
Education Committee

HB 1479

Brief Description: Concerning restraint or isolation of students in public schools and educational programs.

Sponsors: Representatives Callan, Santos, Goodman, Ramel, Ormsby and Pollet; by request of Superintendent of Public Instruction.

Brief Summary of Bill

- Prohibits students from being subjected to isolation, mechanical restraint, or chemical restraint by school staff, except for school resource officers under some circumstances.
- Specifies that existing isolation rooms must remain unlocked, no new isolation rooms may be created, and, by January 1, 2024, isolation rooms must be removed or repurposed.
- Requires school districts to carry out trainings and other activities to support the elimination of isolation and chemical restraint and to reduce the use of restraint in schools.
- Modifies incident follow-up and reporting requirements.

Hearing Date: 1/30/23

Staff: Megan Wargacki (786-7194).

Background:

Application and Definitions.

The requirements described below related to student isolation and restraint apply to students who are participating in school-sponsored instruction or activities:

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

- "Isolation" is defined to mean restricting a 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.
- "Restraint" is defined to mean 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. "Restraint device" is defined to mean a device used to assist in controlling a student, for example metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons, but it does not mean a seat harness used to safely transport students.

School districts are statutorily authorized to contract with public and private entities for educational and specialized services. This includes the authority to contract with nonpublic agencies, which are agencies approved by the Superintendent of Public Instruction (SPI) for operating special programs for students with disabilities. Rules of the SPI specify that the contract between a school district and a nonpublic agency must include assurance that the nonpublic agency comply with SPI rules related to compliance with isolation and restraint laws.

Limitations.

Restraint or isolation of a student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm. "Imminent" is defined to mean the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote. "Likelihood of serious harm" is defined to mean a substantial risk that:

- 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;
- 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;
- physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or
- the person has threatened the physical safety of another and has a history of one or more violent acts.

Policies and Plans.

Each school district must adopt a policy providing for the least amount of restraint or isolation appropriate to protect the safety of students and staff under such circumstances. Parents and guardians of students who have individualized education programs (IEPs) or plans developed under section 504 of the Rehabilitation Act of 1973 (section 504 plans) must be provided a copy of the school district policy at the time that the IEP or section 504 plan is created.

An IEP or section 504 plan must not include the use of restraint or isolation as a planned

behavior intervention unless a student's individual needs require more specific advanced educational planning, and the student's parent or guardian agrees. All other plans may refer to the school district policy.

Follow-up Procedures.

Following the release of a student from restraint or isolation, the school must implement follow-up procedures. These procedures must include reviewing the incident with the student and the parent or guardian and reviewing the incident with the staff member who administered the restraint or isolation.

School employees, school resource officers, and school safety and security staff who use isolation or restraint on a student during school-sponsored instruction or activities must inform the building administrator or designee as soon as possible, and x submit a written report of the incident to the school district office within two business days.

The principal or designee must: (a) make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident; and (b) send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred.

State Reports.

Annually by January 1, each school district must submit a summary of the incident reports to the Office of the Superintendent of Public Instruction (OSPI). For each school, the school district must include the number of individual incidents of restraint and isolation, the number of students involved in the incidents, the number of injuries to students and staff, and the types of restraint or isolation used.

No later than 90 days after receipt, the OSPI must publish to its website the data received by the school districts. The OSPI may use this data to investigate the training, practices, and other efforts used by schools and districts to reduce the use of restraint and isolation.

Workgroup Report.

Legislation enacted in 2022 directed the OSPI to convene a workgroup to identify trauma informed strategies, approaches, and curricula for supporting students in distress and with challenging behaviors that prioritize relational safety. The work group's 2022 report includes four categories of recommendations: (1) eliminate isolation and chemical restraint from schools; (2) improve access to proactive and effective mental health supports and trauma-informed behavior supports; (3) increase educator training of de-escalation practices; and (4) improve data collection and reporting.

Summary of Bill:

Application.

Requirements related to student isolation and restraint are explicitly applied to students served by

nonpublic agencies operating special education programs for students with disabilities.

Prohibitions, Limitations, and Definitions.

No student may be subjected to isolation, mechanical restraint, or chemical restraint by school staff while attending school or participating in school-sponsored instruction or activities.

However, 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. The following definitions are established or revised:

- "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. In addition, it is specified that isolation does not include: (a) 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; (b) 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; (c) "room clear" situation where the room is cleared of all students, but one; or (d) 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.
- "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.
- "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.
- "Likelihood of serious harm" means a substantial risk that: (a) 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 (b) 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. That is, the term no longer refers to substantial risk that physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others, or that the person has threatened the physical safety of another and has a history of one or more violent acts.
- Additional terms are defined in the bill.

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

Policies and Plans.

School districts must adopt a policy to prohibit the use of isolation, mechanical restraint, and chemical restraint.

A student in need of advanced emergency planning must have accompanying planning documents for behavioral support that may include strategies to mitigate the circumstances surrounding the possible event of an emergency restraint. The 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.

Follow-up Procedures.

Staff must immediately inform the building administrator or designee of the incident of any prohibited isolation, mechanical restraint, or chemical restraint. The building administrator or designee must 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 (OSPI) within three business days for further investigation.

The written incident report must include the certification and history of relevant training for crisis intervention and de-escalation of the individuals who administered the restraint or isolation.

Annually by December 31, school districts are required to summarize the incident reports to date and submit the summary to their school boards.

State Reports.

Annually by June 30, school districts must submit to the OSPI a cumulative summary of incident reports from the current school year for incidents at nonpublic agencies, as well as schools. In addition to other data, the summary must include 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, and the location/placement of the student where the incident occurred. The incidents must be further disaggregated by specified student categories.

A school district that does not report its data to the OSPI within six months of the deadline 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 OSPI. The OSPI must conduct annual site visits until the school district demonstrates improvement in its data submission.

Staff Trainings and Technical Assistance.

School districts must carry out the following activities, with the support of the OSPI, to support the elimination of isolation and chemical restraint and reduce the use of restraint in schools:

- ongoing professional development and training assistance for staff to comply with the bill;
- ongoing training to staff on how to comply with education and civil rights laws when interacting with students with disabilities, including when conducting disciplinary actions involving students with disabilities;
- 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
- 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.

The OSPI must make available on its website a list of training programs and resources to support these required trainings.

Appropriation: None.

Fiscal Note: Requested on January 25, 2023.

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