

By Senator Siplin

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1 A bill to be entitled
2 An act relating to students with disabilities in
3 public schools; creating s. 1003.573, F.S.; providing
4 definitions; providing legislative findings and
5 intent; requiring that manual physical restraint,
6 mechanical restraint, and seclusion be used in an
7 emergency or as part of a comprehensive behavior
8 intervention plan developed by a certified behavior
9 analyst and approved by an individual education plan
10 team under certain circumstances; providing
11 restrictions on the use of manual physical restraint,
12 mechanical restraint, and seclusion; prohibiting the
13 use of manual physical restraint, mechanical
14 restraint, and seclusion by school personnel who are
15 not certified or trained to use district-approved
16 methods for applying restraint techniques; prohibiting
17 specified techniques; requiring that the school
18 medically evaluate a student during or shortly after
19 the student is manually physically restrained;
20 prohibiting school personnel from placing a student in
21 seclusion; requiring reporting of training and
22 certification procedures to the Department of
23 Education; requiring that school personnel be trained
24 and certified in the use of manual physical restraint
25 or receive competency-based training in the use of
26 mechanical restraint and seclusion; requiring student
27 followup in certain circumstances; requiring
28 notification to parents of a school district's
29 policies regarding emergency procedures; requiring

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30 that a school prepare an emergency procedure report
31 after each occasion of student restraint; specifying
32 the contents of such report; requiring certain
33 reporting and monitoring; requiring the development
34 and revision of school district policies and
35 procedures; providing an effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

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39 Section 1. Section 1003.573, Florida Statutes, is created
40 to read:

41 1003.573 Use, monitoring, and reduction of unnecessary
42 seclusion and restraint on students with disabilities in public
43 schools.-

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

45 (a) "Behavior protective equipment" means protective
46 devices attached to the student's body which prevents injury but
47 does not restrict normal physical movement when ordered by a
48 certified behavior analyst.

49 (b) "Department" means the Department of Education.

50 (c) "Imminent risk of injury to student or others or
51 significant disruption or damage to the environment" means a
52 high probability of injury, such as a laceration, bone fracture,
53 hematoma, or bruise, or other injury to internal organs, or a
54 high probability of disruption or damage to property which is
55 likely to lead to endangerment of the safety of others.

56 (d) "Manual physical restraint" means use of physical
57 restraint techniques that involve physical force applied by a
58 teacher or other staff member to restrict the movement of all or

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59 part of a student's body for purposes of protecting the student.

60 (e) "Mechanical restraint" means a physical device used to
61 restrict a student's movement or restrict the normal function of
62 a student's body for purposes of protecting the student. This
63 term includes, but is not limited to, belts, vests, helmets,
64 padded mittens, tie-downs, wraps and chairs with straps,
65 seatbelts, and trays. This term does not include:

66 1. Medical protective equipment;

67 2. Physical equipment or orthopedic appliances, surgical
68 dressings or bandages, or supportive body bands or other
69 restraints necessary for medical treatment that is ongoing in
70 the educational setting;

71 3. Devices used to support functional body position or
72 proper balance, or prevent a person from falling out of a bed or
73 a wheelchair, except that these exceptions to the definition of
74 mechanical restraint do not apply to any device when it is used
75 for any purpose other than supporting a body position or proper
76 balance, such as when used as coercion, discipline, convenience,
77 or retaliation, to prevent imminent risk of serious injury or
78 death of the student or others, or for any other behavior-
79 management reason; or

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

82 (f) "Medical protective equipment" means health-related
83 protective devices prescribed by a physician or dentist for use
84 as student protection in response to an existing medical
85 condition.

86 (g) "Seclusion" means removing a student from an
87 educational environment, involuntarily confining the student in

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88 a room, and preventing the student from leaving the room if
89 achieved by locking the door or otherwise physically blocking
90 the student's way, threatening physical force or other
91 consequences, or using physical force. This term does not
92 include the use of time-out or time-out from positive
93 reinforcement.

94 (h) "Student" means a student with a disability.

95 (i) "Time-out" or "time-out from positive reinforcement"
96 means a procedure in which access to varied sources of
97 reinforcement is removed or reduced for a particular time period
98 contingent on a response. The opportunity to receive
99 reinforcement is contingently removed for a specified time.
100 Either a student is contingently removed from the reinforcing
101 environment or the reinforcing environment is contingently
102 removed for some stipulated duration.

