

# HOUSE BILL REPORT

## ESHB 2884

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**As Passed House:**  
February 15, 2008

**Title:** An act relating to student discipline policies.

**Brief Description:** Requiring policies on and limiting the use of mechanical, chemical, and physical restraint of students.

**Sponsors:** By House Committee on Education (originally sponsored by Representatives Pettigrew, Kagi, Dickerson, Appleton, Roberts, Haler, Darneille, Hasegawa, Santos, Goodman, McIntire and Kenney).

**Brief History:**

**Committee Activity:**

Education: 1/31/08, 2/5/08 [DPS].

**Floor Activity:**

Passed House: 2/15/08, 72-22.

**Brief Summary of Engrossed Substitute Bill**

- Establishes rules related to student discipline and the use of restraints in public K-12 schools.
- Establishes annual reporting by school districts regarding incidents in which physical, mechanical, or chemical restraints were used.

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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 Quall, Chair; Barlow, Vice Chair; Priest, Ranking Minority Member; Haigh, Lias, Roach, Santos and Sullivan.

**Minority Report:** Do not pass. Signed by 1 member: Representative Anderson, Assistant Ranking Minority Member.

**Staff:** Cece Clynch (786-7195).

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

There are 295 school districts and a variety of school discipline policies exist statewide. School district boards of directors are required to develop written procedures for administering discipline in each school building. School administrators are charged with determining that appropriate student discipline is established and maintained within the schools. Principals must confer annually with certificated employees to review and develop building discipline and enforcement standards.

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## **Summary of Engrossed Substitute Bill:**

The Legislature finds that students have a right to be free from unreasonable use of physical restraint and that the use of physical restraint as an intervention in schools should be employed only in emergency situations and only by appropriately trained personnel. Specific provisions with respect to the appropriate and inappropriate use of various types of restraints on students in schools are provided.

*Chemical Restraint.* Chemical restraint means the use of force or physical intervention to control a student or limit a student's freedom of movement through the use of pepper spray or the administration of any medication for the purpose of restraining the student. The use of chemical restraint on students in school is generally prohibited, except that this general prohibition does not preclude commissioned law enforcement officers from exercising their authority.

*Mechanical Restraint.* Mechanical restraint means the use of force or physical intervention to control a student or limit a student's freedom of movement through the use of mechanical devices such as metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons. The use of mechanical restraint on students in school is generally prohibited except that:

- school security officers may use metal handcuffs or plastic ties to restrain a student while awaiting the arrival of a commissioned law enforcement officer when the student's behavior poses a threat of imminent, serious, physical harm to property, to self, or to others, and nonphysical interventions would not be effective in removing the threat of harm; and
- commissioned law enforcement officers, including school resource officers, and judicial authorities, may exercise their authority and execute their responsibilities, including physical detainment.

*Physical Restraint.* Physical restraint means the use of bodily force or physical intervention to control a student or limit a student's freedom of movement in a way that does not involve a mechanical restraint or chemical restraint.

The use of physical restraint is specifically prohibited as a means of punishment or as a disciplinary response to situations which do not constitute a threat of imminent, serious physical harm. The use of reasonable physical restraint is allowed when a student's behavior

poses a threat of imminent, serious physical harm to property, to self, or to others and nonphysical interventions would not be effective in removing the threat.

*School Policies and Reporting Requirements.* Each school district must establish a written policy regarding the use of physical, mechanical, or chemical restraints and make the policy available to students and parents or guardians. Such a policy must include a description and explanation of what restraint is authorized, the training requirements for those authorized to use a particular restraint, and incident reporting requirements.

Annually, school districts must report to the Office of the Superintendent of Public Instruction regarding all instances when restraints were used and this data must be disaggregated by age, grade, sex, race, and distinct ethnic subgroup.

A principal must include school security and resource officers, as well as certificated staff and classified staff who have contact with children, in the required annual meeting to develop and review building disciplinary standards and uniform enforcement of those standards. Principals must also meet annually with staff to develop criteria for determining when employees must complete classes regarding classroom management, including the use of research-based, school-wide, positive behavior intervention supports.

These new provisions are not to be construed as inconsistent with state and federal laws, rules, and regulations regarding special education and persons with disabilities.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Two years ago in this state, there were incidents in which students were handcuffed as a means of discipline or management. School personnel should be trained, as police officers are, to de-escalate situations. This bill should not provide a vehicle for undercutting the rights of students with an IEP or 504 plan and the exception with respect to these students should be removed. The reporting requirements are a critical piece of this bill, and should be strengthened to include disaggregation of data by race, nationality, and gender. Minority students receive disproportionately high rates of discipline. There should be discipline in schools, but not the use of handcuffs and students should not be slammed against the floor or lockers. Young African-American children have reported feeling like they were being prepared for jail. The parents of those African-American children reported feeling like they were sent back to the days of slavery.

(Opposed) None.

**Persons Testifying:** Representative Pettigrew, prime sponsor; Jerry Hebert, Northwest Indian Education Consortium; Reverend Jimmie James, Kent African American Pastors; and Jennifer Shaw, American Civil Liberties Union.

**Persons Signed In To Testify But Not Testifying:** (In support) Lucinda Young, Washington Education Association; Craig Apperson, Office of the Superintendent of Public Instruction; and Paul Benz, A. Philip Randolph Institute.

(Concerns) Joe Pope, Association of Washington School Principals; and Barbara Mertens, Washington Association of School Administrators.