of Juvenile
98 Justice education program under s. 1003.53.

99 (2) SECLUSION.—Each school district shall prohibit school
100 personnel from using seclusion.

101 (3) RESTRAINT.—

102 (a) Authorized school personnel may use restraint only
103 when all positive behavior interventions and supports have been
104 exhausted. Restraint may be used only when there is an imminent
105 risk of serious injury and shall be discontinued as soon as the
106 threat posed by the dangerous behavior has dissipated.

107 Straightjackets, zip ties, handcuffs, or tie-downs may not be
108 used to obstruct or restrict breathing or blood flow. Restraint
109 techniques may not be used to inflict pain to induce compliance.

110 (b) Notwithstanding the authority provided in s. 1003.32,
111 restraint shall be used only to protect the safety of students,
112 school personnel, or others and may not be used for student
113 discipline or to correct student noncompliance.

114 (c) The degree of force applied during physical restraint
115 must be only that degree of force necessary to protect the
116 student or others from imminent risk of serious injury.

117 (4) ~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

118 (a) Each school district shall adopt positive behavior
119 interventions and supports and identify all school personnel
120 authorized to use the interventions and supports. Each school
121 district shall develop policies and procedures ~~that are~~
122 consistent with this section and that govern the following:

- 123 1. Incident-reporting procedures.
- 124 2. Data collection and monitoring, including when, where,
- 125 and why students are restrained and ~~or secluded~~, the frequency

126 | of occurrences of such restraint ~~or seclusion;~~ and the prone or
 127 | mechanical restraint that is most used.

128 | 3. Monitoring and reporting of data collected.

129 | 4. Training programs and procedures relating to ~~manual or~~
 130 | ~~physical~~ restraint as described in subsection (3) and ~~seclusion~~.

131 | 5. The district's plan for selecting personnel to be
 132 | trained pursuant to this subsection.

133 | 6. The district's plan for reducing the use of restraint,
 134 | ~~and seclusion~~ particularly in settings in which it occurs
 135 | frequently or with students who are restrained repeatedly, ~~and~~
 136 | ~~for reducing the use of prone restraint and mechanical~~
 137 | ~~restraint~~. The plan must include a goal for reducing the use of
 138 | restraint ~~and seclusion~~ and must include activities, skills, and
 139 | resources needed to achieve that goal. Activities may include,
 140 | but are not limited to:

141 | a. Additional training in positive behavior interventions
 142 | and supports. ~~behavioral support and crisis management;~~

143 | b. Parental involvement.~~†~~

144 | c. Data review.~~†~~

145 | d. Updates of students' functional behavioral analysis and
 146 | positive behavior intervention plans.~~†~~

147 | e. Additional student evaluations.~~†~~

148 | f. Debriefing with staff.~~†~~

149 | g. Use of schoolwide positive behavior support.~~†~~ ~~and~~

150 | h. Changes to the school environment.

151 i. Analysis of data to determine trends.

152 j. Ongoing reduction of the use of restraint.

153 (b) Any revisions a school district makes to its ~~to the~~
154 ~~district's~~ policies and procedures pursuant to this section,
155 ~~which must be prepared as part of its special policies and~~
156 ~~procedures,~~ must be filed with the bureau chief of the Bureau of
157 Exceptional Education and Student Services within 90 days after
158 the revision ~~no later than January 31, 2012.~~

159 (c) At the beginning of each school year, each school
160 district shall publicly post its policies and procedures on
161 positive behavior interventions and supports as adopted by the
162 school district.

163 (5) TRAINING.—Each school district shall provide training
164 to all school personnel authorized to use positive behavior
165 interventions and supports pursuant to school district policy.
166 Training shall be provided annually and must include:

167 (a) The use of positive behavior interventions and
168 supports.

169 (b) Risk assessment procedures to identify when restraint
170 may be used.

171 (c) Examples of when positive behavior interventions and
172 support techniques have failed to reduce the imminent risk of
173 serious injury.

174 (d) Examples of safe and appropriate restraint techniques
175 and how to use these techniques with multiple staff members
176 working as a team.

177 (e) Instruction in the district's documentation and
178 reporting requirements.

179 (f) Procedures to identify and deal with possible medical
180 emergencies arising during the use of restraint.

181 (g) Cardiopulmonary resuscitation.

