

# HOUSE BILL REPORT

## E2SHB 1479

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**As Passed House:**

March 7, 2023

**Title:** An act relating to restraint or isolation of students in public schools and educational programs.

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

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Callan, Santos, Goodman, Ramel, Ormsby and Pollet; by request of Superintendent of Public Instruction).

**Brief History:**

**Committee Activity:**

Education: 1/30/23, 2/16/23 [DPS];

Appropriations: 2/21/23, 2/24/23 [DP2S(w/o sub ED)].

**Floor Activity:**

Passed House: 3/7/23, 63-31.

**Brief Summary of Engrossed Second Substitute Bill**

- Modifies provisions related to student isolation and restraint, including by prohibiting chemical restraint and mechanical restraint, and by phasing out use of isolation in isolation rooms by January 1, 2026.
- Modifies incident follow-up and reporting requirements.
- Adds training and professional development requirements.
- Establishes technical assistance and other forms of compliance monitoring and support.
- Requires multiple reports to the Legislature on topics related to student isolation, restraint, and room clears.

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*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.*

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## HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Santos, Chair; Shavers, Vice Chair; Bergquist, Callan, Ortiz-Self, Pollet, Stonier and Timmons.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Rude, Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Eslick, Harris, McClintock, Sandlin and Steele.

**Staff:** Megan Wargacki (786-7194).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Education. Signed by 20 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Couture, Davis, Fitzgibbon, Lekanoff, Pollet, Riccelli, Ryu, Sandlin, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler, Connors, Dye, Rude, Schmick and Steele.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Harris.

**Staff:** Jordan Clarke (786-7123).

### **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:

- "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 Office of the Superintendent of Public Instruction (OSPI) for operating special programs for students with disabilities. Rules adopted by the OSPI specify that the contract between a school district and a nonpublic agency must include assurance that the nonpublic agency comply with OSPI rules related to student isolation and restraint.

#### Limited Isolation and Restraint of Students.

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. 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 may 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.

Rules adopted by the OSPI define a behavioral intervention plan as a plan incorporated into a student's IEP if determined necessary by the IEP team for the student to receive a free appropriate public education. At a minimum, the behavioral intervention plan must include four elements, for example: the pattern of behavior that impedes the student's learning; the

positive behavioral interventions and supports to reduce the pattern of behaviors; and the skills that will be taught and monitored as alternatives to the challenging behaviors.

#### Follow-up Procedures.

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

School employees, resource officers, and school security officers 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 submit a written report of the incident to the school district office within two business days.

The principal or designee must: (1) make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident; and (2) send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred.

#### Incident Reports.

Annually by January 1, each school district must submit a summary of the incident reports to the OSPI. For each school, the school district must include the number of individual incidents of isolation and restraint, the number of students involved in the incidents, the number of injuries to students and staff, and the types of isolation or restraint 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 of schools and districts to reduce the use of isolation and restraint.

#### Work Group Report.

Legislation enacted in 2022 directed the OSPI to convene a work group 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 Engrossed Second Substitute Bill:**

In brief summary, provisions related to student isolation and restraint are modified, for example: limits and prohibitions to using isolation and restraint under certain conditions are added; additional entities are required to comply with the provisions; definitions are added and changed; incident follow-up requirements are modified; training requirements are

added; and technical assistance and other forms of monitoring and support are established.

Purpose.

The stated purposes of provisions related student isolation and restraint, incident follow-up requirements, and training requirements are to: protect students from physically harmful and emotionally traumatic practices of chemical restraint, mechanical restraint, and isolation; prohibit use of physical restraint imposed solely for purposes of student discipline or staff convenience; improve the safety and well-being of all staff and students by increasing the professional development and technical assistance provided to staff; and enhance the public accountability of school districts and other providers of public educational services.

Application to School Districts, Other Providers of Public Educational Services, and Their Staff, During Provision of Educational Services to Students.

Provisions related to student isolation and restraint are made applicable to all providers of public educational services (rather than only school districts). "Providers of public educational services" is defined to mean any entity that directly operates, or provides educational services under contract to, an elementary or secondary school program that receives public funds from the Office of the Superintendent of Public Instruction (OSPI). In addition to school districts, the term includes: public schools (including charter schools and state-tribal education compact schools), Educational Service Districts, institutional education providers, the State School for the Blind, the Center for Deaf and Hard of Hearing Youth, public agencies and private entities providing educational services under contract with any other provider of public educational services, and any providers of services in accordance with Part B of the federal Individuals with Disabilities Education Act.

