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**SENATE BILL 5559**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators C. Wilson, Hunt, Nobles, Saldaña, Valdez, and Wellman; by request of Superintendent of Public Instruction

AN ACT Relating to restraint or isolation of students in public schools and educational programs; amending RCW 28A.600.485; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that there is no therapeutic or educational justification for isolating a student and that the practice poses significant physical and psychological dangers to students. The legislature further finds that using restraints in nonemergency situations also poses significant risks to staff and students physical and emotional well-being.

Therefore, the legislature intends to prohibit schools, including any programs providing education services, from isolating any student. The legislature also intends to restrict the use of restraint on a student and to improve transparency by expanding documentation and data practices.

**Sec.**  RCW 28A.600.485 and 2015 c 206 s 3 are each amended to read as follows:

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

(a) "Chemical restraint" means administering medication to a student, including medications prescribed by the student's physician, on an as-needed basis for the sole purpose of involuntarily limiting the student's freedom of movement or controlling externalized behaviors.

(b) "Enclosure" means a nonclassroom part of a building, outdoor play equipment, or a vehicle. This includes closets, sheds, or other such space.

(c) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

(d) "Isolation" means restricting the student alone within a room or any other form of enclosure, from which the student may not leave. ((~~It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.~~

~~(b)~~)) Isolation includes any staff person physically prohibiting a student from leaving a room or other enclosure by acting as a barrier with their body or an object to physically isolate them. Isolation does not include:

(i) The removal of a student from class for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving;

(ii) A student being left alone in a room with a closed door for a brief period of time if the student is left alone for a purpose that is unrelated to the student's behavior;

(iii) A "room clear" situation where the room is cleared of all students, but one;

(iv) A "time out" situation, sometimes used as a behavior management technique, which involves the separation of the student from the group in a nonlocked setting within the classroom.

(e) "Isolation room" means a self-contained unit, built in or freestanding, that is used to isolate a student from other students or physically prevent a student from leaving the unit or cause the student to believe that the student is physically prevented from leaving the unit.

(f) "Likelihood of serious harm" means a substantial risk that:

(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide, or inflict physical harm on oneself; or

(ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm.

(g) "Mechanical restraint" means restraint using a restraint device. It does not include appropriate use of a prescribed medical, orthopedic, or therapeutic device when used as intended, such as to achieve proper body position, balance, or alignment, or to permit a student to safely participate in activities.

(h) "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

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

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

(2) The provisions of this section apply to all students, including those who have an individualized education program or plan developed under section 504 of the rehabilitation act of 1973, or who are being served by nonpublic agencies operating special education programs for students with disabilities, as described in RCW 28A.155.060. The provisions of this section apply only to incidents of restraint or isolation, in such an event that isolation were to occur, that occur while a student is participating in school-sponsored instruction or activities.

(3)(a) No student shall be subjected to isolation, mechanical restraint, or chemical restraint by school staff while attending school or participating in school-sponsored instruction or activities. With respect to school resource officers, as defined in RCW 28A.320.124, these prohibitions do not apply when school resource officers are carrying out their sworn authority to make arrests as commissioned law enforcement officers, but do apply when school resource officers are addressing violations of student discipline laws, which are more appropriately handled within the educational system.

(b) Isolation rooms must remain unlocked.

(c) Schools are prohibited from building or constructing rooms or settings used for the purpose of isolation. By January 1, 2024, isolation rooms in public schools must be removed or repurposed.

(4) An individualized education program or plan developed under section 504 of the rehabilitation act of 1973 must not include the use of restraint ((~~or isolation~~)) as a planned behavior intervention ((~~unless a~~)). A student's individual needs may require more specific advanced ((~~educational~~)) emergency planning ((~~and~~)) with the agreement of the student's parent or guardian ((~~agrees~~)). A student in need of advanced emergency planning must also have accompanying planning documents for behavioral support that may include de-escalation, accommodation, self-regulation, debrief or other support strategies to mitigate the circumstances surrounding the possible event of an emergency restraint. Such documentation does not waive liability for injury, nor does it permit school personnel to use restraint without an imminent likelihood of serious harm. An emergency response protocol may not be used as a condition of enrollment in a student's educational program. All other plans may refer to the district policy developed under subsection ((~~(3)(b)~~)) (5) of this section. Nothing in this section is intended to limit the provision of a free appropriate public education under Part B of the federal individuals with disabilities education improvement act or section 504 of the federal rehabilitation act of 1973.

((~~(b)~~)) (5) Restraint ((~~or isolation~~)) of any student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm((~~, as defined in RCW 70.96B.010~~)). Restraint or isolation must be closely monitored to prevent harm to the student, and must be discontinued as soon as the likelihood of serious harm has dissipated.