182
183 Each school district shall publish the procedures for the
184 training required under this subsection in the district's
185 special policies and procedures manual.

186 (6) Crisis intervention plan.—

187 (a) Upon the second time a student is restrained during a
188 semester, the school shall develop a crisis intervention plan
189 for the student. The crisis intervention plan shall be developed
190 by a team comprised of the student's parent, school personnel,
191 and applicable physical and behavioral health professionals.

192 (b) The crisis intervention plan must include:

193 1. Specific positive behavior interventions and supports
194 to use in response to dangerous behaviors that create a threat
195 of imminent risk of serious injury.

196 2. Known physical and behavioral health concerns that will
197 limit the use of restraint for the student.

198 3. A timetable for the review and, if necessary, revision

199 | of the crisis intervention plan.

200 | (c) The school must provide a copy of the crisis
 201 | intervention plan to the student's parent.

202 | (7)~~(1)~~ DOCUMENTATION AND REPORTING.—

203 | (a) A school shall prepare an incident report within 24
 204 | hours after a student is released from restraint ~~or seclusion~~.
 205 | If the student's release occurs on a day before the school
 206 | closes for the weekend, a holiday, or another reason, the
 207 | incident report must be completed by the end of the school day
 208 | on the day the school reopens.

209 | (b) The following must be included in the incident report:

210 | 1. The name of the student restrained ~~or secluded~~.

211 | 2. The age, grade, ethnicity, and disability of the
 212 | student restrained ~~or secluded~~.

213 | 3. The date and time of the event and the duration of the
 214 | restraint ~~or seclusion~~.

215 | 4. The location at which the restraint ~~or seclusion~~
 216 | occurred.

217 | 5. A description of the type of restraint used in terms
 218 | established by the department ~~of Education~~.

219 | 6. The name of the person using or assisting in the
 220 | restraint ~~or seclusion~~ of the student and the date the person
 221 | was last trained in the use of positive behavior interventions
 222 | and supports.

223 | 7. The name of any nonstudent who was present to witness

HB 1231

2020

224 the restraint ~~or seclusion~~.

225 8. A description of the incident, including all of the
226 following:

227 a. The context in which the restraint ~~or seclusion~~
228 occurred.

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

233 c. The ~~specific~~ positive behavior interventions and
234 supports ~~behavioral strategies~~ used to prevent and deescalate
235 the behavior.

236 d. What occurred with the student immediately after the
237 termination of the restraint ~~or seclusion~~.

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

241 f. Evidence of steps taken to notify the student's parent
242 or guardian.

243 g. The date the crisis intervention plan was last reviewed
244 and whether changes were recommended.

245 (c) A school shall notify the parent or guardian of a
246 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is
247 used. Such notification must be in writing and provided before
248 the end of the school day on which the restraint ~~or seclusion~~

249 occurs. Reasonable efforts must also be taken to notify the
250 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
251 these efforts must be documented. The school shall obtain, and
252 keep in its records, the parent's or guardian's signed
253 acknowledgment that he or she was notified of his or her child's
254 restraint ~~or seclusion~~.

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

261 (8) ~~(2)~~ MONITORING.—

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

265 (b) Any documentation prepared by a school pursuant to as
266 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
267 principal, the district director of Exceptional Student
268 Education, and the bureau chief of the Bureau of Exceptional
269 Education and Student Services electronically each month that
270 the school is in session.

271 (c) The department shall maintain aggregate data of
272 incidents of ~~manual or physical~~ restraint ~~and seclusion~~ and
273 disaggregate the data for analysis by county, school, student

274 | exceptional, and other variables, including the type and
275 | method of restraint ~~or seclusion~~ used. This information shall be
276 | updated monthly, de-identified, and made available to the public
277 | through the department's website no later than October 1, 2020.

278 | (d) The department shall establish standards for
279 | documenting, reporting, and monitoring the incident reports
280 | related to the use of manual or physical restraint or mechanical
281 | restraint, and occurrences of seclusion. These standards shall
282 | be provided to school districts ~~by October 1, 2011.~~

283 | ~~(4) PROHIBITED RESTRAINT. School personnel may not use a~~
284 | ~~mechanical restraint or a manual or physical restraint that~~
285 | ~~restricts a student's breathing.~~

286 | ~~(5) SECLUSION. School personnel may not close, lock, or~~
287 | ~~physically block a student in a room that is unlit and does not~~
288 | ~~meet the rules of the State Fire Marshal for seclusion time out~~
289 | ~~rooms.~~

290 | Section 2. Section 1003.574, Florida Statutes, is created
291 | to read:

292 | 1003.574 Video cameras in public school classrooms.-

293 | (1) As used in this section, the term:

294 | (a) "Incident" means an event, circumstance, act, or
295 | omission that results in the abuse or neglect of a student by:

296 | 1. An employee of a public school or school district; or

297 | 2. Another student.

