H-1363.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 1479**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2023 Regular Session**

**By** House Education (originally sponsored by Representatives Callan, Santos, Goodman, Ramel, Ormsby, and Pollet; by request of Superintendent of Public Instruction)

AN ACT Relating to restraint or isolation of students in public schools and educational programs; amending RCW 28A.155.210 and 28A.310.515; adding a new section to chapter 28A.600 RCW; adding a new section to chapter 28A.300 RCW; creating a new section; repealing RCW 28A.600.485; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 28A.600 RCW to read as follows:

(1) **Purpose.** The purposes of this section 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.

(2) **Prohibited and permitted isolation and restraint of students.**

(a) The staff of any school district or other provider of public educational services may not subject any student to prohibited isolation or restraint during the provision of educational services.

(b) 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:

(i) A student's behavior poses an imminent likelihood of serious harm to the student or to others;

(ii) Less restrictive interventions would be ineffective in stopping the imminent likelihood of serious harm to the student or to others;

(iii) The physical restraint of the student ends immediately upon the cessation of the imminent likelihood of serious harm to the student or to others; and

(iv) The least amount of force necessary is used to protect the student or another person from imminent likelihood of serious harm to the student or to others.

(c) Until August 1, 2025, the staff of any school district or other provider of public educational services is permitted to isolate a student in an isolation room, during the provision of educational services only when:

(i) A student's behavior poses an imminent likelihood of serious harm to the student or to others;

(ii) Less restrictive interventions would be ineffective in stopping the imminent likelihood of serious harm to the student or to others;

(iii) The isolation of the student ends immediately upon the cessation of the imminent likelihood of serious harm to the student or to others; and

(iv) The least amount of force necessary is used to protect the student or another person from imminent likelihood of serious harm to the student or to others.

(d) Neither a student nor the student's parent or legal guardian may consent, or be asked to consent, to use of isolation or restraint that is prohibited under this subsection (2).

(e) Nothing in this subsection (2) prohibits a school resource officer as defined in RCW 28A.320.124 from carrying out the lawful duties of a commissioned law enforcement officer.

(3) **Isolation rooms.**

(a)(i) Except as provided in (ii) of this subsection (a), school districts and other providers of public educational services shall require that doors to isolation rooms always remain unlocked to the occupants.

(ii) A school district or other provider of public educational services may apply to the office of the superintendent of public instruction for a time limited waiver, that expires no later than August 1, 2025, of the requirement under (i) of this subsection (a) to permit the isolation of students in grades six through 12 in a locked isolation room. The application and any additional materials must be submitted at the time and in the manner required by the office of the superintendent of public instruction. During the period of the waiver approved by the office of the superintendent of public instruction, the school district must provide professional development to staff and conduct other activities necessary to comply with the requirement under (i) of this subsection (a) by the end of the waiver period. The office of the superintendent of public instruction must provide technical assistance to school districts and other providers of public educational services to support compliance with the requirement under (i) of this subsection (a) as soon as possible, but no later than approved waiver periods.

(b) 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.

(c) By August 1, 2025, school districts and other providers of public educational services shall remove or repurpose all isolation rooms.

(d) The provisions of this subsection (3) do not apply to a state-operated psychiatric hospital that serves students.

(4) **Notifications.** After each incident of isolation or restraint, whether prohibited or permitted, the following notifications must be made:

(a) Immediately following the release of the student from isolation or restraint, the staff who used, or directed the use of, isolation or restraint shall notify the principal, other building administrator, or designee of the provider of public educational services about the incident;

(b) The principal, other building administrator, or designee of the provider of public educational services shall notify the student's parent or legal guardian about the incident, within 24 hours of the incident, and shall send written documentation to the parent or legal guardian, within three business days of the incident; and

(c) With regard to use of prohibited isolation or restraint, the principal, other building administrator, or designee of the provider of public educational services shall notify the following people or entities about the incident: (i) The school district superintendent or other chief administrator of the provider of public educational services must be notified about the incident within one business day of the incident; (ii) the office of the superintendent of public instruction must be notified within three business days of incident; and (iii) if the school district or other provider of public educational services is a contractor, the contractee must be notified within three business days of the incident.

(5) **Incident reviews.** After every incident of isolation or restraint, whether prohibited or permitted, the following incident reviews must be completed.

(a) As soon as practicable, but no later than one week following submission of the incident report as required under subsection (6)(a) of this section, the principal, other building administrator, or designee of the provider of public educational services shall review the incident with the student and the student's parent or legal guardian to discuss relevant events that occurred before, during, and after the incident, and to inform the student's parent or legal guardian about behavioral intervention planning that must be completed under subsection (7) of this section.

(b) 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.

