

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

BILL: SB 390

INTRODUCER: Senators Book and Rodrigues

SUBJECT: Restraint of Students with Disabilities in Public Schools

DATE: February 15, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Grace</u>	<u>Elwell</u>	<u>AED</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 390 prohibits the use of mechanical restraint on students with disabilities 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.

The bill does not have an impact on state revenues or expenditures.

The bill takes effect July 1, 2022.

II. Present Situation:

The Individuals with Disabilities Education Act (IDEA)¹ was enacted to ensure that all children with a disability have available to them a free appropriate public education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and ensuring that the rights of children with disabilities and parents of such children are protected.² Accordingly, Florida law specifies conditions regarding the use of restraint and seclusion on students with a disability.

School District Responsibilities

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 and restraint.

¹ 20 U.S.C. s. 1400 et seq.

² U.S. Department of Education, *IDEA Purpose*, <https://sites.ed.gov/idea/about-idea> (last visited Jan. 27, 2022).

Prohibitions on the use of Restraint

Authorized school personnel may only use mechanical or physical restraint after all positive behavioral interventions and supports have been exhausted and only when there is an imminent risk of serious injury. The use of restraint must end once the imminent risk of serious injury has ended.

School personnel are prohibited from using certain methods of restraint. Specifically, personnel may never use:

- Restraint to inflict pain to induce compliance.
- Restraint for student discipline.
- 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.

Reporting of Incidents of Restraint

Florida law requires a school to prepare an incident report within 24 hours after a student is released from restraint or seclusion. The incident report must contain:

- The name, age, grade, ethnicity, and disability of the student restrained or secluded.
- The date and time of the event and the duration of the restraint or seclusion.
- A description of the type of restraint.
- A description of the incident.³

During August through December of the 2021-2022 school year, school districts reported 2,579 incidents of restraint on 1,853 students. Approximately three to five percent of the incidents involved mechanical restraint.⁴

Safe-School Officers

For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent is required to partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers options at each school facility within the district, including charter schools. These options include:

- Establishing a School Resource Officer (SRO) program through a cooperative agreement with law enforcement agencies. SROs are certified law enforcement officers who must meet specified screening requirements and also complete mental health crisis intervention training.
- Commissioning one or more school safety officers. School safety officers are certified law enforcement officers with the power of arrest on district school property, who are employed by either a law enforcement agency or by the district school board. School safety officers must undergo the same screening requirements and crisis intervention training as an SRO.
- Participating in the Coach Aaron Feis Guardian Program.

³ Section 1003.573, F.S.

⁴ Florida Department of Education, *Program Accountability, Assessment & Data Systems*, <https://www.fldoe.org/academics/exceptional-student-edu/data/> (last visited Feb. 3, 2022). (Tabulate the data in the pdf files in the section on SWD Restraint Data – SY 2021-22.)

- Contracting with a security agency to employ as a school security guard an individual who holds a Class “D” and Class “G” license and completes the same training and evaluation requirements as a school guardian.

Employing a school guardian is an option for district school boards to meet the safe-school officer requirements in law.⁵ Persons certified as school guardians have no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident.⁶

III. Effect of Proposed Changes:

SB 390 prohibits the use of mechanical restraint on students with disabilities 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.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁵ Section 1006.12, F.S.

⁶ Section 30.15(1)(k), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1003.573 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.