298 | (b) "Self-contained classroom" means a classroom at a

299 public school in which a majority of the students in regular
300 attendance are provided special education services and are
301 assigned to one or more such classrooms for at least 50 percent
302 of the instructional day.

303 (2) (a) A school district shall provide a video camera to
304 any school with a self-contained classroom upon the written
305 request of a parent of a student in the classroom.

306 (b) Within 30 days after receipt of the request from a
307 parent, a video camera shall be operational in each self-
308 contained classroom in which the parent's student is in regular
309 attendance for the remainder of the school year, unless the
310 parent withdraws his or her request in writing.

311 (3) If the student who is the subject of the initial
312 request is no longer in attendance in the classroom and a school
313 discontinues operation of a video camera during a school year,
314 no later than the 5th school day before the date the operation
315 of the video camera is discontinued, the school must notify the
316 parents of each student in regular attendance in the classroom
317 that operation of the video camera will cease unless the
318 continued use of the camera is requested by a parent. No later
319 than the 10th school day before the end of each school year, the
320 school must notify the parents of each student in regular
321 attendance in the classroom that operation of the video camera
322 will not continue during the following school year unless a
323 written request is submitted by a parent for the next school

324 year.

325 (4) (a) A video camera placed in a self-contained classroom
326 must be capable of all of the following:

327 1. Monitoring all areas of the self-contained classroom,
328 including, without limitation, any room attached to the self-
329 contained classroom which is used for other purposes.

330 2. Recording audio from all areas of the self-contained
331 classroom, including, without limitation, any room attached to
332 the self-contained classroom which is used for other purposes.

333 (b) A video camera placed in a self-contained classroom
334 may not monitor a restroom or any other area in the self-
335 contained classroom where a student changes his or her clothes,
336 except for the entryway, exitway, or hallway outside a restroom
337 or other area where a student changes his or her clothes because
338 of the layout of the self-contained classroom.

339 (c) A video camera placed in a self-contained classroom is
340 not required to be in operation when students are not present in
341 the self-contained classroom.

342 (d) If there is an interruption in the operation of the
343 video camera for any reason, an explanation must be submitted in
344 writing to the school principal and the district school board
345 which explains the reason for and duration of the interruption.
346 The written explanation must be maintained at the district
347 school board office for at least 1 year.

348 (5) Before a school initially places a video camera in a

349 self-contained classroom pursuant to this section, the school
350 shall provide written notice of the placement of such video
351 camera to all of the following:

352 (a) The parent of each student who is assigned to the
353 self-contained classroom.

354 (b) Each student who is assigned to the self-contained
355 classroom.

356 (c) The school district.

357 (d) Each school employee who is assigned to work with one
358 or more students in the self-contained classroom.

359 (6) A school shall:

360 (a) Retain video recorded from a video camera placed
361 pursuant to this section for at least 3 months after the date
362 the video was recorded, after which the recording shall be
363 deleted or otherwise made unretrievable; or

364 (b) Retain the recording until the conclusion of any
365 investigation or any administrative or legal proceedings that
366 result from the recording have been completed, including,
367 without limitation, the exhaustion of all appeals.

368 (7) A school or school district may not:

369 (a) Allow regular, continuous, or continual monitoring of
370 video recorded under this section; or

371 (b) Use video recorded under this section for teacher
372 evaluations or any purpose other than for ensuring the health,
373 safety, and well-being of students receiving special education

374 services in a self-contained classroom.

375 (8) The principal of the school is the custodian of a
376 video camera operated pursuant to this section, all recordings
377 generated by that video camera, and access to such recordings.

378 (a) The release or viewing of any video recording under
379 this section must comply with s. 1002.22.

380 (b) A school or school district shall:

381 1. Conceal the identity of any student who appears in a
382 video recording, but is not involved in the alleged incident
383 documented by the video recording, which the school allows to be
384 viewed under subsection (9), including, without limitation,
385 blurring the face of the uninvolved student.