(6) Each school district shall adopt a policy providing for the least amount of restraint ((~~or isolation~~)) appropriate to protect the safety of students and staff under such circumstances and a policy to prohibit the use of isolation, mechanical restraint, and chemical restraint.

((~~(4)~~)) (7) Following the release of a student from the use of restraint or isolation, in such an event that isolation were to occur, the school must implement follow-up procedures. These procedures must include:

(a) Reviewing the incident with the student and the parent or guardian to address the behavior that precipitated the restraint or isolation, in such an event that isolation were to occur, and the appropriateness of the response; and

(b) ((~~reviewing~~)) Reviewing the incident with the staff member who administered the restraint or isolation, in such an event that isolation were to occur, to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

((~~(5)~~)) (8) Any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities, including activities offered through nonpublic agencies operating special education programs for students with disabilities, as described in RCW 28A.155.060, must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include, at a minimum, the following information:

(a) The date and time of the incident;

(b) The name and job title of the individuals who administered the restraint or isolation, and their certification and history of relevant training for crisis intervention and de-escalation;

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

(d) ((~~The type~~)) A description of the restraint or isolation used on the student, including the duration;

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

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

((~~(6)~~)) (9) The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within ((~~twenty-four~~)) 24 hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language.

((~~(7)(a) Beginning January 1, 2016, and by January 1st annually, each~~)) (10) Should a prohibited activity under subsection (3) of this section occur, staff shall immediately inform the building administrator or building administrator's designee of the incident. The building administrator or designee shall notify the parents or legal guardian of the student within 24 hours of the incident and must send written documentation via electronic communication or physical mail within three business days of the incident. The building administrator or designee must notify the school district within one business day, and notify the office of the superintendent of public instruction of such incident within three business days for further investigation.

(11)(a) Annually by December 31st, each school district shall summarize the written reports received to date under subsection ((~~(5)~~)) (8) of this section and submit ((~~the summaries to the office of the superintendent of public instruction~~)) the summary to the elected school board of the district.

(b) By June 30, 2024, and annually thereafter, school districts must submit to the office of the superintendent of public instruction a cumulative summary report including data required under subsections (8) and (10) of this section from the current school year.

(c) For each school and nonpublic agency operating special education programs for students with disabilities, as described in RCW 28A.155.060, the school district shall include the number of individual incidents of restraint and isolation, the number of students involved in the incidents, the number of incidents that resulted in injuries to students and staff, the number of incidents in which staff imposing restraint were not trained in crisis intervention or de-escalation, the number of incidents in which school resource officers or school security guards were involved in the incident, the location/placement of the student where the incident occurred, and the types of restraint or isolation used. Incidents must be further disaggregated by the student categories and subcategories described in RCW 28A.300.042 (1) and (3), and by:

(i) Gender;

(ii) Students who are dependent pursuant to chapter 13.34 RCW;

(iii) Students who are homeless as defined in RCW 43.330.702;

(iv) Students who are multilingual/English learners; and

(v) Status as student with a parent who is a member of the armed forces.

((~~(b)~~)) (d) No later than ((~~ninety~~)) 90 days after receipt, the office of the superintendent of public instruction shall publish to its website the data received by the districts. The office of the superintendent of public instruction may use this data to investigate the training, practices, and other efforts used by schools and districts to reduce the use of restraint and eliminate isolation.

(e) A school district that does not report its data to the office of superintendent of public instruction within six months of the deadline established in subsection (8) of this section may be placed on a plan of improvement. A school district on a plan of improvement will be subject to direct technical assistance and monitoring by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall conduct annual site visits until the school district demonstrates improvement in its data submission.

(f) The information in subsection (8) of this section shall also include any incidents of isolation, if one were to occur.

(12) School districts shall carry out the following activities, with the support of the office of the superintendent of public instruction, to support the elimination of isolation and chemical restraint and reduce the use of restraint in schools:

(a) Ongoing professional development and training assistance for staff to comply with this section;

(b) Ongoing training to staff on how to comply with education and civil rights laws, including the individuals with disabilities education act (20 U.S.C. 1400 et seq.) and the Americans with disabilities act of 1990 (42 U.S.C. 12101 et seq.), when interacting with students with disabilities, including when conducting disciplinary actions involving students with disabilities;

(c) Professional development and training programs to implement evidence-based systematic approaches, such as multitiered systems of supports, school-wide positive behavioral interventions and supports, and universal design for learning and training in addressing disparity when using restraint; and

(d) Technical assistance to support evidence-based, crisis intervention programs that include mental health supports, restorative justice programs, trauma-informed care, and crisis and de-escalation interventions.

(13) The office of the superintendent of public instruction must make available on its website a list of training programs and resources to support subsection (12)(a) through (d) of this section.

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