

HOUSE BILL REPORT

E2SHB 1479

As Reported by House Committee On:
Education

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], 1/11/24, 1/30/24 [DP3S].
Appropriations: 2/21/23, 2/24/23 [DP2S(w/o sub ED)].

Brief Summary of Third Substitute Bill

- Limits restraint and isolation of students, including by prohibiting chemical and mechanical restraint.
- Modifies requirements for incident notification, incident review, incident reporting, behavioral intervention planning, and policies and procedures.
- Adds staff and governing body training requirements.
- Establishes state compliance monitoring and support, including, subject to appropriation, trainings and coaching services.
- Requires multiple reports from agencies to the Legislature.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The third substitute bill be substituted therefor and the third substitute

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bill do pass. Signed by 13 members: Representatives Santos, Chair; Shavers, Vice Chair; Rude, Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bergquist, Couture, Eslick, McClintock, Nance, Ortiz-Self, Pollet, Stonier and Timmons.

Minority Report: Do not pass. Signed by 2 members: Representatives Harris and Steele.

Staff: Megan Wargacki (786-7194).

Background:

Use of Isolation and Restraint.

Isolation or restraint of a student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm.

Each school district must adopt a policy providing for the least amount of isolation or restraint appropriate to protect the safety of students and staff.

Student Plans.

Parents and guardians of students who have individualized education programs (IEPs) or plans developed under section 504 of the Rehabilitation Act (section 504 plans) must be provided a copy of the 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 isolation or restraint 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.

Rules adopted by the Office of the Superintendent of Public Instruction (OSPI) define a behavioral intervention plan as part of a student's IEP that describes the positive behavioral interventions and supports to be used to reduce the student's challenging behaviors.

Incident Notification, Report, and Review.

After any incident of isolation or restraint, the school must review the incident with the student and the parent or guardian, and with the staff who used the isolation or restraint.

The principal must: (1) make a reasonable effort to verbally inform the student's parent or guardian within 24 hours of the incident; and (2) send written notification as soon as practical but postmarked no later than five business days after the incident occurred.

School employees, resource officers, and school security officers who use isolation or restraint must inform the building administrator as soon as possible and submit a written report of the incident to the school district office within two business days.

School districts must annually submit a summary of the staff reports to the OSPI. The OSPI must publish to its website the data received by the school districts. The OSPI may use this

data 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.

Training and Demonstration Projects.

The 2023-25 Operating Budget provided funding to the OSPI to provide: (1) statewide training and technical assistance to support the elimination of isolation and reduction of restraint and room clears; and (2) grants for 10 demonstration projects to build systems that eliminate student isolation, reduce use of student restraint, and use specified support to prevent student crisis escalation cycles.

Summary of Bill (Third Substitute):

Prohibited Practices.

Staff of school districts and providers of public educational services (education providers) are prohibited from using the following interventions on students:

- chemical restraint;
- corporal punishment;
- 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 (BIP), an individualized education program (IEP), or a plan developed under section 504 of the Rehabilitation Act;
- mechanical restraint;
- physical restraint or physical escort that is life-threatening, restricts breathing, or restricts blood flow to the brain, including prone, supine, and wall restraints; and
- noxious spray and other aversive intervention as prohibited in rule of the Office of the Superintendent of Public Instruction (OSPI).

Except for isolation authorized by a student's parent or guardian and a licensed health professional as described below, 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.

Use of Physical Restraint.

Staff of school districts and education providers may physically restrain a student 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.

Use of Isolation.

Conditions. Subject to the limitations related to students in prekindergarten through grade 5 (PK-5) described below, staff of school districts and education providers may isolate a student 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;
4. the isolation of the student ends immediately upon the cessation of the imminent likelihood of serious harm to the student or to others; and
5. beginning August 1, 2029, the staff isolating the student has received intensive crisis prevention and response training through an OSPI-approved program.

Limitations. Beginning August 1, 2025, unless a temporary exemption has been claimed as described below, staff of school districts and education providers are prohibited from isolating a PK-5 student, unless authorized as follows:

1. a health care directive or medical management plan from a licensed health professional who is not employed or contracted with the school district or education provider describes the circumstances in which isolation of the student is recommended, under the conditions for use of isolation described above;
2. the parent or guardian of the student provides fully informed, advanced, written consent for the staff to isolate the student as recommended by the licensed health professional; and
3. staff use of isolation on the student complies with the conditions for use of isolation described above.

