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HOUSE BILL 1240

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2015 Regular Session

By Representatives Pollet, Santos, S. Hunt, Orwall, Senn, Lytton, Robinson, Walsh, Griffey, Goodman, Buys, and Tarleton

Read first time 01/15/15. Referred to Committee on Education.

1 AN ACT Relating to restraint or isolation of students, including  
2 students with disabilities, in public schools; amending RCW  
3 28A.155.020 and 28A.600.485; adding a new section to chapter 28A.345  
4 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that there is no  
7 educational or therapeutic benefit to children from physically  
8 restraining or isolating them as part of their public school  
9 programs. The use of seclusion or restraints in nonemergency  
10 situations poses significant physical and psychological danger to  
11 students and school staff. The legislature declares that it is the  
12 policy of the state of Washington to prohibit the planned use of  
13 aversive interventions, to promote positive interventions when a  
14 student with disabilities is determined to need specially designed  
15 instruction to address behavior, and to prohibit schools from  
16 physically restraining or isolating any student except when the  
17 student's behavior poses an imminent likelihood of serious harm to  
18 that student or another person.

19 **Sec. 2.** RCW 28A.155.020 and 2007 c 115 s 2 are each amended to  
20 read as follows:

1       There is established in the office of the superintendent of  
2 public instruction an administrative section or unit for the  
3 education of children with disabilities who require special  
4 education.

5       Students with disabilities are those children whether enrolled in  
6 school or not who through an evaluation process are determined  
7 eligible for special education due to a disability.

8       In accordance with part B of the federal individuals with  
9 disabilities education improvement act and any other federal or state  
10 laws relating to the provision of special education services, the  
11 superintendent of public instruction shall require each school  
12 district in the state to insure an appropriate educational  
13 opportunity for all children with disabilities between the ages of  
14 three and twenty-one, but when the twenty-first birthday occurs  
15 during the school year, the educational program may be continued  
16 until the end of that school year. The superintendent of public  
17 instruction, by rule, shall establish for the purpose of excess cost  
18 funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010  
19 through 28A.155.160, functional definitions of special education, the  
20 various types of disabling conditions, and eligibility criteria for  
21 special education programs for children with disabilities, including  
22 referral procedures, use of ((aversive)) positive behavior  
23 interventions, the education curriculum and statewide or  
24 district-wide assessments, parent and district requests for special  
25 education due process hearings, and procedural safeguards. For the  
26 purposes of RCW 28A.155.010 through 28A.155.160, an appropriate  
27 education is defined as an education directed to the unique needs,  
28 abilities, and limitations of the children with disabilities who are  
29 enrolled either full time or part time in a school district. School  
30 districts are strongly encouraged to provide parental training in the  
31 care and education of the children and to involve parents in the  
32 classroom.

33       Nothing in this section shall prohibit the establishment or  
34 continuation of existing cooperative programs between school  
35 districts or contracts with other agencies approved by the  
36 superintendent of public instruction, which can meet the obligations  
37 of school districts to provide education for children with  
38 disabilities, or prohibit the continuation of needed related services  
39 to school districts by the department of social and health services.

1 This section shall not be construed as in any way limiting the  
2 powers of local school districts set forth in RCW 28A.155.070.

3 **Sec. 3.** RCW 28A.600.485 and 2013 c 202 s 2 are each amended to  
4 read as follows:

5 (1) The definitions in this subsection apply throughout this  
6 section unless the context clearly requires otherwise.

7 (a) "Isolation" means (~~excluding a student from his or her~~  
8 ~~regular instructional area and~~) restricting the student alone within  
9 a room or any other form of enclosure, from which the student may not  
10 leave. It does not include a student's voluntary use of a quiet space  
11 for self-calming.

12 (b) "Restraint" means physical intervention or force used to  
13 control a student, including the use of a restraint device.

14 (c) "Restraint device" means a device used to assist in  
15 controlling a student, including but not limited to metal handcuffs,  
16 plastic ties, ankle restraints, leather cuffs, other hospital-type  
17 restraints, pepper spray, tasers, or batons. This section shall not  
18 be construed as encouraging the use of these devices.

