

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 or devices; revising school district
8 policies and procedures relating to restraint;
9 requiring school districts to adopt positive behavior
10 interventions and supports and certain policies and
11 procedures; requiring school districts to publicly
12 post specified policies and procedures; requiring
13 school districts to provide training on certain
14 interventions and supports to specified personnel;
15 providing requirements for such training; requiring
16 school districts to publish training procedures;
17 requiring a school to develop a crisis intervention
18 plan for certain students; providing requirements for
19 such plans; providing requirements for documenting,
20 reporting, and monitoring the use of restraint;
21 conforming provisions to changes made by the act;
22 requiring the department to make certain information
23 available to the public by a specified date; creating
24 s. 1003.574, F.S.; creating the Video Cameras in
25 Public School Classrooms Pilot Program; providing

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

51 Board of Education to adopt rules; amending s.
 52 1012.582, F.S.; requiring continuing education and
 53 inservice training for teaching students with
 54 emotional or behavioral disabilities; conforming
 55 provisions to changes made by the act; providing an
 56 effective date.

57
 58 Be It Enacted by the Legislature of the State of Florida:

59
 60 Section 1. Section 1003.573, Florida Statutes, is amended
 61 to read:

62 1003.573 Seclusion and Use of restraint of and seclusion
 63 ~~on~~ students with disabilities in public schools.-

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

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

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

72 (c) "Restraint" means the use of a mechanical or physical
 73 restraint.

74 1. "Mechanical restraint" means the use of a device that
 75 restricts a student's freedom of movement. The term does not

76 include the use of devices prescribed or recommended by physical
77 or behavioral health professionals when used for indicated
78 purposes.

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

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

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

94 (f) "Student" means a child with an individual education
95 plan enrolled in grades kindergarten through 12 in a school, as
96 defined in s. 1003.01(2), or the Florida School for the Deaf and
97 Blind. The term does not include students in prekindergarten,
98 students who reside in residential care facilities under s.
99 1003.58, or students participating in a Department of Juvenile
100 Justice education program under s. 1003.52.

101 (2) SECLUSION.—Each school district shall prohibit school
 102 personnel from using seclusion.

103 (3) RESTRAINT.—

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

109 Techniques or devices such as straightjackets, zip ties,
 110 handcuffs, or tie downs may not be used in ways that may
 111 obstruct or restrict breathing or blood flow or that place a
 112 student in a facedown position with the student's hands
 113 restrained behind the student's back. Restraint techniques may
 114 not be used to inflict pain to induce compliance.

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

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

122 (4) ~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

123 (a) Each school district shall adopt positive behavior
 124 interventions and supports and identify all school personnel
 125 authorized to use the interventions and supports. Each school

- 126 | district shall develop policies and procedures ~~that are~~
127 | consistent with this section and that govern the following:
- 128 | 1. Incident-reporting procedures.
 - 129 | 2. Data collection and monitoring, including when, where,
130 | and why students are restrained and ~~or secluded;~~ the frequency
131 | of occurrences of such restraint ~~or seclusion;~~ and ~~the prone or~~
132 | ~~mechanical restraint that is most used.~~
 - 133 | 3. Monitoring and reporting of data collected.
 - 134 | 4. Training programs and procedures relating to ~~manual or~~
135 | ~~physical~~ restraint as described in subsection (3) ~~and seclusion.~~
 - 136 | 5. The district's plan for selecting personnel to be
137 | trained pursuant to this subsection.
 - 138 | 6. The district's plan for reducing the use of restraint,
139 | ~~and seclusion~~ particularly in settings in which it occurs
140 | frequently or with students who are restrained repeatedly, ~~and~~
141 | ~~for reducing the use of prone restraint and mechanical~~
142 | ~~restraint.~~ The plan must include a goal for reducing the use of
143 | restraint ~~and seclusion~~ and must include activities, skills, and
144 | resources needed to achieve that goal. Activities may include,
145 | but are not limited to:
 - 146 | a. Additional training in positive behavior interventions
147 | and supports. ~~behavioral support and crisis management;~~
 - 148 | b. Parental involvement. ~~†~~
 - 149 | c. Data review. ~~†~~
 - 150 | d. Updates of students' functional behavioral analysis and

151 positive behavior intervention plans.~~†~~
152 e. Additional student evaluations.~~†~~
153 f. Debriefing with staff.~~†~~
154 g. Use of schoolwide positive behavior support.~~†~~ and
155 h. Changes to the school environment.
156 i. Analysis of data to determine trends.
157 j. Ongoing reduction of the use of restraint.
158 (b) Any revisions a school district makes to its ~~to the~~
159 ~~district's~~ policies and procedures pursuant to this section,
160 ~~which must be prepared as part of its special policies and~~
161 ~~procedures,~~ must be filed with the bureau chief of the Bureau of
162 Exceptional Education and Student Services within 90 days after
163 the revision ~~no later than January 31, 2012.~~
164 (c) At the beginning of each school year, each school
165 district shall publicly post its policies and procedures on
166 positive behavior interventions and supports as adopted by the
167 school district.
168 (5) TRAINING.—Each school district shall provide training
169 to all school personnel authorized to use positive behavior
170 interventions and supports pursuant to school district policy.
171 Training shall be provided annually and must include:
172 (a) The use of positive behavior interventions and
173 supports.
174 (b) Risk assessment procedures to identify when restraint
175 may be used.