Provisions related to student isolation and restraint are made applicable to all staff (rather than only school employees, resource officers, and school security officers). "Staff" is defined to mean employees and contractors of school districts and other providers of public educational services. The term "staff" does not include licensed or certified health professionals of inpatient health care facilities.

The provisions related to student isolation and restraint apply during the provision of educational services (rather than while a student is participating in school-sponsored instruction or activities). "Educational services" is defined to mean instruction and other activities delivered or sponsored by a school district or other provider of public educational services, for example: general education services; special education services; medical services; safety and security services; transportation services; and any developmental, corrective, or other supportive services necessary for a student eligible for special education services to benefit from special education services.

Prohibited and Permitted Isolation and Restraint of Students.

Additional limitations, including prohibitions, are placed on the use of isolation and

restraint of students.

*Definitions.* The definition of "isolation" is modified to mean the involuntary isolation or confinement of a student, by staff, in an isolation room from which the student is not free to leave. The term "isolation" does not include a time away, which is a student-selected behavior management technique that provides a student with an opportunity for self-calming, where the student is separated from others for a limited period, in a setting that is staff-monitored and from which the student may leave at any time. "Isolation room" is defined to mean a room or other enclosed area, whether within or outside a classroom, used to isolate a student.

The definition of "restraint" is modified to mean chemical restraint, mechanical restraint, and physical restraint. Those terms are defined as follows:

- "Chemical restraint" means a drug or chemical administered by staff to a student to control the student's behavior or restrict the student's freedom of movement that is: (1) not prescribed by a licensed health professional acting within the scope of the practice of that health profession for the standard treatment of a student's medical or psychiatric condition; (2) not administered by a licensed health professional acting within the scope of the practice of that health profession; or (3) not administered in accordance with the student's medical or psychiatric treatment plan.
- "Mechanical restraint" means staff use of a device to restrict a student's freedom of movement; however it does not include: (1) a device used by staff or a student as prescribed by a licensed health professional acting within the scope of the practice of that health profession; as documented in a student's Individualized Education Program (IEP) or a student's plan developed under section 504 of the Rehabilitation Act of 1973 (section 504 plan); or for a specific therapeutic, orthopedic, or medical purpose, when used for its designed purpose; or (2) the use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.
- "Physical restraint" means physical contact by one or more staff that immobilizes or reduces the ability of a student to move the student's arms, legs, torso, or head freely. The term "physical restraint" does not include physical escort or physical prompt. "Physical escort" is defined to mean the temporary touching or holding of a student's hand, wrist, arm, shoulder, or back by staff, without the use of force, for the purpose of directing the student to a safe or otherwise appropriate location. "Physical prompt" is defined to mean a teaching technique used by staff that involves voluntary physical contact with a student for the purpose of enabling the student to learn or model the physical movement necessary for the development of a desired competency.

*Prohibited Isolation and Restraint of Students.* The staff of any school district or other provider of public educational services may not subject any student to the following types of prohibited isolation or restraint during the provision of educational services:

1. chemical restraint;
2. mechanical restraint;
3. physical restraint or physical escort that is life-threatening, restricts breathing, or

- restricts blood flow to the brain, including prone, supine, and wall restraints;
4. isolation or physical restraint that is contraindicated based on the student's disability or health care needs or medical or psychiatric condition as documented in a health care directive or medical management plan, a behavioral intervention plan, an IEP, or a section 504 plan;
  5. corporal punishment; and
  6. noxious spray and other aversive intervention as prohibited in rule of the OSPI.

The isolation of any student in prekindergarten through grade 2 by the staff of any school district or other provider of public educational services during the provision of educational services is prohibited. Beginning January 1, 2026, the isolation of any student regardless of grade level by the staff of any school district or other provider of public educational services during the provision of educational services is prohibited.

Neither a student nor the student's parent or guardian may consent, or be asked to consent, to the use of isolation or restraint that is prohibited.

*Limited Physical Restraint of Students.* The circumstances under which physical restraint is permitted are modified, for example, by permitting use of physical restraint only when less restrictive interventions would be ineffective and by disallowing use of physical restraint to protect the property of others.