Temporary Exemptions. Through July 31, 2029, the prohibition on isolating PK-5 students does not apply to school districts and education providers that claim an exemption from the OSPI. Those that claim an exemption must: (1) engage with the technical assistance provided by the OSPI; and (2) provide intensive crisis prevention and response training through an OSPI-approved program to staff that may isolate PK-5 students.

By November 1, 2024, the OSPI must implement a process for school districts and education providers to claim an exemption from the prohibition on isolating PK-5 students

that becomes effective on August 1, 2025. The OSPI must provide technical assistance to those claiming an exemption. Those that claim an exemption must be prioritized for any OSPI-provided intensive crisis prevention and response training and for regional coaching services.

Enclosures. School districts and education providers are prohibited from designing new construction or remodeling buildings to include a room or other enclosed area solely for purposes of isolating a student in any grade. Beginning August 1, 2029, school districts and education providers are prohibited from equipping or constructing a room or other enclosed area solely for purposes of isolating a PK-5 student, except to comply with a health care directive or medical management plan. These prohibitions do not apply to a state-operated psychiatric hospital that serves students.

School Resource Officer.

The prohibitions and limitations on student isolation and restraint do not prohibit a school resource officer from carrying out the lawful duties of a commissioned law enforcement officer.

Follow-up Procedures.

Incident Notifications. The following notifications must be made after any incident of isolation, restraint, or room clear:

- Immediately following the student's release, staff must notify the principal or building administrator about the incident.
- Within 24 hours, the principal or building administrator must notify the student's parent or guardian about the incident.
- Within three business days, the principal or building administrator must send written documentation of the incident to the parent or guardian.

In addition, the principal or building administrator must make the following notifications after an incident of prohibited isolation or restraint:

- within one business day, notify the school district superintendent or chief administrator of the education provider;
- within three business days, notify the OSPI; and
- within three business days, notify the contractee, if the school district or education provider is a contractor.

Behavioral Intervention Plans. As soon as practicable after any incident of isolation, restraint, or room clear, staff must, for the student who was isolated, restrained, or caused the emergency that resulted in a room clear:

- complete a functional behavioral assessment, if one has not been completed; and
- develop or modify a BIP, and, in cases where the student has an IEP, the BIP must be developed and modified in accordance with the student's IEP.

Incident Reviews. The following reviews must be completed as soon as practicable after

any incident of isolation, restraint, or room clear:

- The principal or building administrator must review the incident with the student and the parent or guardian and inform them about BIP requirements within one week of incident report submission.
- Staff must provide the student with an opportunity to meet with a counselor, nurse, psychologist, or social worker.
- A team of staff must review the incident and identify needed training, coaching, or assistance for staff who used, or directed the use of, isolation, restraint, or room clear.

Incident Reports. Within two business days after any incident of isolation, restraint, or room clear, the principal, other building administrator, or designee and the staff who used or directed the use of isolation, restraint, or a room clear must submit a written incident report with specified information to the school district superintendent or the chief administrator of the education provider.

At least annually, school districts and education providers must submit incident report data and disaggregated summaries to the OSPI. Within 90 days of receipt, the OSPI must publish the incident report data and summaries on its website in a manner that allows trend analysis.

Policies and Procedures.

By August 1, 2025, and periodically thereafter, each school board and education provider's governing body must revise the student isolation and restraint policy and procedures with input from specified groups. If the policy and procedures include staff isolation of students in grades 6 through 12, the policy and procedures must be annually submitted to the OSPI.

The school boards and governing bodies must annually monitor the impact of the policy and procedures by performing trend analyses and reviewing the professional development plan described below.

Training for Governing Bodies.

Beginning in the 2024-25 school year, and every four years thereafter, each member of the school board and each member of the governing body of an education provider must complete a training program on student isolation, restraint, and room clear requirements and specified resources.

The training program must be developed, and updated periodically, by the OSPI, in partnership with the Washington State School Directors' Association (WSSDA). It must be available at no cost and be easily accessible to school boards, governing bodies of education providers, and the WSSDA.

Training and Professional Development for Staff.

August 1, 2025, and by August 1 annually thereafter, after reviewing the OSPI's sample staff training plan, each school district superintendent and chief administrator of an

education provider, or the school board and education provider's governing body, must submit to the OSPI a plan and timeline for professional development that will be provided or made available to staff during the following school year. The goal of the plan must be to reduce overall staff use of isolation and restraint and to have highly trained staff available to isolate or restrain students when appropriate and in the safest possible manner. Plan development and staff prioritization of training and professional development must be informed by the incident reviews.

