

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 235 Restraint of Students with Disabilities in Public Schools

SPONSOR(S): Plasencia and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 390

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---------------|----------------|--|
| 1) Early Learning & Elementary Education Subcommittee | 17 Y, 0 N | Wolff | Brink |
| 2) Secondary Education & Career Development Subcommittee | 15 Y, 0 N | Wolff | Sanchez |
| 3) Education & Employment Committee | 19 Y, 0 N | Wolff | Hassell |

SUMMARY ANALYSIS

For students with disabilities in public schools, the bill revises requirements relating to the use of mechanical and physical restraint. The bill prohibits the use of mechanical restraint by school personnel except for school resource officers, school safety officers, school guardians, or school security guards, who may use mechanical restraint in the exercise of their duties to restrain students in grades 6 through 12. However, devices prescribed or recommended by physical or behavioral health professionals may still be used for their indicated purposes. Authorized school personnel are still permitted to use appropriate physical restraint as permitted by existing law.

The bill does not have a fiscal impact.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Background

Florida law authorizes district school boards, each teacher, and other members of school staff to control and discipline students.¹ Additionally, teachers must keep order in the classroom and in other assigned places.²

In 2011, the Legislature established requirements regarding the use of seclusion and restraint on students with disabilities.³ Subsequently, the Florida Department of Education (DOE) issued *Technical Assistance Paper Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities* (TAP 2011-165).⁴ The DOE guidelines covered:⁵

- When seclusion or restraint might be used.
- Considerations when selecting a training program for restraint.
- What should be documented.
- Parent notification and reporting.
- Monitoring use.

The DOE guidelines stressed the importance of students with disabilities being treated with respect and dignity in an environment that provides for the physical safety and security of students and staff. The *TAP 2011-165* recognized that the use of seclusion and restraint may have an emotional impact on students and should not be used to punish a student or as a deterrent. Therefore, the TAP 2011-165 recommended that seclusion and restraint should only be used in emergency situations when an imminent risk of serious injury or death to the student or others exists.⁶

In 2021, the Legislature further restricted the use of seclusion and restraint and provided more concrete guidance to school districts.⁷ These changes included a prohibition on the use of seclusion,⁸ defining terms,⁹ and placing limitations on when and how restraint may be used.¹⁰ The following definitions are relevant to the use of restraint on students with disabilities:¹¹

- “Imminent risk of serious injury” means the threat posed by dangerous behavior that may cause serious physical harm to self or others.
- “Restraint” means the use of a mechanical or physical restraint.
- “Mechanical restraint” means the use of a device that restricts a student's freedom of movement. The term does not include the use of devices prescribed or recommended by physical or behavioral health professionals when used for indicated purposes.
- “Physical restraint” means the use of manual restraint techniques that involve significant physical force applied by a teacher or other staff member to restrict the movement of all or part

¹ Section 1003.32, F.S.

² *Id.*

³ Chapter 2011-175, L.O.F.

⁴ Florida Department of Education, Technical Assistance Paper, *Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities* (Oct. 14, 2011), on file with the Early Learning & Elementary Education Subcommittee.

⁵ *Id.*

⁶ *Id.* at A-1.

⁷ Chapter 2021-140, L.O.F.

⁸ Section 1003.573(2), F.S. (2021).

⁹ Section 1003.573(1), F.S. (2021).

¹⁰ Section 1003.573(3), F.S. (2021).

¹¹ Section 1003.573(1), F.S. (2021).

of a student's body. The term does not include briefly holding a student in order to calm or comfort the student or physically escorting a student to a safe location.

- “Positive behavior interventions and supports” means the use of behavioral interventions to prevent dangerous behaviors that may cause serious physical harm to the student or others.

Use of Restraint on Students with Disabilities

School districts are required to have policies and procedures governing the use of restraint on students with disabilities, including the designation of school personnel authorized to use positive behavioral interventions and supports (PBIS) and restraint.¹² Authorized school personnel may only use mechanical or physical restraint after all PBIS have been exhausted and only when there is an imminent risk of serious injury.¹³ The use of restraint must end once the imminent risk of serious injury has ended.¹⁴

All school personnel are prohibited from:

- Using mechanical or physical restraint techniques or devices such as straightjackets, zip ties, handcuffs, or tie downs in a manner that may obstruct or restrict breathing or blood flow or that place a student in a face down position with the student’s hands restrained behind the student’s back.¹⁵
- Using restraint to inflict pain to induce compliance.¹⁶
- Using restraint for student discipline.¹⁷

2021 Data on Use of Restraint Incidents

In 2021, the Legislature also required the DOE to publish monthly on its website de-identified restraint incident data from school districts no later than October 1, 2021.¹⁸ The DOE has published four monthly reports of the data it received from school districts relating to use of restraint incidents during the 2021-2022 school year.¹⁹

| Month | Number of Incidents | Number of Students | Mechanical Restraint |
|-------------------------|---------------------|--------------------|----------------------|
| August ²⁰ | 379 | 274 | 3% |
| September ²¹ | 613 | 439 | 4% |
| October ²² | 629 | 437 | 4% |
| November ²³ | 554 | 396 | 4% |

Effect of Proposed Changes

The bill prohibits the use of mechanical restraint by school personnel except for school resource officers, school safety officers, school guardians, or school security guards, who may use mechanical

¹² Section 1003.573(4), F.S. (2021).

¹³ Section 1003.573(3)(a), F.S. (2021). The degree of force applied during the use of physical restraint must be limited to the degree of force necessary to protect the student or others from imminent risk of serious injury. Section 1003.573(3)(c), F.S. (2021).

¹⁴ Section 1003.573(3)(a), F.S. (2021).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 1003.573(3)(b), F.S. (2021).

¹⁸ Section 1003.573(8)(c), F.S. (2021).

¹⁹ Florida Department of Education, *Program Accountability, Assessment & Data Systems*, <https://www.fldoe.org/academics/exceptional-student-edu/data/> (last visited Jan. 10, 2022).

²⁰ Florida Department of Education, *Restraint Incidents and Type by District August 1, 2021 through August 31, 2021*, (Oct. 1, 2021), available at <https://www.fldoe.org/core/fileparse.php/7672/urlt/swdRestSecluAug21.pdf>.

²¹ Florida Department of Education, *Restraint Incidents and Type by District September 1, 2021 through September 30, 2021*, (Nov. 1, 2021), available at <https://www.fldoe.org/core/fileparse.php/7672/urlt/swdRestSecluSept21.pdf>.

²² Florida Department of Education, *Restraint Incidents and Type by District October 1, 2021 through October 31, 2021*, (Dec. 1, 2021), available at <https://www.fldoe.org/core/fileparse.php/7672/urlt/swdRestSecluOct21.pdf>.

²³ Florida Department of Education, *Restraint Incidents by District November 1, 2021 through November 30, 2021*, (Jan. 1, 2022), available at <https://www.fldoe.org/core/fileparse.php/7672/urlt/sedRestSecluNov21.pdf>.

restraint in the exercise of their duties to restrain students in grades 6 through 12. However, devices prescribed or recommended by physical or behavioral health professionals may still be used for their indicated purposes. Authorized school personnel may still use appropriate physical restraint as permitted by existing law.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.573, F.S.; prohibiting school personnel from using mechanical restraint on students with disabilities; providing exceptions; conforming provisions to changes made by the act.

Section 2. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.