The staff of any school district or other provider of public educational services is permitted to use physical restraint during the provision of educational services only when:

1. the student's behavior poses an imminent likelihood of serious harm to the student or to others;
2. less restrictive interventions would be ineffective in stopping the imminent likelihood of serious harm to the student or to others;
3. the least amount of force necessary is used to protect the student or another person from an imminent likelihood of serious harm to the student or to others; and
4. the physical restraint of the student ends immediately upon the cessation of the imminent likelihood of serious harm to the student or to others.

The definition of "likelihood of serious harm" is narrowed to mean a substantial risk that: (1) harm will be inflicted by the student upon his or her own person, as evidenced by threats or attempts to commit suicide, or inflict harm on oneself; or (2) harm will be inflicted by the student upon another, as evidenced by behavior that places another person or persons in reasonable fear of sustaining such harm. "Imminent" continues to mean the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

*Limited Isolation of Students in Isolation Rooms.* The circumstances under which isolation is permitted are modified as described above for use of physical restraint and also by phasing out use of isolation by student grade level.

Through December 31, 2025, the staff of any school district or other provider of public educational services is permitted to use isolation on a student who is in grade 3 through 12 during the provision of educational services only when:

1. the student's behavior poses an imminent likelihood of serious harm to the student or to others;
2. less restrictive interventions would be ineffective in stopping the imminent likelihood of serious harm to the student or to others;
3. the least amount of force necessary is used to protect the student or another person from an imminent likelihood of serious harm to the student or to others; and
4. the isolation of the student ends immediately upon the cessation of the imminent likelihood of serious harm to the student or to others.

Doors to isolation rooms must remain unlocked to the occupants, unless a school district or other provider of public educational services claims a temporary waiver to permit the isolation of students in grades 3 through 12 in a locked isolation room.

A school district or other provider of public educational services may, through December 31, 2025, claim a waiver from the Office of the Superintendent of Public Instruction (OSPI) using the process established by the OSPI. School districts and other providers of public educational services claiming a waiver must provide professional development to staff and conduct other activities necessary to comply, no later than January 1, 2026, with the requirement to keep isolation rooms unlocked. The OSPI must provide technical assistance to school districts and other providers of public educational services that includes assisting with the preparation of a professional development plan that supports compliance, as soon as possible, but no later than January 1, 2026, with the requirement to keep isolation rooms unlocked.

By January 1, 2026, school districts and other providers of public educational services must remove or repurpose all isolation rooms. Prior to this date, school districts and other providers of public educational services are prohibited from constructing isolation rooms or other settings for the purpose of isolating a student.

*Exemptions.* Provisions related to locking isolation rooms, constructing isolation rooms, and removing or repurposing isolation rooms do not apply to a state-operated psychiatric hospital that serves students.

School resource officers are not prohibited from carrying out the lawful duties of a commissioned law enforcement officer.

#### Incident Notifications.

Requirements related to making certain notifications after incidents of isolation and restraint are modified and expanded, for example by making the provisions applicable to incidents of room clears, making the provisions applicable to staff who directed use of isolation or



restraint, and by requiring the principal or other building administrator to notify the OSPI and others of incidents of prohibited isolation and restraint.

"Room clear" is defined as the procedure used by staff in an emergency to direct all students, except for any students causing the emergency, to leave a room. It is specified that, except as provided in rule of the OSPI, a room clear is not isolation.

Immediately following the release of the student from isolation or restraint, and immediately following the return of students from a room clear, the staff who used, or directed the use of, isolation, restraint, or a room clear must notify the principal, other building administrator, or designee of the provider of public educational services about the incident.

The principal, other building administrator, or designee of the provider of public educational services must: (1) notify the student's parent or guardian about the incident within 24 hours of the incident; and (2) send written documentation to the parent or guardian, within three business days of the incident, and, when possible, send written documentation to the parent or guardian via email, on the same calendar day as the incident.

With regard to use of prohibited isolation or restraint, the principal, other building administrator, or designee of the provider of public educational services must notify the following people or entities about the incident: (1) the school district superintendent or other chief administrator of the provider of public educational services, within one business day of the incident; (2) the OSPI, within three business days of the incident; and (3) if the school district or other provider of public educational services is a contractor, the contractee, within three business days of the incident.