103 (2) LEGISLATIVE FINDINGS AND INTENT.—

104 (a) The Legislature finds that public schools have a
105 responsibility to ensure that each student is treated with
106 respect and dignity in a trauma-informed environment that
107 provides for the physical safety and security of students and
108 others.

109 (b) The Legislature finds that students, educators, and
110 families are concerned about the use of seclusion and restraint,
111 particularly when used on students in special education
112 programs. Seclusion and restraint refer to safety procedures in
113 which a student is isolated from others or physically held in
114 response to serious problem behavior that places the student or
115 others at risk of injury or harm. Concern exists that these
116 procedures are prone to misapplication and abuse, placing a

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117 student at an equal or greater risk than the risk of the
118 student's problem behavior. Concerns include the following:
119 seclusion or restraint is inappropriately selected and
120 implemented as treatment or behavioral intervention rather than
121 as a safety procedure; seclusion or restraint is inappropriately
122 used for behaviors, such as noncompliance, threats, or
123 disruption, which do not place the student or others at risk of
124 injury or harm; students, peers, or staff may be injured or
125 physically harmed during attempts to conduct seclusion or
126 restraint; risk of injury or harm is increased because seclusion
127 or restraint is implemented by staff who are not adequately
128 trained; use of seclusion or restraint may inadvertently result
129 in reinforcing or strengthening the problem behavior; and
130 seclusion or restraint is implemented independent of
131 comprehensive, function-based behavioral intervention plans.
132 Moreover, there are concerns about inadequate documentation of
133 seclusion or restraint procedures, failure to notify parents
134 when seclusion or restraint is applied, and failure to use data
135 to analyze and address the cause of the precipitating behavior.

136 (c) The Legislature finds that the majority of problem
137 behaviors that are currently used to justify seclusion or
138 restraint could be prevented with early identification and
139 intensive early intervention. The need for seclusion or
140 restraint may, in part, be a result of insufficient investment
141 in prevention efforts.

142 (d) The Legislature further finds that the inappropriate
143 use of seclusion or restraint may produce trauma in students.
144 For such students who are already experiencing trauma, the use
145 may cause retraumatization. Left unaddressed, the lasting

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146 effects of childhood trauma place a heavy burden on individuals,
147 families, and communities. Research has shown that trauma
148 significantly increases the risk of mental health problems,
149 difficulties with social relationships and behavior, physical
150 illness, and poor school performance.

151 (e) The Legislature intends that students be free from
152 abusive or unnecessary applications of seclusion or restraint in
153 the public schools.

154 (f) The Legislature intends to achieve an ongoing reduction
155 and elimination of the inappropriate use of manual physical
156 restraint in the public schools and, specifically, to prohibit
157 the use of inappropriate seclusion, prone and supine restraint,
158 and mechanical restraint on students. Further, the Legislature
159 intends that students in public schools be provided with
160 educational environments that minimize the need for such
161 procedures by providing quality educational programming in
162 positive environments.

163 (g) The Legislature also intends that manual physical
164 restraint, mechanical restraint, and seclusion shall be used
165 only when an imminent risk of serious injury to a student or
166 others or significant disruption or damage to the environment
167 exists, or as part of a comprehensive behavior intervention plan
168 developed by a certified behavior analyst and approved by an
169 individual education plan (IEP) team; that manual physical
170 restraint shall not be employed as punishment, for the
171 convenience of staff, or as a substitute for a positive
172 behavior-support plan; or as a substitute for functional
173 behavior assessment and comprehensive behavior support plan; and
174 that, when used, persons applying manual physical restraint

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175 shall impose the least possible restrictions and shall
176 discontinue the restraint as soon as the threat of imminent risk
177 of serious injury ceases or programmatic requirements are met.
178 Use of manual physical restraint, mechanical restraint, and
179 seclusion may also be used under rare conditions when a
180 certified behavior analyst deems it necessary for behaviors that
181 are not immediately associated with imminent harm but are highly
182 likely to quickly lead to injury without appropriate
183 intervention.