The plan must include provision of training and professional development on four topics, for example, evidence-based, systemic approaches to reduce the use of isolation and restraint. Nothing requires all staff to be trained on all topics. Any crisis prevention and response training provided or made available must be selected from the list of OSPI-approved programs.

The plan must also include:

- how staff who have received intensive crisis prevention and response training through an OSPI-approved program are made available to prevent isolation and restraint and to reduce the risk of imminent likelihood of serious harm in the safest possible manner;
- provision of training and professional development to staff in a specified order and as appropriate to each staff type, experience, and assignment; and
- the mechanism used to determine whether a contracted entity is providing required training and professional development to its staff.

Subject to appropriation, the OSPI must provide or contract for the provision of intensive crisis prevention and response training with priority to classified and certificated staff, including administrators, in school districts and education providers using isolation.

State Monitoring and Technical Assistance.

The OSPI must monitor and support compliance of school districts and education providers with student isolation, restraint, and room clear requirements.

The OSPI must provide technical assistance that includes publishing:

1. guidance that is updated periodically to support best practices;
2. a sample staff training plan that includes training for different types of staff and uses the framework of the Washington Integrated Student Supports Protocol, within a multitiered system of supports; and
3. an approved list of intensive crisis prevention and response training programs that are evidence-based, trauma-informed, student-centered, and proactive. The School Mental Health Assessment Research and Training Center must be consulted during the program approval process.

Before implementing the technical assistance and periodically thereafter, the OSPI must conduct focus groups on staff challenges to implement isolation, restraint, and room clear

requirements.

Regional Coaches.

Subject to appropriation, the OSPI must distribute funding to the educational service districts for regional coaches to support the implementation of student isolation, restraint, and room clear requirements, with priority to school districts and education providers using isolation. The duties of the regional coaches include mentoring, observing classes, providing feedback, providing trainings, training others to be trainers and mentors, and supporting actions to nurture a positive social and emotional school and classroom climate. Regional coaches must have received intensive crisis prevention and response training through an OSPI-approved program and must promote evidence-based, trauma-informed crisis prevention and response practices that are less restrictive than isolation and restraint, as well as classroom management techniques and the use of a multitiered system of supports.

Plans of Improvement.

When a school district or education provider 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 and summaries, the OSPI must provide targeted technical assistance, including annual site visits, until plan goals are met or disparities are eliminated.

Reports to the Legislature.

Annually by November 1, the OSPI must report to the Legislature with a summary of its monitoring and support activities. The report must describe the progress made towards providing training and professional development to staff.

By December 1, 2024, the Professional Educator Standards Board and the Paraeducator Board must jointly submit to the Legislature a plan for integrating student isolation, restraint, and room clear requirements into educator preparation programs and paraeducator certificate requirements.

By September 1, 2025, the OSPI must submit to the Legislature the report of a research entity contracted to analyze the impacts of room clears on students and to summarize best practices on the use of room clears.

By December 1, 2025, the OSPI must report to the Legislature with a description of the intensive crisis prevention and response training made available to staff, its progress on developing a professional development deployment strategy, and its assessment of the need and demand for professional development in the coming biennium.

Definitions.

Definitions for the following terms are revised or added: BIP, chemical restraint, educational service, functional behavioral assessment, imminent, isolation, likelihood of

serious harm, mechanical restraint, physical escort, physical prompt, physical restraint, provider of public educational services, restraint, room clear, staff, and students.

Third Substitute Bill Compared to Engrossed Second Substitute Bill:

As compared to the engrossed second substitute, the third substitute:

1. modifies the definition of "isolation;"
2. removes the phase-out of use of all student isolation by January 1, 2026, and instead allows, subject to limitations described in (4), staff to isolate students in any grade under the same conditions in which physical restraint of students is permitted;
3. adds, beginning January 1, 2029, staff training requirements to the conditions under which isolation of students is permitted;
4. provides that, beginning August 1, 2025, unless an exemption is claimed, staff are prohibited from isolating a student in prekindergarten through grade 5 (PK-5), unless authorized by a licensed health professional and the parent or guardian of the student;
5. creates an exemption, through July 31, 2029, for school districts and education providers to use isolation on PK-5 students, and includes requirements and supports for those claiming an exemption;
6. requires policies and procedures that include staff isolation of students grades 6 through 12 to be annually submitted to the OSPI; and
7. modifies provisions related to isolation enclosures.

The third substitute, compared to the engrossed second substitute, adds the principal, other building administrator, or designee to the process of staff preparation and submission of written incident reports.

