

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1240

64th Legislature
2015 Regular Session

Passed by the House April 23, 2015
Yeas 71 Nays 27

Speaker of the House of Representatives

Passed by the Senate April 21, 2015
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1240** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1240

AS AMENDED BY THE SENATE

Passed Legislature - 2015 Regular Session

State of Washington 64th Legislature 2015 Regular Session

By House Education (originally sponsored by Representatives Pollet, Santos, S. Hunt, Orwall, Senn, Lytton, Robinson, Walsh, Griffey, Goodman, Buys, and Tarleton)

READ FIRST TIME 02/20/15.

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; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that there is no
6 educational or therapeutic benefit to children from physically
7 restraining or isolating them as part of their public school programs
8 when not necessary for immediate safety. The use of seclusion or
9 restraints in nonemergency situations poses significant physical and
10 psychological danger to students and school staff. The legislature
11 declares that it is the policy of the state of Washington to prohibit
12 the planned use of aversive interventions, to promote positive
13 interventions when a student with disabilities is determined to need
14 specially designed instruction to address behavior, and to prohibit
15 schools from physically restraining or isolating any student except
16 when the student's behavior poses an imminent likelihood of serious
17 harm to that student or another person.

18 **Sec. 2.** RCW 28A.155.020 and 2007 c 115 s 2 are each amended to
19 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, or temporary removal of a student from his or her
12 regular instructional area to an unlocked area for purposes of
13 carrying out an appropriate positive behavior intervention plan.

14 (b) "Restraint" means physical intervention or force used to
15 control a student, including the use of a restraint device to
16 restrict a student's freedom of movement. It does not include
17 appropriate use of a prescribed medical, orthopedic, or therapeutic
18 device when used as intended, such as to achieve proper body
19 position, balance, or alignment, or to permit a student to safely
20 participate in activities.

21 (c) "Restraint device" means a device used to assist in
22 controlling a student, including but not limited to metal handcuffs,
23 plastic ties, ankle restraints, leather cuffs, other hospital-type
24 restraints, pepper spray, tasers, or batons. Restraint device does
25 not mean a seat harness used to safely transport students. This
26 section shall not be construed as encouraging the use of these
27 devices.

28 (2) The provisions of this section apply (~~only to any restraint~~
29 ~~of a student who has an individualized education program or plan~~
30 ~~developed under section 504 of the rehabilitation act of 1973 that~~
31 ~~results in a physical injury to a student or a staff member, any~~
32 ~~restraint of a student who has an individualized education program or~~
33 ~~plan developed under section 504 of the rehabilitation act of 1973,~~
34 ~~and any isolation of a student who has~~) to all students, including
35 those who have an individualized education program or plan developed
36 under section 504 of the rehabilitation act of 1973. The provisions
37 of this section apply only to incidents of restraint or isolation
38 that occur while a student (~~who has an individualized education~~
39 program or plan developed under section 504 of the rehabilitation act

1 ~~of 1973~~) is participating in school-sponsored instruction or
2 activities.

3 (3)(a) An individualized education program or plan developed
4 under section 504 of the rehabilitation act of 1973 must not include
5 the use of restraint or isolation as a planned behavior intervention
6 unless a student's individual needs require more specific advanced
7 educational planning and the student's parent or guardian agrees. All
8 other plans may refer to the district policy developed under
9 subsection (3)(b) of this section. Nothing in this section is
10 intended to limit the provision of a free appropriate public
11 education under Part B of the federal individuals with disabilities
12 education improvement act or section 504 of the federal
13 rehabilitation act of 1973.

14 (b) Restraint or isolation of any student is permitted only when
15 reasonably necessary to control spontaneous behavior that poses an
16 imminent likelihood of serious harm, as defined in RCW 70.96B.010.
17 Restraint or isolation must be closely monitored to prevent harm to
18 the student, and must be discontinued as soon as the likelihood of
19 serious harm has dissipated. Each school district shall adopt a
20 policy providing for the least amount of restraint or isolation
21 appropriate to protect the safety of students and staff under such
22 circumstances.

23 (4) Following the release of a student from the use of restraint
24 or isolation, the school must implement follow-up procedures. These
25 procedures must include: (a) Reviewing the incident with the student
26 and the parent or guardian to address the behavior that precipitated
27 the restraint or isolation and the appropriateness of the response;
28 and (b) reviewing the incident with the staff member who administered
29 the restraint or isolation to discuss whether proper procedures were
30 followed and what training or support the staff member needs to help
31 the student avoid similar incidents.

32 ~~((4))~~ (5) Any school employee, resource officer, or school
33 security officer who uses (~~any chemical spray, mechanical~~)
34 isolation or restraint (~~, or physical force~~) on a student during
35 school-sponsored instruction or activities must inform the building
36 administrator or building administrator's designee as soon as
37 possible, and within two business days submit a written report of the
38 incident to the district office. The written report (~~should~~) must
39 include, at a minimum, the following information:

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

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

3 (c) A description of the activity that led to the restraint or
4 isolation;

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

7 (e) Whether the student or staff was physically injured during
8 the restraint or isolation incident and any medical care provided;
9 and

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

13 (~~(5)~~) (6) The principal or principal's designee must make a
14 reasonable effort to verbally inform the student's parent or guardian
15 within twenty-four hours of the incident, and must send written
16 notification as soon as practical but postmarked no later than five
17 business days after the restraint or isolation occurred. If the
18 school or school district customarily provides the parent or guardian
19 with school-related information in a language other than English, the
20 written report under this section must be provided to the parent or
21 guardian in that language.

22 (7)(a) Beginning January 1, 2016, and by January 1st annually,
23 each school district shall summarize the written reports received
24 under subsection (5) of this section and submit the summaries to the
25 office of the superintendent of public instruction. For each school,
26 the school district shall include the number of individual incidents
27 of restraint and isolation, the number of students involved in the
28 incidents, the number of injuries to students and staff, and the
29 types of restraint or isolation used.

30 (b) No later than ninety days after receipt, the office of the
31 superintendent of public instruction shall publish to its web site
32 the data received by the districts. The office of the superintendent
33 of public instruction may use this data to investigate the training,
34 practices, and other efforts used by schools and districts to reduce
35 the use of restraint and isolation.

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