176 (c) Examples of when positive behavior interventions and
177 support techniques have failed to reduce the imminent risk of
178 serious injury.

179 (d) Examples of safe and appropriate restraint techniques
180 and how to use these techniques with multiple staff members
181 working as a team.

182 (e) Instruction in the district's documentation and
183 reporting requirements.

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

186 (g) Cardiopulmonary resuscitation.

187
188 Each school district shall publish the procedures for the
189 training required under this subsection in the district's
190 special policies and procedures manual.

191 (6) Crisis intervention plan.—

192 (a) Upon the second time a student is restrained during a
193 semester, the school shall develop a crisis intervention plan
194 for the student. The crisis intervention plan shall be developed
195 by a team comprised of the student's parent or guardian, school
196 personnel, and applicable physical and behavioral health
197 professionals.

198 (b) The crisis intervention plan must include:

199 1. Specific positive behavior interventions and supports
200 to use in response to dangerous behaviors that create a threat

201 of imminent risk of serious injury.

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

204 3. A timetable for the review and, if necessary, revision
205 of the crisis intervention plan.

206 (c) The school must provide a copy of the crisis
207 intervention plan to the student's parent or guardian.

208 (7)(1) DOCUMENTATION AND REPORTING.-

209 (a) A school shall prepare an incident report within 24
210 hours after a student is released from restraint ~~or seclusion~~.
211 If the student's release occurs on a day before the school
212 closes for the weekend, a holiday, or another reason, the
213 incident report must be completed by the end of the school day
214 on the day the school reopens.

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

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

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

219 3. The date and time of the event and the duration of the
220 restraint ~~or seclusion~~.

221 4. The location at which the restraint ~~or seclusion~~
222 occurred.

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

225 6. The name of the person using or assisting in the

226 | restraint ~~or seclusion~~ of the student and the date the person
 227 | was last trained in the use of positive behavior interventions
 228 | and supports.

229 | 7. The name of any nonstudent who was present to witness
 230 | the restraint ~~or seclusion~~.

231 | 8. A description of the incident, including all of the
 232 | following:

233 | a. The context in which the restraint ~~or seclusion~~
 234 | occurred.

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

239 | c. The ~~specific~~ positive behavior interventions and
 240 | supports ~~behavioral strategies~~ used to prevent and deescalate
 241 | the behavior.

242 | d. What occurred with the student immediately after the
 243 | termination of the restraint ~~or seclusion~~.

244 | e. Any injuries, visible marks, or possible medical
 245 | emergencies that may have occurred during the restraint ~~or~~
 246 | ~~seclusion~~, documented according to district policies.

247 | f. Evidence of steps taken to notify the student's parent
 248 | or guardian.

249 | g. The date the crisis intervention plan was last reviewed
 250 | and whether changes were recommended.

251 (c) A school shall notify the parent or guardian of a
 252 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is
 253 used. Such notification must be in writing and provided before
 254 the end of the school day on which the restraint ~~or seclusion~~
 255 occurs. Reasonable efforts must also be taken to notify the
 256 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
 257 these efforts must be documented. The school shall obtain, and
 258 keep in its records, the parent's or guardian's signed
 259 acknowledgment that he or she was notified of his or her child's
 260 restraint ~~or seclusion~~.

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

267 (8) ~~(2)~~ MONITORING.—

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

271 (b) Any documentation prepared by a school pursuant to ~~as~~
 272 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school
 273 principal, the district director of Exceptional Student
 274 Education, and the bureau chief of the Bureau of Exceptional
 275 Education and Student Services electronically each month that

276 the school is in session.

277 (c) The department shall maintain aggregate data of
278 incidents of ~~manual or physical~~ restraint and ~~seclusion~~ and
279 disaggregate the data for analysis by county, school, student
280 exceptionality, and other variables, including the type and
281 method of restraint ~~or seclusion~~ used. This information shall be
282 updated monthly, de-identified, and made available to the public
283 through the department's website no later than October 1, 2021.

284 (d) The department shall establish standards for
285 documenting, reporting, and monitoring the incident reports
286 related to the use of manual or physical restraint or mechanical
287 restraint, and occurrences of seclusion. These standards shall
288 be provided to school districts ~~by October 1, 2011.~~

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

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

296 Section 2. Section 1003.574, Florida Statutes, is created
297 to read:

298 1003.574 Video cameras in public school classrooms; pilot
299 program.—Beginning with the 2021-2022 school year, the Video
300 Cameras in Public School Classrooms Pilot Program is created for

301 a period of 3 school years.

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

303 (a) "Incident" means an event, a circumstance, an act, or
304 an omission that results in the abuse or neglect of a student
305 by:

306 1. An employee of a public school or school district; or

307 2. Another student.