#### Incident Review.

Requirements related to review of incidents of isolation and restraint are modified and expanded, for example by making the provisions applicable to incidents of room clears and by requiring that students be given an opportunity to reflect, process, and recover.

As soon as practicable, but no later than one week following submission of the written incident report as described below, the principal, other building administrator, or designee of the provider of public educational services must review the incident with the student and the student's parent or guardian to discuss relevant events that occurred before, during, and after the incident, and to inform the student's parent or guardian about behavioral intervention planning that must be completed as described below.

As soon as practicable following the release of a student from isolation or restraint, staff must provide the student with an opportunity to meet with a counselor, nurse, psychologist, or social worker to reflect, process, and recover.

Also, as soon as practicable following the release of a student from isolation or restraint or

the return of students from a room clear, a team of staff, including the staff who used, or directed the use of, isolation, restraint, or a room clear must review the incident to, among other things: (1) provide the staff who used, or directed the use of, isolation, restraint, or a room clear with an opportunity to reflect, process, and recover; (2) determine whether proper procedures were followed; and (3) identify additional training, coaching, or assistance that may support staff who used, or directed the use of, isolation or restraint to use less restrictive interventions in similar situations in the future.

#### Behavioral Intervention Plan.

A "functional behavioral assessment" is defined to mean the process or evaluation used by staff to understand the cause or purpose of a student's specific behavior or behaviors of concern in a specific environment. A "behavioral intervention plan" (BIP) is defined to mean the individualized plan developed for a student and implemented by staff for the purpose of changing, replacing, modifying, or eliminating a student's behavior or behaviors of concern. Use of a BIP is not limited to students with an IEP.

As soon as practicable following the release of a student from isolation or restraint or the return of students following a room clear, staff must: (1) complete a functional behavioral assessment of the student who was isolated, restrained, or caused the emergency that resulted in a room clear, unless a functional behavioral assessment was previously completed for the behavior of concern; and (2) develop a BIP for the student who was isolated, restrained, or caused the emergency that resulted in a room clear or, if a BIP has already been developed, review the BIP and modify it as necessary to address the student's behavior of concern. When the student has an IEP, the BIP must be developed and modified in accordance with the student's IEP

#### Incident Reports.

Requirements related to reports of incidents of isolation and restraint are modified and expanded, for example by requiring reports of incidents of room clears, and specifying that summaries of the incident reports must be disaggregated for the purpose of trend analysis.

Within two business days of the incident, staff who used, or directed the use of, isolation, restraint, or a room clear must prepare and submit a written report of the incident to the school district superintendent or other chief administrator of the provider of public educational services. The following written report elements are added: the duration and location of the incident; names and job titles of staff who directed the use of isolation or restraint, of staff who used or directed the use of a room clear, and of staff who observed the incident; a description of any less restrictive interventions attempted; whether the student has an IEP or BIP, and if so, whether the IEP or BIP was followed; information about any known psychological trauma experienced by the student or staff due to the incident; whether staff requested or used leave benefits; and other information as required by rule of the OSPI.

The school district superintendent or other chief administrator of a provider of public

educational services must prepare a summary of the written incident reports, at least annually and as required by the school district board of directors or other governing body of a provider of public educational services. The summary must be disaggregated for purposes of trend analyses according to specified categories, for example by student race and ethnicity, student gender, school or other applicable unit, staff job title, contractor, and incident type.

At least annually, the OSPI must require school districts and other providers of public educational services to submit incident report data and summaries. The OSPI continues to be required to publish the incident report data and summaries on its website within 90 days of receipt. The data must be published in a manner that allows trend analyses, including analysis of intersecting marginalized identities.

#### Policies and Procedures.

Each governing body of a provider of public educational services (rather than only school districts) must adopt a student isolation and restraint policy and procedures. The procedures must include a process for convening a team of staff to review every incident of isolation or restraint using a systems improvement approach that focuses on supporting staff to use less restrictive interventions as alternatives to isolation and restraint.

During the 2024-25 school year, and periodically thereafter, each school district board of directors and other governing body of a provider of public educational services must review and revise, as necessary, its student isolation and restraint policy and procedures with input from staff, students, students' families, advocacy organizations, and other appropriate members of the community.