(c) As soon as practicable following the release of a student from isolation or restraint, a team of staff, including the staff who used, or directed the use of, isolation or restraint, shall review the incident to, among other things:

(i) Provide the staff who used, or directed the use of, isolation or restraint with an opportunity to reflect, process, and recover;

(ii) Determine whether proper procedures were followed; and

(iii) 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.

(6) **Reports.** The following reports related to incidents of isolation and restraint, whether prohibited or permitted, and incidents of room clears must be prepared and submitted.

(a) Within two business days of the incident, staff who used, or directed the use of, isolation, restraint, or a room clear shall 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. At a minimum, the written report must include:

(i) The date, time, duration, and location of the incident;

(ii) Names and job titles of staff who used, or directed the use of, isolation, restraint, or a room clear and of staff who observed the incident;

(iii) The type of restraint or isolation used, if applicable;

(iv) A description of relevant events that occurred before, during, and after the incident, including any less restrictive interventions attempted;

(v) Information about any known physical injuries or psychological trauma experienced by the student or staff due to the incident, including whether medical care was sought or received, and whether staff requested or used leave benefits;

(vi) Recommended preventative actions for the staff or the provider of public educational services to take to prevent similar, future incidents;

(vii) Other information as required by rule of the office of the superintendent of public instruction.

(b) The school district superintendent or other chief administrator of a provider of public educational services shall prepare a summary of the incident reports submitted under (a) of this subsection (6), 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, for example by the student categories and subcategories provided under RCW 28A.300.042 (1) and (3), student gender, students who are dependent pursuant to chapter 13.34 RCW, students who are homeless as defined in RCW 43.330.702, students who are multilingual/English learners, status as a student with a parent who is a member of the armed forces, by school or other applicable unit, by staff job title, by contractor, and by incident type.

(c) The school district superintendent or other chief administrator of a provider of public educational services must submit incident report data and summaries prepared under (a) and (b) of this subsection (6), at the time and in the manner required by the office of the superintendent of public instruction.

(7) **Behavioral intervention plan.** After every incident of isolation or restraint, whether prohibited or permitted, the following activities related to behavioral intervention planning must be completed.

(a) As soon as practicable following the release of a student from isolation or restraint, staff shall:

(i) Complete a functional behavioral assessment, unless a functional behavioral assessment was previously completed for the behavior of concern; and

(ii) Develop a behavioral intervention plan or, if a behavioral intervention plan has already been developed, review the behavioral intervention plan and modify it as necessary to address the student's behavior of concern.

(b) Nothing in this subsection (7) limits the application of behavioral intervention plans to students with individualized education programs under part B of the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq.

(8) **Policies and procedures.**

(a) The school district board of directors or other governing body of a provider of public educational services shall adopt a student isolation and restraint policy and procedures that meets the requirements of this section. 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.

(b) During the 2024-25 school year, and periodically thereafter, a school district board of directors or other governing body of a provider of public educational services shall 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.

(9) **Professional development plans.**

(a)(i) 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, shall prepare and submit to the office of the superintendent of public instruction a staff professional development plan and timeline as required by this subsection (9).

(ii) By August 31, 2024, and by August 31st annually thereafter, an update on the implementation of its staff professional development plan must be submitted to the office of the superintendent of public instruction.

(b)(i) The plan must include professional development on the following topics:

(A) The student isolation and restraint policy and procedure adopted under subsection (8) of this section;

(B) Evidence-based, trauma-informed, student-centered, proactive crisis prevention and intervention practices that are less restrictive than isolation and restraint, such as de-escalation strategies;

(C) Evidence-based, trauma-informed, behavioral health supports for students and staff that include restorative practices;

(D) 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, such as multitiered systems of support and universal design for learning.

(ii) 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 chosen from the list developed by the office of the superintendent of public instruction as required by section 2 of this act.

(iii) Professional development includes trainings provided by the school district or other provider of public educational services, pursuit of credentials through formal education programs, working with a mentor or coach, and involvement in professional learning communities. Nothing in this subsection (9) requires all staff to be provided identical or equivalent professional development. Rather, 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 completed under subsection (5) of this section.

(c) Professional development must be prioritized to staff in the following order:

(i) First to staff providing educational services to students with disabilities in prekindergarten through grade five;

(ii) Second to staff providing educational services to students with disabilities in grades six through 12; and

(iii) Third to all other staff.

(d) The plan must describe the mechanism used to determine whether an entity under contract to provide educational services to students is training the contractor's staff as required by this subsection (9).

(10) **Duties of governing bodies.**

(a) 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 shall complete training on student isolation and restraint that includes 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, such as de-escalation strategies and student-centered, restorative practices; how to assess compliance with this section; and options for supporting system improvement by reprioritizing resources.

(b) On an annual basis, the school district board of directors or other governing body of a provider of public educational services shall monitor the impact of the policy and procedures adopted under subsection (8) of this section by, at a minimum: (i) Performing trend analyses using the summary of incident reports prepared by the school district superintendent or other chief administrator of the provider of public educational services under subsection (6) of this section; and (ii) reviewing the professional development plan and updates prepared under subsection (9) of this section.