Compared to the engrossed second substitute, the third substitute:

1. charges the OSPI with developing a sample staff training plan that meets specified requirements and directs school districts and education providers to review the sample staff training plan;
2. requires professional development plans to include an explanation of how trained staff are made available to prevent and reduce use of isolation and restraint;
3. narrows the list of training topics that must be OSPI-approved, and that the OSPI must provide, to intensive crisis prevention and response training;
4. directs, subject to appropriation, the OSPI to distribute funding to the educational service districts for regional coaching services; and
5. adds to the topics that must be included in the governing body training program.

The third substitute, compared to the engrossed second substitute, modifies requirements related to the OSPI report on its professional development deployment strategy and delays all the implementation dates.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 31, 2024.

Effective Date of Third Substitute Bill: 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:

(In support) Students are required to go to school, so they should have a safe and supportive school environment where they are truly welcome. Challenging behaviors are a signal that a student is struggling. Currently, staff are injured by students, rooms are torn up, and property is destroyed. However, staff can address these behaviors without isolating students.

This bill implements recommendations from a legislatively directed work group. This is a difficult issue and the stakes are high. There are recommendations and needs that need to be addressed, some in this bill and some in others, to bring the full system around to reduce restraint and to eliminate isolation. The state should not uphold a school system that assumes isolation of students is needed, when solitary confinement has been abolished in juvenile detention facilities.

Students are not the adversaries of staff. Children may be punished for reacting to being hurt, and the cycle continues. The systems and mindsets that allow isolation of students for their safety or others' safety is the problem. There is daily impact and harm to students and to educators. There are limited and outdated tools available to staff to respond to students' behavioral concerns. There is an urgent need to teach students skills to manage their behaviors, which will result in social and academic growth for everyone.

A small minority of children account for most disciplinary referrals. Most incidents of isolation and restraint take place in elementary schools. These incidents are typically part of a chain of events and how staff respond can change the outcome.

Students that are most marginalized are often the most harmed because students with different demographics but who demonstrate the same behaviors are treated differently. Students experience discrimination and sometimes ableism.

Students can be injured while being locked in isolation rooms. Sometimes students remain locked in isolation rooms even after the paramedics arrive. The costs of treating students' physical and mental injuries due to isolating them is high.

Investments are needed to replace outdated school policies so that students feel safe and can trust adults. Educators need to be supported to change their practices. Restraint and isolation of students does not solve any problems; more effective and humane approaches should be used. Many states and schools have abolished use of student isolation.

(Opposed) None.

(Other) State-authorized entities accept and support students with severe mental illnesses, such as autism. For many schools, these authorized entities are a last resort before a student must be sent out of state to receive an education. Removal of practices that are used as a last resort in a continuum of possible responses will cause more harm. Staff may be harmed even when not attempting to restrain a student—the potential for injury is always there. The effect that the bill will have on student and staff safety should be considered.

The bill restrictions on physical restraint restrictions are appropriate, but eliminating isolation rooms less than two years from now is problematic. Some students act out and injure others, and then, once the student is isolated, the student has an opportunity to calm down. Some schools might have to wait an hour for law enforcement to arrive. During that time, the school needs to isolate a student to keep others safe. Schools need resources besides training.

This bill affects the lives of students, parents, and staff. The bill falls short in providing professional development to staff to address student challenges. It should prioritize training and development of staff through college programs and on-the-job training. A one-size-fits-all approach does not work.

Persons Testifying: (In support) Representative Lisa Callan, prime sponsor; Richard Pope; Samantha Fogg, Seattle Council Parent Teacher Student Association; Oliver Miska, Washington Ethnic Studies Now; Melissa Spiker, Seattle Special Education Parent Teacher Student Association; Ramona Hattendorf, The Arc of King County; Ivanova Smith; Kristina De Vadder; Olga Caffee; Jen Chong Jewell, Special Education Advisory Council for the Office of the Superintendent of Public Instruction; Karen Pillar, TeamChild; and Mikhail Cherniske, Office of the Superintendent of Public Instruction.

(Other) Jeffrey Kalles, Lilac City Behavioral Services and Washington Association for Behavior Analysis; Sue Ann Bube, Mercer Island School District; Jim Kowalkowski, Rural Education Center; Jared Mason-Gere, Washington Education Association; Roz Thompson, Association of Washington School Principals; and Rick Chisa, Public School Employees of Washington.

Persons Signed In To Testify But Not Testifying: Michelle Harris; Heidi Barden, Treehouse; Bea Love; Sebrena Burr, Seattle Council Parent Teacher Student Association; and Charissa Keebaugh.