

By Senator Gardiner

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1                                   A bill to be entitled  
2           An act relating to the use, prevention, and reduction  
3           of seclusion and restraint on students with  
4           disabilities in public schools; creating s. 1003.573,  
5           F.S.; providing definitions; providing legislative  
6           findings and intent; providing that manual physical  
7           restraint shall be used only in an emergency when  
8           there is an imminent risk of serious injury or death  
9           to the student or others; providing restrictions on  
10          the use of manual physical restraint; prohibiting the  
11          use of manual physical restraint by school personnel  
12          who are not certified to use district-approved methods  
13          for applying restraint techniques; prohibiting  
14          specified techniques; requiring the school to  
15          medically evaluate a student as soon as possible after  
16          the student is manually physically restrained;  
17          prohibiting school personnel from placing a student in  
18          seclusion; providing requirements for use of time-out;  
19          requiring reporting of training and certification  
20          procedures to the Department of Education; requiring  
21          that school personnel be trained and certified in the  
22          use of manual physical restraint; requiring student  
23          followup in certain circumstances; requiring  
24          notification to parents of school district policies  
25          regarding emergency procedures; requiring the school  
26          to prepare an incident report after each occasion of  
27          student restraint and specifying contents of report;  
28          requiring certain reporting and monitoring; requiring  
29          the development and revision of school district

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30 policies and procedures; providing an effective date.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Section 1003.573, Florida Statutes, is created  
35 to read:

36 1003.573 Use, prevention, and reduction of seclusion and  
37 restraint on students with disabilities in public schools.-

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

39 (a) "Department" means the Department of Education.

40 (b) "Imminent risk of serious injury or death" means the  
41 impending risk of a significant injury, such as a laceration,  
42 bone fracture, substantial hematoma, or other injury to internal  
43 organs, or death.

44 (c) "Manual physical restraint" means use of physical  
45 restraint techniques that involve physical force applied by a  
46 teacher or other staff member to restrict the movement of all or  
47 part of a student's body.

48 (d) "Mechanical restraint" means a physical device used to  
49 restrict a student's movement or restrict the normal function of  
50 a student's body. Objects that fall within the term "mechanical  
51 restraint" include straps, belts, tie-downs, calming blankets,  
52 and chairs with straps. The term does not include:

53 1. Medical protective equipment;

54 2. Physical equipment or orthopedic appliances, surgical  
55 dressings or bandages, or supportive body bands or other  
56 restraints necessary for medical treatment that is ongoing in  
57 the educational setting;

58 3. Devices used to support functional body position or

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59 proper balance, or prevent a person from falling out of a bed or  
60 a wheelchair, except that these exceptions to the definition of  
61 mechanical restraint do not apply to any device when it is used  
62 for any purpose other than supporting a body position or proper  
63 balance, such as when used as coercion, discipline, convenience,  
64 or retaliation, to prevent imminent risk of serious injury or  
65 death of the student or others, or for any other behavior-  
66 management reason; or

67 4. Equipment used for safety during transportation, such as  
68 seatbelts or wheelchair tie-downs.

69 (e) "Medical protective equipment" means health-related  
70 protective devices prescribed by a physician or dentist for use  
71 as student protection in response to an existing medical  
72 condition.

73 (f) "Seclusion" means removing a student from an  
74 educational environment, involuntarily confining the student in  
75 a room or area, and preventing the student from leaving the room  
76 or area if achieved by locking the door or otherwise physically  
77 blocking the student's way, threatening physical force or other  
78 consequences, or using physical force. The term does not include  
79 the use of time-out.

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

81 (h) "Time-out" means a procedure in which access to varied  
82 sources of reinforcement is removed or reduced for a particular  
83 time period contingent on a response. The opportunity to receive  
84 reinforcement is contingently removed for a specified time.  
85 Either a student is contingently removed from the reinforcing  
86 environment or the reinforcing environment is contingently  
87 removed for some stipulated duration. A time-out setting may not

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88 be locked and the exit may not be blocked. Physical force or  
89 threats may not be used to place a student in time-out.

90 (2) LEGISLATIVE FINDINGS AND INTENT.-

91 (a) The Legislature finds that public schools have a  
92 responsibility to ensure that each student is treated with  
93 respect and dignity in a trauma-informed environment that  
94 provides for the physical safety and security of students and  
95 others.