#### Professional Development Plans.

By January 30, 2024, the school district superintendent or other chief administrator of a provider of public educational services, or the school district board of directors or other governing body of a provider of public educational services, must prepare and submit to the OSPI a staff professional development plan and timeline. The plan must be updated annually by August 31.

The plan must include professional development on the following topics: the student isolation and restraint policy and procedures; evidence-based, trauma-informed, student-centered, proactive crisis prevention and intervention practices that are less restrictive than isolation and restraint; evidence-based, trauma-informed behavioral health supports for students and staff that include restorative practices; and evidence-based, systemic approaches to eliminating use of prohibited isolation and restraint, to reduce the use of physical restraint, and to eliminate disparities in use of prohibited or permitted isolation and restraint.

Professional development must be prioritized to staff in the following order: first to staff providing educational services to students with disabilities in prekindergarten through grade

5; second to staff providing educational services to students with disabilities in grades 6 through 12; and third to all other staff.

The plan and any updates must describe the professional development that will be provided to staff during the following school year. Any professional development programs and resources provided to staff must be selected from the list developed by the OSPI. Staff professional development content, intensity, duration, and frequency must be appropriate to each staff type, staff experience, and staff assignment, and must be informed by the incident reviews.

The plan must also describe the mechanism used to determine whether an entity under contract to provide educational services to students is providing professional development to the contractor's staff.

Within three months of receipt, the OSPI must review each professional development plan and update submitted by a school district or other provider of public educational services.

#### Duties of Governing Bodies.

Beginning in the 2023-24 school year, and every four years thereafter, each member of the school district board of directors or other governing body of a provider of public educational services must complete the training program on student isolation and restraint provided at no cost by the OPSI. The training program, developed and periodically updated by the OSPI, must include the following content, at a minimum: the legal prohibitions and limitations for use of isolation and restraint on students; the social-emotional and physical impacts to students and staff resulting from the use of isolation and restraint rather than trauma-informed interventions; how to assess compliance with student isolation and restraint requirements; and options for supporting system improvement by reprioritizing resources. The training program must be developed and updated in partnership with the Washington State School Directors' Association, which must also have no cost access to the training program.

On an annual basis, the school district board of directors or other governing body of a provider of public educational services must monitor the impact of the student isolation and restraint policy and procedures by, at a minimum, performing trend analyses using the summary of incident reports and reviewing the professional development plan and updates.

#### Technical Assistance.

Subject to appropriation, the OSPI must provide technical assistance to school districts and other providers of public educational services. At a minimum, this technical assistance must include:

1. developing and publishing guidance on the statutory requirements related to student isolation and restraint and related rules;
2. identifying and publishing a list of professional development programs and resources;
3. providing or contracting for the provision of staff professional development with

- priority to: (1) school districts and other providers of public educational services with a temporary waiver to permit students in grades 3 through 12 to be locked in an isolation room; (2) staff who provide educational services to students in prekindergarten through grade 5; and (3) school districts and other providers of public educational services with high incidents of isolation, restraint, or room clears; and
4. completing site visits and providing on-site coaching, when appropriate.

Prior to implementing the technical assistance, and periodically thereafter, the OSPI must collaborate with statewide associations representing school administrators, classified staff, and certificated staff to conduct focus groups for the purpose of better understanding staff challenges related to implementation of student isolation and restraint provisions.

#### Plans of Improvement.

When a school district or other provider of public educational services is not making sufficient progress towards the goals established in its professional development plan or when disparities in use of isolation or restraint are identified in its incident report data, the OSPI must place the school district or other provider of public educational services on a plan of improvement. Under a plan of improvement, the OSPI must provide targeted technical assistance, including annual site visits, until the school district or other provider of public educational services meets its professional development plan goals, or eliminates disparities in use of isolation or restraint, or both.

#### Reports to the Legislature.

Annually by November 1, the OSPI must report to the Legislature with a summary of its activities to monitor and support the compliance of school districts and other providers of public educational services with student isolation and restraint requirements. The report must describe the progress that school districts and other providers of public educational services have made towards providing professional development to staff. The report must also highlight exemplar school districts and other providers of public educational services using best practices to eliminate use of isolation and restraint.

By December 1, 2023, the Professional Educator Standards Board and the Paraeducator Board must jointly submit to the Legislature a plan for integrating into educator preparation programs and paraeducator certificate requirements instruction requirements related to prohibited and limited uses of student isolation and restraint.