19 (2) The provisions of this section apply (~~only to any restraint~~  
20 ~~of a student who has an individualized education program or plan~~  
21 ~~developed under section 504 of the rehabilitation act of 1973 that~~  
22 ~~results in a physical injury to a student or a staff member, any~~  
23 ~~restraint of a student who has an individualized education program or~~  
24 ~~plan developed under section 504 of the rehabilitation act of 1973,~~  
25 ~~and any isolation of a student who has~~) to all students, including  
26 those who have an individualized education program or plan developed  
27 under section 504 of the rehabilitation act of 1973. The provisions  
28 of this section apply only to incidents of restraint or isolation  
29 that occur while a student (~~who has an individualized education~~  
30 ~~program or plan developed under section 504 of the rehabilitation act~~  
31 ~~of 1973)) is participating in school-sponsored instruction or~~  
32 activities.

33 (3)(a) An individualized education program or plan developed  
34 under section 504 of the rehabilitation act of 1973 must not include  
35 the use of restraint or isolation as a planned behavior intervention.

36 (b) Restraint or isolation of any student is permitted only when  
37 reasonably necessary to control unpredicted, spontaneous behavior  
38 that poses an imminent likelihood of serious harm, as defined in RCW  
39 70.96B.010. Each school district shall adopt a policy providing for

1 the least amount of restraint or isolation appropriate to protect the  
2 safety of students and staff under such circumstances.

3 (4) Following the release of a student from the use of restraint  
4 or isolation, the school must implement follow-up procedures. These  
5 procedures must include: (a) Reviewing the incident with the student  
6 and the parent or guardian to address the behavior that precipitated  
7 the restraint or isolation and the appropriateness of the response;  
8 and (b) reviewing the incident with the staff member who administered  
9 the restraint or isolation to discuss whether proper procedures were  
10 followed and what training or support the staff member needs to help  
11 the student avoid similar incidents.

12 ~~((+4))~~ (5) Any school employee, resource officer, or school  
13 security officer who uses ~~((any—chemical—spray,—mechanical))~~  
14 isolation or restraint ~~((,—or—physical—force))~~ on a student during  
15 school-sponsored instruction or activities must inform the building  
16 administrator or building administrator's designee as soon as  
17 possible, and within two business days submit a written report of the  
18 incident to the district office. The written report should include,  
19 at a minimum, the following information:

20 (a) The date and time of the incident;

21 (b) The name and job title of the individual who administered the  
22 restraint or isolation;

23 (c) A description of the activity that led to the restraint or  
24 isolation;

25 (d) The type of restraint or isolation used on the student,  
26 including the duration; ~~((and))~~

27 (e) Whether the student or staff was physically injured during  
28 the restraint or isolation incident and any medical care provided;  
29 and

30 (f) Any recommendations for changing the nature or amount of  
31 resources available to the student and staff members in order to  
32 avoid similar incidents.

33 ~~((+5))~~ (6) The principal or principal's designee must make a  
34 reasonable effort to verbally inform the student's parent or guardian  
35 within twenty-four hours of the incident, and must send written  
36 notification as soon as practical but postmarked no later than five  
37 business days after the restraint or isolation occurred. If the  
38 school or school district customarily provides the parent or guardian  
39 with school-related information in a language other than English, the

1 written report under this section must be provided to the parent or  
2 guardian in that language.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.345  
4 RCW to read as follows:

5 (1) The Washington state school directors' association shall  
6 adopt a model policy limiting restraint or isolation in accordance  
7 with RCW 28A.600.485.

8 (2) In developing the model policy, the school directors'  
9 association shall consult with various stakeholders, including  
10 experts, parent associations, educators, and administrators.

11 (3) By one hundred eighty days after the effective date of this  
12 section, the school directors' association shall distribute the model  
13 policy to the school districts, with encouragement to adopt the model  
14 policy locally.

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