184 (3) MANUAL PHYSICAL RESTRAINT.—Manual physical restraint
185 shall be used in an emergency when there is a risk of serious
186 injury to the student or others or significant disruption or
187 damage to the environment, or as part of a comprehensive
188 behavior intervention plan developed by a certified behavior
189 analyst and approved by an IEP team.

190 (a) Manual physical restraint shall be used only for the
191 period needed in order to eliminate the risk of serious injury
192 to the student or others as programmatic requirements are met.

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

196 (c) Manual physical restraint shall be used only by school
197 personnel who are qualified and trained or certified to use the
198 district-approved methods for the appropriate application of
199 specific restraint techniques. School personnel who have
200 received training not associated with their employment with the
201 school district, such as a former law enforcement officer who is
202 now a teacher, shall be certified or trained in the specific
203 district-approved techniques and may not apply techniques or

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204 procedures acquired elsewhere.

205 (d) School personnel may not manually physically restrain a
206 student except when there exists an imminent risk of serious
207 injury to the student or others or when included as part of a
208 comprehensive behavior intervention plan composed by a certified
209 behavior analyst.

210 (e) School personnel may not under any circumstances use
211 any of the following manual physical restraint techniques on a
212 student:

213 1. Pain inducement to obtain compliance.

214 2. Bone locks.

215 3. Hyperextension of joints.

216 4. Peer restraint.

217 5. Pressure or weight on the chest, lungs, sternum,
218 diaphragm, back, or abdomen, causing chest compression.

219 6. Straddling or sitting on any part of the body or any
220 maneuver that places pressure, weight, or leverage on the neck
221 or throat, on any artery, or on the back of the student's head
222 or neck or that otherwise obstructs or restricts the circulation
223 of blood or obstructs an airway.

224 7. Any type of choking, including hand chokes, and any type
225 of neck or head hold.

226 8. Any technique that involves pushing on or into the
227 student's mouth, nose, eyes, or any part of the face that is not
228 part of an approved crisis intervention technique.

229 9. Covering the student's mouth, nose, or body with
230 anything, including soft objects such as pillows or washcloths.

231 10. Any maneuver that involves punching, hitting, poking,
232 pinching, or shoving.

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233 11. Lemon sprays.

234 (f) The school shall have a student medically evaluated by
235 staff trained to monitor physical condition during and as soon
236 as possible after the student has been manually physically
237 restrained by school personnel.

238 (4) SECLUSION.—

239 (a) Seclusion shall be used in an emergency where there is
240 a risk of serious injury to the student or others or significant
241 disruption or damage to the environment, or as part of a
242 comprehensive behavior intervention plan developed by a
243 certified behavior analyst and approved by an IEP team; and
244 manual restraint is highly likely to lead to injury to the
245 student as determined by an individual consideration.

246 (b) School personnel may place a student in seclusion if
247 the following conditions are met:

248 1. There is documentation that the seclusion was preceded
249 by other emergency interventions that were not able to be
250 implemented safely.

251 2. The student is observed on a constant basis by an adult
252 for the duration of the seclusion.

253 3. The seclusion area and process is free of any action
254 that is likely to embarrass or humiliate the student.

255 4. The seclusion must end immediately when the student is
256 calm enough to return to his or her educational environment. If
257 seclusion exceeds a duration of 30 minutes, a designated
258 district administrator or a certified behavior analyst shall be
259 notified for guidance on how to proceed.

260 5. Seclusion may not be used as a punishment or negative
261 consequence of a student's behavior.

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262 (5) TRAINING AND CERTIFICATION.—

263 (a) Each school district shall report its training and
264 certification procedures to the department by publishing the
265 procedures in the district's special policies and procedures
266 manual.

267 (b) Initial training for certification in the use of manual
268 physical restraint must include:

269 1. Procedures for deescalating problem behaviors before
270 they increase to a level or intensity necessitating physical
271 intervention.

272 2. Information regarding the risks associated with manual
273 physical restraint and procedures for assessing individual
274 situations and students in order to determine if the use of
275 manual physical restraint is appropriate and sufficiently safe.

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

279 4. Techniques for implementing manual physical restraint,
280 with multiple staff members working as a team.

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

283 6. Instruction in the district's documentation and
284 reporting requirements.

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

287 (c) Each school shall maintain adequate personnel certified
288 in cardiopulmonary resuscitation (CPR).

