

SENATE BILL REPORT

ESHB 1688

As Reported by Senate Committee On:
Early Learning & K-12 Education, April 3, 2013
Ways & Means, April 9, 2013

Title: An act relating to reporting of incidents of student restraint and isolation in public schools.

Brief Description: Establishing a requirement and system for reporting incidents of student restraint and isolation in public schools for students who have an individualized education program or plan developed under section 504 of the rehabilitation act of 1973.

Sponsors: House Committee on Education (originally sponsored by Representatives Stonier, Pike, Santos, Hayes, Orwall, Bergquist, McCoy, Scott, Ryu, Pollet, Freeman, Farrell and Parker).

Brief History: Passed House: 3/13/13, 98-0.

Committee Activity: Early Learning & K-12 Education: 3/25/13, 4/03/13 [DPA].
Ways & Means: 4/09/13 [DPA].

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended.

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; McAuliffe, Ranking Member; Rolfes, Assistant Ranking Member; Billig, Brown, Cleveland, Fain, Hill, Mullet and Rivers.

Staff: Katherine Taylor (786-7434)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Bailey, Becker, Braun, Conway, Dammeier, Fraser, Hasegawa, Hatfield, Hewitt, Keiser, Kohl-Welles, Murray, Padden, Parlette, Ranker, Rivers, Schoesler and Tom.

Staff: Elise Greef (786-7708)

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: State law encourages parents and teachers to use methods of correction and restraint that are not dangerous to children. The physical discipline of a child is allowed when it is reasonable and moderate and it is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child.

The following actions are presumed unreasonable when used to correct or restrain a child:

- throwing, kicking, burning, or cutting a child;
- striking a child with a closed fist;
- shaking a child under age three;
- interfering with a child's breathing;
- threatening a child with a deadly weapon; or
- doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks.

State law requires school districts to adopt school discipline policies. School districts must collect data on the disciplinary actions taken in schools. This information must be made available to the public, upon request, and are redacted for personally identifiable information.

State rules regarding special education limit the use of student isolation. They specifically indicate that the use of isolation must:

- be provided for in a student's individual education program (IEP);
- be in an enclosure that is ventilated, lighted, and temperature controlled from the inside or outside for purposes of human occupancy;
- be in an enclosure that permits continuous visual monitoring of the student from outside the enclosure;
- be in a manner that allows a responsible adult to remain in visual or auditory range of the student; and
- be either in a manner that allows the student to release themselves from the enclosure, or in a manner that allows an adult to continuously view the student.

Summary of Bill (Recommended Amendments): The terms isolation, restraint, and restraint device are defined.

The provisions of the bill apply to the following incidents that involve a student who has an IEP or section 504 plan and is participating in school-sponsored instruction or activities:

- any restraint of a student that results in a physical injury to a student or a staff member;
- any restraint that lasts longer than two minutes; and
- any isolation of a student.

After school staff releases a student from restraint or isolation, the school must conduct follow-up procedures to include the following:

- reviewing the incident with the student and the student's parent or guardian to address the student's behavior; and
- reviewing the incident with the staff member involved to discuss whether proper procedures were followed.

School employees, resource officers, or school security officers who use chemical spray, mechanical restraint, or physical force on a student must inform the administrator and file a written report to the district office. The contents of the written report are specified.

The principal must make a reasonable effort to verbally inform the parent or guardian about restraint or isolation within 24 hours and provide written notification postmarked within five days. Schools must provide this notification in a language other than English if the school customarily provides school-related information to parents in languages other than English.

Schools that are required to develop IEPs must include within the plan procedures for notification of a parent or guardian. Parents or guardians of children who have an IEP or 504 plan must be provided a copy of the district policy on the use of isolation and restraint.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments): Removes the requirement for the Joint Legislative Audit and Review Committee (JLARC) to make a study regarding restraint and isolation of special education students or students with reasonable accommodation section 504 plans.

Creates a separate section under chapter 28A.600 for the new requirements for students with 504 plans, rather than consolidating those students under chapter 28A.155 with requirements for IEP students.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (Recommended Amendments): Removes the two-minute duration required for some restraints to be applicable to the provisions of the bill. Adds a study to be conducted by JLARC of students who have an IEP and were restrained or isolated by a school staff member. Retains the underlying portions of the bill.

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 House Bill (Early Learning & K-12 Education): PRO: My son was put in an isolation room. If I had not been called by staff, I would not have known that my son was put in isolation. This bill will help with communication between schools and parents. We just want to know when our children are being restrained. Children who do not speak cannot tell their parents that they are being restrained at school. Abused children can be further traumatized by restraint mechanisms. We hear from families all the time that they just want to know if their kids are being restrained. We try to work with school districts on our kids' behavior. Many people do not know about restraints being used in schools. Kids who are severely disabled are sometimes put in isolation or have weights put on them. We do not like restraints period. There are other methods.

Persons Testifying (Early Learning & K-12 Education): PRO: Kelly Church, Arc of Snohomish County; Susan Atkins, Arc of WA; Ramona Hattendorf, WA State Parent Teacher Assn.; Mary Griffin, Seattle Special Education Advisory and Advocacy Council; Helen Black, Carol Skinner, citizens.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill addresses one of the most essential elements of what needs to happen in a school; that is, parent engagement on behalf of the child. Parents cannot work with the school if they are kept in the dark. Unfortunately, the parents of some of our most at-risk students are not aware of what happens to them during the day. This bill is about parent notification. There were incidents where students were restrained and parents did not know until they found out from someone else, or their children became frightened to go to school. Schools should need to, at a minimum, tell parents when they are using these aversive techniques. The first step in working together is communication and that is what the bill is about.

Persons Testifying (Ways & Means): PRO: Ramona Hattendorf, WA State Parent Teacher Assn.; Donna Patrick, Developmental Disabilities Council.