

HOUSE BILL REPORT

ESHB 1688

As Passed House:
March 13, 2013

Title: An act relating to reporting of incidents of student restraint and isolation in public schools.

Brief Description: Establishing a requirement and system for reporting incidents of student restraint and isolation in public schools for students who have an individualized education program or plan developed under section 504 of the rehabilitation act of 1973.

Sponsors: House Committee on Education (originally sponsored by Representatives Stonier, Pike, Santos, Hayes, Orwall, Bergquist, McCoy, Scott, Ryu, Pollet, Freeman, Farrell and Parker).

Brief History:

Committee Activity:

Education: 2/15/13, 2/21/13 [DPS].

Floor Activity:

Passed House: 3/13/13, 98-0.

Brief Summary of Engrossed Substitute Bill

- Requires reporting of certain staff restraint or isolation of students who have an individualized education program (IEP) or 504 plan to the principal and the parent or guardian.
- Requires schools that develop the IEPs or 504 plans to provide a copy of the district policy on isolation and restraint.
- Requires school that develop the IEPs to include procedures for notification of a parent after an incident of isolation or restraint.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Santos, Chair; Stonier, Vice Chair; Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Fagan, Haigh, Hargrove, Hayes, Hunt, Parker, Pike, Pollet and Seaquist.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 3 members: Representatives Hawkins, Klippert and Warnick.

Staff: Luke Wickham (786-7146).

Background:

State law encourages parents and teachers to use methods of correction and restraint that are not dangerous to children. The physical discipline of a child is allowed when it is reasonable and moderate and it is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child.

The following actions are presumed unreasonable when used to correct or restrain a child:

- throwing, kicking, burning, or cutting a child;
- striking a child with a closed fist;
- shaking a child under three;
- interfering with a child's breathing;
- threatening a child with a deadly weapon; or
- doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks.

State law requires school districts to adopt school discipline policies. School districts must collect data on the disciplinary actions taken in schools. This information must be made available to the public, upon request, redacted for personally identifiable information.

State rules regarding special education limit the use of student isolation. They specifically indicate that the use of isolation shall be:

- provided for in a student's individual education program (IEP);
- in an enclosure that is ventilated, lighted, and temperature controlled from the inside or outside for purposes of human occupancy;
- in an enclosure that permits continuous visual monitoring of the student from outside the enclosure;
- in a manner that allows a responsible adult to remain in visual or auditory range of the student; and
- either in a manner that allows the student to release himself or herself from the enclosure, or in a manner that allows an adult to continuously view the student.

Summary of Engrossed Substitute Bill:

The terms "isolation," "restraint," and "restraint device" are defined.

The provisions of the bill apply to the following incidents that occur a student who has an IEP or section 504 plan and is participating in school-sponsored instruction or activities:

- any restraint of a student that results in a physical injury to a student or a staff member;
- any restraint that lasts longer than two minutes; and
- any isolation of a student.

After school staff releases a student from restraint or isolation, the school must conduct follow-up procedures to include:

- reviewing the incident with the student and the student's parent or guardian to address the student's behavior; and
- reviewing the incident with the the staff member involved to discuss whether proper procedures were followed.

School employees, resource officers, or school security officers who use chemical spray, mechanical restraint, or physical force on a student must inform the administrator and file a written report to the district office. The contents of the written report are specified.

The principal must make a reasonable effort to verbally inform the parent or guardian about restraint or isolation within 24 hours and provide written notification postmarked within five days. Schools must provide this notification in a language other than English if the school customarily provides school related information to parents in languages other than English.

Schools that are required to develop IEPs must include within the plan procedures for notification of a parent or guardian. Parents or guardians of children who have an IEP or 504 plan must be provided a copy of the district policy on the use of isolation and restraint.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In many situations, districts already have a policy like this in place. In rare and unfortunate situations, this may not happen. There is a need to have communication between parents and school districts. One child had a history of being abused and being locked in a room; shortly thereafter he was enrolled in school. He regressed. It was unclear why this was happening. He told his parents how much it hurt. He told them how he thought he was going to die. The teachers had been laying on top of him because he had been kicking the top of the walls of the quiet room. The school had been doing this without ever informing the parents. He was being re-traumatized. It seemed like school would be good for him, but it was the opposite. Another parent had a child tell her that he had been restrained. She did not believe him. This has happened to another parent whose child has autism. They did not find out about this until they saw the bruises. Sometimes students are put in seclusion without a parent's knowledge. When one child was eight years old, his parents found out that he was being put in a time-out room. Afterward his parents found out that he had been isolated and strapped to a chair for noncompliance. Parents just need to be notified. After parental notification, that child now has 50 percent inclusion and has no behaviors that result in isolation.

(With concerns) There is excessive responsibility and liability in this bill. In 2008 the Washington State School Directors' Association adopted a model policy and that procedure is

in place. If some schools are not following that policy, efforts should be focused on those schools. The model policy does require reporting within 24 hours and that should be sufficient. There are cases where schools may need to isolate a student, and perhaps reporting may not be necessary. It appears that if you were put in the principal's office alone, this would trigger reporting.

(Opposed) None.

Persons Testifying: (In support) Representative Stonier, prime sponsor; Mary Griffin; and Helen Black.

(With concerns) Marie Sullivan, Washington State School Directors' Association.

Persons Signed In To Testify But Not Testifying: None.