289 (d) School districts shall provide refresher certification
290 or training in manual physical restraint techniques at least

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291 annually to all staff members who have successfully completed
292 the initial certification or training program. The district must
293 identify those persons to be certified or trained. The school
294 district or the company providing the training must maintain a
295 record that includes the name and position of the person
296 certified or trained, the date of the most recent certification
297 or training, an indication of whether it was an initial
298 certification or training or a refresher certification or
299 training, and whether the individual successfully completed the
300 certification or training and achieved proficiency. If a company
301 keeps the records, the information must be made readily
302 available to the school district.

303 (e) School district policies regarding the use of manual
304 physical restraint shall address whether it is appropriate for
305 an employee working in specific settings, such as a school bus
306 driver, school bus aide, job coach, employment specialist, or
307 cafeteria worker, to be certified or trained in manual physical
308 restraint techniques. In the case of school resource officers or
309 others who may be employed by other agencies when working in a
310 school, administrators shall review each agency's specific
311 policies to be aware of techniques that might be used.

312 (6) STUDENT-CENTERED FOLLOWUP.—If a student is manually
313 physically restrained more than six times in a school year, the
314 student's functional behavioral assessment and positive
315 behavioral intervention plan must be reviewed.

316 (7) DOCUMENTATION AND REPORTING.—

317 (a) The school district's policy regarding the use of
318 manual physical restraint must be thoroughly explained to
319 parents annually. At the beginning of each school year, the

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320 district shall provide parents with a copy of the district's
321 policies on all emergency procedures, including the use of
322 manual physical restraint. A parent shall indicate receipt of
323 the district policies by his or her signature, which shall be
324 retained on file by the student's school.

325 (b) A school shall prepare an emergency procedure report
326 within 24 hours after a student is released from a restraint. If
327 the student's release occurs on a day before the school closes
328 for the weekend, a holiday, or another reason, the incident
329 report must be completed by the end of the school day on the day
330 the school reopens.

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

332 1. The name of the student restrained.

333 2. The date and time of the event and the duration of the
334 restraint.

335 3. The location at which the restraint occurred.

336 4. The type of restraint used.

337 5. The name of the person using or assisting the restraint
338 of the student.

339 6. The name of any nonstudent who was present to witness
340 the restraint.

341 7. A description of the incident, including:

342 a. The context in which the restraint occurred.

343 b. The student's behavior leading up to and precipitating
344 the decision to use manual physical restraint, including an
345 indication as to why there was a risk of serious injury to the
346 student or others.

347 c. The specific positive behavioral strategies used to
348 prevent and deescalate the behavior.

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349 d. What occurred with the student immediately after the
350 termination of the restraint.

351 e. Any injuries, visible marks, or possible medical
352 emergencies that may have occurred during the restraint,
353 documented according to district policies.

354 f. Evidence of steps taken to notify the parent.

355 (d) A school shall notify the parent of a student each time
356 manual physical restraint is used. Such notification must be
357 attempted before the end of the school day on which the
358 restraint occurs. Reasonable efforts must be taken to notify the
359 parent by telephone or computer e-mail, or both, and these
360 efforts must be documented.

361 (8) MONITORING.—

362 (a) Monitoring of the use of manual physical restraint,
363 mechanical restraint, and seclusion on students shall occur at
364 the student, classroom, building, district, and state levels.

365 (b) Documentation prepared as required in subsection (7)
366 shall be provided to the school principal, the district
367 Exceptional Student Education director, and the bureau chief of
368 the Bureau of Exceptional Education and Student Services each
369 week that the school is in session.

370 (c) The department shall maintain aggregate data of
371 incidents of manual physical restraint and disaggregate the data
372 for analysis by county, school, student exceptionality, and
373 other variables.

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

377 (a) Allowable use of manual physical restraint, mechanical

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378 restraint, seclusion on students.

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

380 (c) Training procedures.

381 (d) Incident-reporting procedures.

382 (e) Data collection.

383 (f) Monitoring and reporting of data collected.

384 (g) Analysis of data to determine trends.

385 (h) Ongoing reduction of the use of manual physical
386 restraint.

387

388 Policy and procedure revisions pursuant to this section, which
389 must be prepared as part of the district's special policies and
390 procedures, must be filed with the bureau chief of the Bureau of
391 Exceptional Education and Student Services no later than January
392 31, 2011.

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