96 (b) The Legislature finds that students, educators, and  
97 families are concerned about the use of seclusion and restraint,  
98 particularly when used on students in special education  
99 programs. Seclusion and restraint refer to safety procedures in  
100 which a student is isolated from others or physically held in  
101 response to serious problem behavior that places the student or  
102 others at risk of injury or harm. Concern exists that these  
103 procedures are prone to misapplication and abuse, placing a  
104 student at an equal or greater risk than the risk of the  
105 student's problem behavior. Concerns include the following:  
106 seclusion or restraint is inappropriately selected and  
107 implemented as treatment or behavioral intervention rather than  
108 as a safety procedure; seclusion or restraint is inappropriately  
109 used for behaviors, such as noncompliance, threats, or  
110 disruption, which do not place the student or others at risk of  
111 injury or harm; students, peers, or staff may be injured or  
112 physically harmed during attempts to conduct seclusion or  
113 restraint; risk of injury or harm is increased because seclusion  
114 or restraint is implemented by staff who are not adequately  
115 trained; use of seclusion or restraint may inadvertently result  
116 in reinforcing or strengthening the problem behavior; and

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117 seclusion or restraint is implemented independent of  
118 comprehensive, function-based behavioral intervention plans.  
119 Moreover, there are concerns about inadequate documentation of  
120 seclusion or restraint procedures, failure to notify parents  
121 when seclusion or restraint is applied, and failure to use data  
122 to analyze and address the cause of the precipitating behavior.

123 (c) The Legislature finds that the majority of problem  
124 behaviors that are currently used to justify seclusion or  
125 restraint could be prevented with early identification and  
126 intensive early intervention. The need for seclusion or  
127 restraint is, in part, a result of insufficient investment in  
128 prevention efforts.

129 (d) The Legislature further finds that the use of seclusion  
130 or restraint may produce trauma in students. For such students,  
131 who are already experiencing trauma, the use may cause  
132 retraumatization. Left unaddressed, the lasting effects of  
133 childhood trauma place a heavy burden on individuals, families,  
134 and communities. Research has shown that trauma significantly  
135 increases the risk of mental health problems, difficulties with  
136 social relationships and behavior, physical illness, and poor  
137 school performance.

138 (e) The Legislature intends that students be free from the  
139 abusive and unnecessary use of seclusion or restraint in the  
140 public schools.

141 (f) The Legislature intends to prevent and achieve an  
142 ongoing reduction of the use of manual physical restraint in the  
143 public schools and, specifically, to prohibit the use of  
144 seclusion, prone and supine restraint, and mechanical restraint  
145 on students.

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146 (g) The Legislature also intends that manual physical  
147 restraint shall be used only when an imminent risk of serious  
148 injury or death exists; that manual physical restraint shall not  
149 be employed as punishment, for the convenience of staff, or as a  
150 substitute for a positive behavior-support plan; and that, when  
151 used, persons applying manual physical restraint shall impose  
152 the least possible restrictions and shall discontinue the  
153 restraint as soon as the threat of imminent risk of serious  
154 injury or death ceases.

155 (3) MANUAL PHYSICAL RESTRAINT.—Manual physical restraint  
156 shall be used only in an emergency when there is an imminent  
157 risk of serious injury or death to the student or others.

158 (a) Manual physical restraint shall be used only for the  
159 period needed in order to eliminate the imminent risk of serious  
160 injury or death to the student or others.

161 (b) The degree of force applied during manual physical  
162 restraint must be only that degree of force necessary to protect  
163 the student or others from bodily injury.

164 (c) Manual physical restraint shall be used only by school  
165 personnel who are qualified and certified to use the district-  
166 approved methods for the appropriate application of specific  
167 restraint techniques. School personnel who have received  
168 training not associated with their employment with the school  
169 district, such as a former law enforcement officer who is now a  
170 teacher, shall be certified in the specific district-approved  
171 techniques and may not apply techniques or procedures acquired  
172 elsewhere.

173 (d) School personnel may not manually physically restrain a  
174 student except when there exists an imminent risk of serious

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175 injury or death to the student or others.

176 (e) School personnel may not under any circumstances use  
177 any of the following manual physical restraint techniques on a  
178 student:

179 1. Prone and supine restraint.

180 2. Pain inducement to obtain compliance.

181 3. Bone locks.

182 4. Hyperextension of joints.

183 5. Peer restraint.

184 6. Mechanical restraint.