308 (b) "School district" means the Broward County Public
309 Schools.

310 (c) "Self-contained classroom" means a classroom at a
311 public school in which a majority of the students in regular
312 attendance are provided special education services and are
313 assigned to one or more such classrooms for at least 50 percent
314 of the instructional day.

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

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

323 (3) If the student who is the subject of the initial
324 request is no longer in attendance in the classroom and a school
325 discontinues operation of a video camera during a school year,

326 no later than the 5th school day before the date the operation
327 of the video camera is discontinued, the school must notify the
328 parents of each student in regular attendance in the classroom
329 that operation of the video camera will cease unless the
330 continued use of the camera is requested by a parent. No later
331 than the 10th school day before the end of each school year, the
332 school must notify the parents of each student in regular
333 attendance in the classroom that operation of the video camera
334 will not continue during the following school year unless a
335 written request is submitted by a parent for the next school
336 year.

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

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

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

345 (b) A video camera placed in a self-contained classroom
346 may not monitor a restroom or any other area in the self-
347 contained classroom where a student changes his or her clothes,
348 except for the entryway, exitway, or hallway outside a restroom
349 or other area where a student changes his or her clothes because
350 of the layout of the self-contained classroom.

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

354 (d) If there is an interruption in the operation of the
355 video camera for any reason, an explanation must be submitted in
356 writing to the school principal and the district school board
357 which explains the reason for and duration of the interruption.
358 The written explanation must be maintained at the district
359 school board office for at least 1 year.

360 (5) Before a school initially places a video camera in a
361 self-contained classroom pursuant to this section, the school
362 shall provide written notice of the placement of such video
363 camera to all of the following:

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

366 (b) Each student who is assigned to the self-contained
367 classroom.

368 (c) The school district.

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

371 (6) A school shall:

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

376 (b) Retain the recording until the conclusion of any
377 investigation or any administrative or legal proceedings that
378 result from the recording have been completed, including,
379 without limitation, the exhaustion of all appeals.

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

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

383 (b) Use video recorded under this section for teacher
384 evaluations or any purpose other than for ensuring the health,
385 safety, and well-being of students receiving special education
386 services in a self-contained classroom.

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

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

392 (b) A school or school district shall:

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

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

400 (9) (a) Within 7 days after receiving a request to view a

401 video recording, a school or school district shall allow the
402 following individuals to view a video recording made under this
403 section:

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

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

410 3. A school or school district employee as part of an
411 investigation into an alleged incident that is documented by the
412 video recording and has been reported to the school or school
413 district;

414 4. A law enforcement officer as part of an investigation
415 into an alleged incident that is documented by the video
416 recording and has been reported to the law enforcement agency;
417 or

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

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

424 (c) A person who views the recording and suspects that
425 child abuse has occurred must report the suspected child abuse

426 to the Department of Children and Families.

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

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

432 (11) A school or school district does not violate
433 subsection (8) if a contractor or other employee of the school
434 or school district incidentally views a video recording made
435 under this section in connection with the performance of his or
436 her duties related to either of the following:

437 (a) The installation, operation, or maintenance of video
438 equipment; or

439 (b) The retention of video recordings.

440 (12) This section does not:

441 (a) Limit the access of the parent of a student, under the
442 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.
443 1232g, or any other law, to a video recording regarding his or
444 her student.

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

447 (c) Create any liability for a cause of action against a
448 school or school district or an employee of a school or school
449 district carrying out the duties and responsibilities required
450 by this section.

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

454 (13) The department shall collect information relating to
455 the installation and maintenance of video cameras under this
456 section.

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

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

461 1012.582 Continuing education and inservice training for
462 teaching students with developmental and emotional or behavioral
463 disabilities.—

464 (1) The Commissioner of Education shall develop
465 recommendations to incorporate instruction regarding autism
466 spectrum disorder, Down syndrome, ~~and~~ other developmental
467 disabilities, and emotional or behavioral disabilities into
468 continuing education or inservice training requirements for
469 instructional personnel. These recommendations shall address:

470 (a) Early identification of, and intervention for,
471 students who have autism spectrum disorder, Down syndrome, ~~or~~
472 other developmental disabilities, or emotional or behavioral
473 disabilities.

474 (b) Curriculum planning and curricular and instructional
475 modifications, adaptations, and specialized strategies and

476 techniques.

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

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

480 (e) The ~~Appropriate~~ use of ~~manual physical~~ restraint and
481 ~~seclusion~~ techniques, positive behavior interventions and
482 supports, and effective classroom behavior management
483 strategies.

484 (2) In developing the recommendations, the commissioner
485 shall consult with the State Surgeon General, the Director of
486 the Agency for Persons with Disabilities, representatives from
487 the education community in the state, and representatives from
488 entities that promote awareness about autism spectrum disorder,
489 Down syndrome, ~~and~~ other developmental disabilities, and
490 emotional or behavioral disabilities and provide programs and
491 services to persons with ~~developmental~~ disabilities, including,
492 but not limited to, regional autism centers pursuant to s.
493 1004.55.

494 Section 4. This act shall take effect July 1, 2021.