386 2. Protect the confidentiality of all student records
387 contained in a video recording in accordance with s. 1002.22.

388 (9) (a) Within 7 days after receiving a request to view a
389 video recording, a school or school district shall allow the
390 following individuals to view a video recording made under this
391 section:

392 1. A school or school district employee who is involved in
393 an alleged incident that is documented by the video recording as
394 part of the investigative process;

395 2. A parent of a student who is involved in an alleged
396 incident that is documented by the video recording and has been
397 reported to the school or school district;

398 3. A school or school district employee as part of an

399 investigation into an alleged incident that is documented by the
400 video recording and has been reported to the school or school
401 district;

402 4. A law enforcement officer as part of an investigation
403 into an alleged incident that is documented by the video
404 recording and has been reported to the law enforcement agency;
405 or

406 5. The Department of Children and Families as part of a
407 child abuse or neglect investigation.

408 (b) A person who requests to view a recording shall make
409 himself or herself available for viewing the recording within 30
410 days after being notified by the school or school district that
411 the person's request has been granted.

412 (c) A person who views the recording and suspects that
413 child abuse has occurred must report the suspected child abuse
414 to the Department of Children and Families.

415 (10) (a) Any individual may appeal to the State Board of
416 Education an action by a school or school district which the
417 individual alleges to be in violation of this section.

418 (b) The state board shall grant a hearing on an appeal
419 under this subsection within 45 days after receiving the appeal.

420 (11) A school or school district does not violate
421 subsection (8) if a contractor or other employee of the school
422 or school district incidentally views a video recording made
423 under this section in connection with the performance of his or

HB 1231

2020

424 her duties related to either of the following:

425 (a) The installation, operation, or maintenance of video
426 equipment; or

427 (b) The retention of video recordings.

428 (12) This section does not:

429 (a) Limit the access of the parent of a student, under the
430 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.
431 1232g, or any other law, to a video recording regarding his or
432 her student.

433 (b) Waive any immunity from liability of a school district
434 or an employee of a school district.

435 (c) Create any liability for a cause of action against a
436 school or school district or an employee of a school or school
437 district carrying out the duties and responsibilities required
438 by this section.

439 (d) Apply to self-contained classrooms in which the only
440 students receiving special education services are those who have
441 been deemed gifted.

442 (13) The department shall collect information relating to
443 the installation and maintenance of video cameras under this
444 section.

445 (14) The State Board of Education may adopt rules to
446 implement this section.

447 Section 3. Subsections (1) and (2) of section 1012.582,
448 Florida Statutes, are amended to read:

449 1012.582 Continuing education and inservice training for
450 teaching students with developmental and emotional or behavioral
451 disabilities.-

452 (1) The Commissioner of Education shall develop
453 recommendations to incorporate instruction regarding autism
454 spectrum disorder, Down syndrome, ~~and~~ other developmental
455 disabilities, and emotional or behavioral disabilities into
456 continuing education or inservice training requirements for
457 instructional personnel. These recommendations shall address:

458 (a) Early identification of, and intervention for,
459 students who have autism spectrum disorder, Down syndrome, ~~or~~
460 other developmental disabilities, or emotional or behavioral
461 disabilities.

462 (b) Curriculum planning and curricular and instructional
463 modifications, adaptations, and specialized strategies and
464 techniques.

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

466 (d) The use of positive behavior interventions and
467 ~~behavioral~~ supports to deescalate problem behaviors.

468 (e) The ~~Appropriate~~ use of ~~manual physical~~ restraint and
469 ~~seclusion~~ techniques, positive behavior interventions and
470 supports, and effective classroom behavior management
471 strategies.

472 (2) In developing the recommendations, the commissioner
473 shall consult with the State Surgeon General, the Director of

HB 1231

2020

474 the Agency for Persons with Disabilities, representatives from
475 the education community in the state, and representatives from
476 entities that promote awareness about autism spectrum disorder,
477 Down syndrome, ~~and~~ other developmental disabilities, and
478 emotional or behavioral disabilities and provide programs and
479 services to persons with ~~developmental~~ disabilities, including,
480 but not limited to, regional autism centers pursuant to s.
481 1004.55.

482 Section 4. This act shall take effect July 1, 2020.