185 7. Pressure or weight on the chest, lungs, sternum,  
186 diaphragm, back, or abdomen, causing chest compression.

187 8. Straddling or sitting on any part of the body or any  
188 maneuver that places pressure, weight, or leverage on the neck  
189 or throat, on any artery, or on the back of the student's head  
190 or neck or that otherwise obstructs or restricts the circulation  
191 of blood or obstructs an airway.

192 9. Any type of choking, including hand chokes, and any type  
193 of neck or head hold.

194 10. Any technique that involves pushing on or into the  
195 student's mouth, nose, eyes, or any part of the face or involves  
196 covering the face or body with anything, including soft objects  
197 such as pillows or washcloths.

198 11. Any maneuver that involves punching, hitting, poking,  
199 pinching, or shoving.

200 12. Any type of mat or blanket restraint.

201 13. Water or lemon sprays.

202 (f) The school shall have a student medically evaluated by  
203 a physician, nurse, or other qualified medical professional as

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204 soon as possible after the student has been manually physically  
205 restrained by school personnel.

206 (4) SECLUSION; TIME-OUT.—

207 (a) School personnel may not place a student in seclusion.

208 (b) School personnel may place a student in time-out if the  
209 following conditions are met:

210 1. The time-out is part of a positive behavioral  
211 intervention plan developed for that student from a functional  
212 behavioral assessment and referenced in the student's individual  
213 education plan.

214 2. There is documentation that the time-out was preceded by  
215 other interventions that used positive behavioral supports that  
216 were not effective.

217 3. The time-out takes place in a classroom or in another  
218 environment where class educational activities are taking place.

219 4. The student is not physically prevented from leaving the  
220 time-out area.

221 5. The student is observed on a constant basis by an adult  
222 for the duration of the time-out.

223 6. The time-out area and process is free of any action that  
224 is likely to embarrass or humiliate the student.

225 (c) Time-out may not be used for a period that exceeds 1  
226 minute for each year of a student's age, and time-out must end  
227 immediately when the student is calm enough to return to his or  
228 her seat.

229 (d) Time-out may not be used as a punishment or negative  
230 consequence of a student's behavior.

231 (5) TRAINING AND CERTIFICATION.—

232 (a) Each school district shall report its training and

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233 certification procedures to the department by publishing the  
234 procedures in the district's special policies and procedures  
235 manual.

236 (b) Training for initial certification in the use of manual  
237 physical restraint must include:

238 1. Procedures for deescalating problem behaviors before  
239 they increase to a level or intensity necessitating physical  
240 intervention.

241 2. Information regarding the risks associated with manual  
242 physical restraint and procedures for assessing individual  
243 situations and students in order to determine if the use of  
244 manual physical restraint is appropriate and sufficiently safe.

245 3. The actual use of specific techniques that range from  
246 the least to most restrictive, with ample opportunity for  
247 trainees to demonstrate proficiency in their use.

248 4. Techniques for implementing manual physical restraint  
249 with multiple staff members working as a team.

250 5. Techniques for assisting a student to reenter the  
251 instructional environment and again engage in learning.

252 6. Instruction in the district's documentation and  
253 reporting requirements.

254 7. Procedures to identify and deal with possible medical  
255 emergencies arising during the use of manual physical restraint.

256 8. Cardiopulmonary resuscitation (CPR).

257 (c) School districts shall provide refresher certification  
258 in manual physical restraint techniques at least annually to all  
259 staff members who have successfully completed the initial  
260 certification program. The district must identify those persons  
261 to be certified and maintain a record that includes the name and

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262 position of the person certified, the date of the most recent  
263 certification, an indication of whether it was an initial  
264 certification or a refresher certification, and whether the  
265 individual successfully completed the certification and achieved  
266 proficiency.

267 (d) School district policies regarding the use of manual  
268 physical restraint shall address whether it is appropriate for  
269 an employee working in specific settings, such as a school bus  
270 driver, school bus aide, job coach, employment specialist, or  
271 cafeteria worker, to be certified in manual physical restraint  
272 techniques. In the case of school resource officers or others  
273 who may be employed by other agencies when working in a school,  
274 administrators shall review each agency's specific policies to  
275 be aware of techniques that might be used.

276 (6) STUDENT-CENTERED FOLLOWUP.—If a student is manually  
277 physically restrained more than twice in a school year, the  
278 student's functional behavioral assessment and positive  
279 behavioral intervention plan must be reviewed.