The OSPI must contract with a research entity to study and report on the use of room clears in Washington. The research entity must analyze and report on the impacts of a room clear on the students involved, including those who are removed from the classroom. The report must, at a minimum, consider the impact of room clears on lost instructional time, student mental health, and social-emotional learning. The research entity must also identify and summarize best practices on the use of room clears. The report of the research entity must be submitted by the OSPI to the Legislature by September 1, 2024.

By December 1, 2024, with respect to student isolation and restraint-related professional development requirements, the OSPI must report to the Legislature with its progress on developing a professional development deployment strategy and assembling of a network of professional development providers, as well as its assessment of the need and demand for professional development in the coming biennium.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 9, 2023.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony (Education):**

(In support) Every student deserves to feel and be safe, and be given every opportunity to thrive in schools. Every educator is trying to make that happen. However, not all children's needs are being met. Schools still practice isolation by placing a child in a locked room alone. Children are being zip-tied. These practices are harmful. We have learned how to support children in their toughest moments. This bill provides an opportunity for everyone to work together for the benefit of students, so that they receive help when and where they need it, and so that staff receive the supports they need to help the students.

Restraint and isolation have no therapeutic or educational benefit. Isolation forces a student into solitary confinement against their will. Forced isolation is dangerous to students and is counterproductive to supporting student well-being. Use of these practices has lifelong consequences for many students, such as anxiety, depression, and mistrust of relationships. The impact of this trauma has far-reaching impacts on students and families and can lead to families being torn apart. Use of restraint and isolation make student behaviors worse, and the use increases the likelihood of more use. Most staff do not want to use these practices.

To eliminate restraint and isolation, professional development and technical assistance will be key. There are tools that teachers can use to provide emotional support to students, instead of relying on practices that harm and perpetuate dysregulation in classrooms. Too few staff are trained to use proven de-escalation techniques, and positive behavior interventions and supports.

People who are restrained struggle and this can result in injuries. If the state eliminates isolation and drastically reduces physical restraint, student and staff injuries will go down. To ensure inclusion in schools, the state must prohibit these practices.

Some students are restrained so the staff can obtain information from the student or to control the student's activities. Students are sent to isolation rooms for minor infractions and are left there for hours. There are times when restraint is appropriate, such as when the

safety of students or staff are at risk. The bill needs to be clarified to ensure that students and staff are all protected.

Some students, especially those without language skills, have poor behaviors. Trained staff do not have to restrain or isolate students. Some students have been sent out of state to be educated elsewhere because the state failed to educate them. This costs the state up to \$620,000 for one child per year. That money could be used in the state to provide training to staff so that they will know how to de-escalate students.

(Opposed) Some students engage in aggressive behavior on a regular basis. Physical restraint is more dangerous than isolation. Some escalations cannot be resolved by restraint, but can be by isolation. The bill will decrease safety in schools. It is highly likely that some students with aggressive behaviors will be placed in homebound services because they will be unable to be safely provided services in public or nonpublic agencies. Elimination of isolation has resulted in decreased access to a free appropriate public education for students. In other states, elimination of isolation has resulted in increased student and staff injuries. Subsequent lawsuits were filed, and the state eventually modified the law. More consideration should be given to adding training and support and increasing monitoring and reporting.

(Other) This bill could have a safety impact on teachers, administrators, and other staff. A significant percentage of students benefit from inclusionary practices. When safety is at stake, there are concerns about removing an option that is of last resort. Some students have a disability that can result in behavioral outbursts. Some students express frustration in violent ways that impact the safety of those around them. When some students are escalated, they are unaware of the impact it can have on others. Many alternatives are already being explored and implemented.

Chemical restraint and mechanical restraint should go away. If the language of the bill is not clear, then it could make things less safe in schools. There are concerns about the definitions in the bill and that certain interventions will not be allowed when a student is threatening self-harm, or that staff will not be able to provide medications for seizures. There should be timelines provided for the additional training.

Paraeducators and others were not consulted during the development of this bill. The state data on use of isolation and restraint is concerning; the state can do better. The bill needs to be finetuned to consider the impacts on classified staff and to prevent unintended outcomes. Classified staff should also be provided with training.

