

SENATE BILL REPORT

ESHB 2884

As Reported By Senate Committee On:
Early Learning & K-12 Education, February 27, 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: House Committee on Education (originally sponsored by Representatives Pettigrew, Kagi, Dickerson, Appleton, Roberts, Haler, Darneille, Hasegawa, Santos, Goodman, McIntire and Kenney).

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

Committee Activity: Early Learning & K-12 Education:2/20/08, 2/27/08 [DPA, DNP].

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended.

Signed by Senators McAuliffe, Chair; Tom, Vice Chair; Eide, Hobbs, Kauffman, McDermott, Oemig, Rasmussen and Weinstein.

Minority Report: Do not pass.

Signed by Senators King, Ranking Minority Member; Brandland and Holmquist.

Staff: Kimberly Cushing (786-7421)

Background: Under current Washington law, physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child. Any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for the purposes of restraining or correcting a child.

Corporal punishment is prohibited in public schools. Corporal punishment is defined as any act that willfully inflicts or willfully causes the infliction of physical pain. Corporal punishment does not include the use of reasonable physical force by a school administrator, teacher, school employee, or volunteer as necessary to maintain order or to prevent a student from harming himself or herself, another student, school staff, or school property.

Each school district board of directors must establish policies regarding student conduct, discipline, and rights and make those policies available to every student, teacher, and parent.

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.

The procedures related to administering discipline must be developed with the participation of parents and the community.

Summary of Bill (Recommended Amendments): The terms "chemical restraint," "mechanical restraint," "school resource officer" (SRO), and "school security officer" (SSO) are defined. A school resource officer is defined as a commissioned law enforcement officer, or person with the equivalent training from the criminal justice training commission but who is not commissioned, as assigned by a local law enforcement agency in collaboration with school district officials.

Chemical restraint involves the use of pepper spray or the administration of medication. Mechanical restraint involves the use of a mechanical device, including, but not limited to, metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons. The use of mechanical or chemical restraint is prohibited in public schools with the following exceptions:

- 1) Mechanical or chemical restraint is not prohibited when its use is permitted or required by a student's 504 plan or individual education plan.
- 2) An individual's right to report a crime committed to the appropriate authorities is not prohibited.
- 3) Commissioned law enforcement officers, including SROs, and judicial authorities are not prohibited from exercising their authority or executing their responsibilities, including the physical detainment of a student or other person.
- 4) A school security officer is not prohibited from using metal handcuffs or plastic ties to restrain a student while awaiting the arrival of a commissioned law enforcement officer if the student's behavior poses a threat of imminent, substantial bodily harm to property, self, or others and nonphysical or nonmechanical interventions would not be effective.

The Washington State School Directors' Association (WSSDA) must mediate and facilitate a school disciplinary action task force to review and make recommendations on a model policy regarding the use of physical force in schools. WSSDA must chair the task force. Twelve additional members are appointed to the task force. WSSDA and staff from Senate Committee Services and the House of Representatives Office of Program Research must staff the task force.

The task force must review a representative sampling of discipline policies used in other states and those used by school districts in Washington. At a minimum, the task force must develop the following recommendations: a description of the authorized methods of physical force, including the types of restraints, who is authorized, and when force or restraint should be used; training requirements for those authorized to use physical force and training recommendations for de-escalation tactics; incident reporting requirements and follow-up procedures, including the timeline and to whom the data should be reported; and procedures for notification to parents or guardians.

The task force must submit a report with recommendations to the education committees of the Legislature by August 2008. An emergency clause is included.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (Recommended Amendments): Changes the definition of SRO. Removes the definition of and limitations on the use of "physical restraint." Adds an exception to the

prohibition of chemical or mechanical restraint when a SSO is awaiting the arrival of a commissioned law enforcement officer. Removes the requirements that school districts have written policies regarding the use of restraints, report annually to the Office of the Superintendent of Public Instruction, or annually review disciplinary standards. Directs WSSDA to mediate and facilitate a school disciplinary action task force to review and make recommendations on a model policy regarding the use of physical force in schools. Specifies the members and duties of the task force.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute: PRO: Other than imminent harm to self, others, or property, there is no reason to put hands on children. A number of school districts have a no-touch policy, and this policy should be statewide. The restraint data needs to be carefully examined. A training component is critical. IEP language needs to be included in the bill.

OTHER: A model policy study should be done first, and be directed by the Washington State School Director's Association and the School Safety Center Advisory Committee. Standards for training and reporting should be developed too. The definition of physical restraint is not supported. Not all schools have SROs, and this may encroach upon staff's ability to do what they need to do for safety.

Persons Testifying: PRO: Representative Pettigrew, prime sponsor; Peggy Brown, OSPI; Lucinda Young, Washington Education Association; Jennifer Shaw, American Civil Liberties Union; and Christie Perkins, Washington State Special Education Coalition.

OTHER: Joe Pope, Association of Washington School Principals; and Barbara Mertens, Washington Association of School Administrators.