280 (7) DOCUMENTATION AND REPORTING.—

281 (a) The school district's policy regarding the use of  
282 manual physical restraint must be thoroughly explained to  
283 parents annually. At the beginning of each school year, the  
284 district shall provide parents with a copy of the district's  
285 policies on all emergency procedures, including the use of  
286 manual physical restraint. A parent should indicate receipt of  
287 the district policies by his or her signature, which should be  
288 retained on file by the student's school.

289 (b) A school shall prepare an incident report within 24  
290 hours after a student is released from a restraint. If the

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291 student's release occurs on a day before the school closes for  
292 the weekend, a holiday, or another reason, the incident report  
293 must be completed by the end of the school day on the day the  
294 school reopens.

295 (c) The following must be included in the incident report:

296 1. The name of the student restrained.

297 2. The date and time of the event and the duration of the  
298 restraint.

299 3. The location at which the restraint occurred.

300 4. The type of restraint used.

301 5. The name of the person using or assisting the restraint  
302 of the student.

303 6. The name of any nonstudent who was present to witness  
304 the restraint.

305 7. A description of the incident, including:

306 a. The context in which the restraint occurred.

307 b. The student's behavior leading up to and precipitating  
308 the decision to use manual physical restraint, including an  
309 indication as to why there was an imminent risk of serious  
310 injury or death to the student or others.

311 c. The specific positive behavioral strategies used to  
312 prevent and deescalate the behavior.

313 d. What occurred with the student immediately after the  
314 termination of the restraint.

315 e. Any injuries, visible marks, or possible medical  
316 emergencies that may have occurred during the restraint,  
317 documented according to district policies.

318 f. The results of the medical evaluation and a copy of any  
319 report by the medical professionals conducting the evaluation if

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320 available. If the medical report is not available within 24  
321 hours, the district must submit the medical report separately as  
322 soon as it is available.

323 g. Evidence of steps taken to notify the parent.

324 (d) A school shall notify the parent of a student each time  
325 manual physical restraint is used. Such notification must be in  
326 writing and provided before the end of the school day on which  
327 the restraint occurs. Reasonable efforts must also be taken to  
328 notify the parent by telephone or computer e-mail, or both, and  
329 these efforts must be documented. The school shall obtain, and  
330 keep in its records, the parent's signed acknowledgement that he  
331 or she was notified of his or her child's restraint.

332 (e) A school shall also provide the parent with the  
333 completed incident report in writing by mail within 3 school  
334 days after a student was manually physically restrained. The  
335 school shall obtain, and keep in its records, the parent's  
336 signed acknowledgement that he or she received a copy of the  
337 incident report.

338 (8) MONITORING.—

339 (a) Monitoring of the use of manual physical restraint on  
340 students shall occur at the classroom, building, district, and  
341 state levels.

342 (b) Documentation prepared as required in subsection (7)  
343 shall be provided to the school principal, the district  
344 Exceptional Student Education (ESE) director, and the bureau  
345 chief of the Bureau of Exceptional Education and Student  
346 Services each week that the school is in session.

347 (c) A school shall send to the Advocacy Center for Persons  
348 with Disabilities, Inc., a redacted copy of any incident report

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349 and other documentation prepared as required in subsection (7)  
350 each week that the school is in session.

351 (d) The department shall maintain aggregate data of  
352 incidents of manual physical restraint and disaggregate the data  
353 for analysis by county, school, student exceptionality, and  
354 other variables. This information shall be updated monthly and  
355 made available to the public through the department's website no  
356 later than January 31, 2011.

357 (9) DISTRICT POLICIES AND PROCEDURES.—School districts  
358 shall develop policies and procedures consistent with this  
359 section and governing the following:

360 (a) Allowable use of manual physical restraint on students.

361 (b) Personnel authorized to use manual physical restraint.

362 (c) Training procedures.

363 (d) Incident-reporting procedures.

364 (e) Data collection.

365 (f) Monitoring and reporting of data collected.

366 (g) Analysis of data to determine trends.

367 (h) Ongoing reduction of the use of manual physical  
368 restraint.

369  
370 Policy and procedure revisions pursuant to this section, which  
371 must be prepared as part of the district's special policies and  
372 procedures, must be filed with the bureau chief of the Bureau of  
373 Exceptional Education and Student Services no later than January  
374 31, 2011.

375 Section 2. This act shall take effect July 1, 2010.