### **Staff Summary of Public Testimony (Appropriations):**

(In support) With the necessary training and support, we can end the harmful practice of restraining students. Focus on a train-the-trainer model, with a targeted approach to training.

Trauma is created for students who experience isolation. Sending students to the isolation room can result in costs to families for the hospitalization, and mental and behavioral health treatments afterward. Isolation rooms are meant to be a way for de-escalation but can lead to escalation. A student was thriving, restraint was used, and the need for additional support increased.

The bill puts in a mechanism to offset current harm. Behavior is communication, and educators need to understand what triggers a student's experience. Washington needs a mind shift change, to allow students to be safe and educators to be trained.

Families of young children restrained in the first few weeks of school are harmed. The use of these practices has long-term effects on many students. This bill can result in a reduction in restraint and isolation use. Reduction in restraint and isolation use can decrease repeated behaviors in the classroom. Schools must be held accountable for unjustified restrictions.

The bill is a careful collaboration including strategies to address challenging classroom behavior.

We already have started and need to make this step—the worst we can do is nothing.

Addressing restraint and isolation means working on relationships at the school level, and working through scenarios with staff. Train all staff on what is an appropriate response to specific student behavior. Educators need to be in constant contact with those serving the students. Students need to be safe and shift the adult mind frame away from restriction and isolation. Changes have occurred and districts are moving to provide better safety measures.

Restraint and isolation use need to be prohibited in Washington state. No fiscal impact is too high, since the emotional toll on students and families is worse. There is information on how to best serve students that should be put into practice.

In the past year, there were many calls made to the Office of the Education Ombuds (Office) on restraint and isolation use. The pattern is harmful and not conducive to learning. The Office has worked to increase educational opportunities to move forward.

(Opposed) None.

(Other) Data regarding incidents and restraints report injuries to students and staff members. There is a need to eliminate the inappropriate use of isolation rooms. The bill represents systemic change and a desire to avoid unintended consequences.

Staff should be thoroughly trained on the new policy changes. When working on workable solutions, funding should be included for all staff who work with students to participate in



training. Training should not be in conflict with other training that is offered. Training for this purpose should be provided separately and on top of training already required. Costs related to the training need to be considered, and the fiscal impact would be significant.

**Persons Testifying (Education):** (In support) Representative Lisa Callan, prime sponsor; Kristina De Vadder, Seattle Special Education Parent Teacher Student Association; Richard Pope; Katie Pope; Andrea Kadlec, Disability Rights Washington; Diana Stadden, The Arc of Washington State; Ashley Salazar; Eric Warwick, The Arc of King County; Tanya Aggar, Washington State Parent Teacher Association; Lee Collyer, Office of the Superintendent of Public Instruction; and Tracy Kahlo, Partnerships for Action, Voices for Empowerment.

(Opposed) Jeffrey Kalles, Lilac City Behavioral Services, PLLC.

(Other) Jared Mason-Gere, Washington Education Association; Rick Chisa, Public School Employees of Washington and Service Employees International Union 1948; and John Parker, Central Valley School Districts.

**Persons Testifying (Appropriations):** (In support) Richard Pope; Jana Parker, Seattle Special Education Parent Teacher Student Association; Ashley Salazar; Janis White; Maria Roth; Andrea Kadlec, Disability Rights Washington; Eric Warwick; Justin Hendrickson, South Shore K-8; Jen Chong Jewell, Washington Office of Superintendent of Public Instruction Special Education Advisory Council; Yordanos Gebreamlak, Office of the Education Ombuds; Michelle Whitehead; and Jenny Plaja, Washington Office of Superintendent of Public Instruction.

(Other) Jared Mason-Gere, Washington Education Association; Shannon Hitch, Lake Washington School District; and Rick Chisa, Public School Employees of Washington.

**Persons Signed In To Testify But Not Testifying (Education):** Samantha Fogg, Seattle Council Parent Teacher Student Association; Liza Rankin, Seattle Public Schools; Janis White, Seattle Special Education Parent Teacher Student Association; Karen Pillar, Team Child; Mina Barahimi Martin, American Civil Liberties Union of Washington; Sebrena Burr; Ann Moline; Hannah Phelps; Emma Van der Klift; Guy Stevens, Alliance Against Seclusion and Restraint; and Suzanne Hanson, Washington Federation of Independent Schools.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.