(11) **Rules.** The office of the superintendent of public instruction shall adopt rules under chapter 34.05 RCW for the implementation of this section.

(12) **Definitions.** The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Behavioral intervention plan" means 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.

(b) "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: (i) 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; (ii) not administered by a licensed health professional acting within the scope of the practice of that health profession; or (iii) not administered in accordance with the student's medical or psychiatric treatment plan.

(c) "Educational service" means 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.

(d) "Functional behavioral assessment" means 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.

(e) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

(f) "Isolation," also known as seclusion, means the involuntary isolation or confinement of a student, by staff, in an isolation room from which the student is not free to leave. "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.

(g) "Isolation room" means a room or other enclosed area, whether within or outside a classroom, used to isolate a student.

(h) "Likelihood of serious harm to the student or to others" means a substantial risk that:

(i) Harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide, or inflict harm on oneself; or

(ii) Harm will be inflicted by a person upon another, as evidenced by behavior that places another person or persons in reasonable fear of sustaining such harm.

(i) "Mechanical restraint" means staff use of a device to restrict a student's freedom of movement. "Mechanical restraint" does not include: (i) 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 or a student's plan developed under section 504 of the rehabilitation act of 1973; or for a specific therapeutic, orthopedic, or medical purpose, when used for its designed purpose; or (ii) the use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

(j) "Physical escort" means 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.

(k) "Physical prompt" means 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.

(l) "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. "Physical restraint" does not include chemical restraint, mechanical restraint, physical escort, or physical prompt.

(m) "Prohibited isolation or restraint" means staff use of one or more of the following interventions on a student:

(i) Chemical restraint;

(ii) Mechanical restraint;

(iii)(A) Until August 31, 2025, isolation in an isolation room with a locked door; and

(B) Beginning September 1, 2025, isolation;

(iv) Physical restraint or physical escort that is life-threatening, restricts breathing, or restricts blood flow to the brain, including prone, supine, and wall restraints;

(v) 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) A health care directive or medical management plan;

(B) A behavioral intervention plan;

(C) An individualized education program under part B of the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq.; or

(D) A plan developed under section 504 of the federal rehabilitation act of 1973;

(vi) Corporal punishment as prohibited by RCW 28A.150.300; and

(vii) Noxious spray and other aversive intervention as prohibited in rule of the office of the superintendent of public instruction.

(n) "Provider of public educational services" means 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. "Provider of public educational services" includes a school district, public school as defined in RCW 28A.150.010, an educational service district, an institutional education provider as defined in RCW 28A.190.005, a public agency or private entity 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, 20 U.S.C. Sec. 1400 et seq. In addition, "provider of public educational services" includes the state school for the blind and the center for deaf and hard of hearing youth established under RCW 72.40.010.

(o) "Restraint" includes chemical restraint, mechanical restraint, and physical restraint.

(p) "Room clear" means the procedure used by staff in an emergency to direct all students, except for any students causing the emergency, to leave a room.

(q) "Staff" means an employee or contractor of a school district or other provider of public educational services. "Staff" does not include licensed or certified health professionals of inpatient health care facilities.

(r) "Students" means children and youth served by a school district or other provider of public educational services.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.300 RCW to read as follows:

(1) As required by this section, the office of the superintendent of public instruction shall monitor and support the compliance of school districts and other providers of public educational services with requirements related to prohibited or permitted uses of student isolation and restraint under section 1 of this act.

(2) Within three months of receipt, the office of the superintendent of public instruction shall review each professional development plan and update submitted by a school district or other provider of public educational services under section 1 of this act.

(3) At least annually, the office of the superintendent of public instruction shall require school districts and other providers of public educational services to submit incident report data and summaries prepared under section 1 of this act. The office of the superintendent of public instruction shall 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.

(4)(a) The office of the superintendent of public instruction shall provide technical assistance to school districts and other providers of public educational services to meet the requirements of section 1 of this act. At a minimum, this technical assistance must include:

(i) Developing and publishing guidance on the requirements of section 1 of this act and related rules;

(ii) Developing, in partnership with the Washington state school directors' association, and publishing a training program that supports the duties of the school district boards of directors or other governing bodies of providers of public educational services under section 1 of this act;

(iii) Identifying and publishing a list of professional development programs and resources that meet the requirements of section 1 of this act; and

(iv) When appropriate, completing site visits and providing on-site coaching.

(b) Prior to implementing the technical assistance described in (a) of this subsection (4), and periodically thereafter, the office of the superintendent of public instruction shall 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 section 1 of this act.

(5) 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 office of the superintendent of public instruction shall place the school district or other provider of public educational services on a plan of improvement. Under a plan of improvement, the office of the superintendent of public instruction shall 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.

(6) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall award grants to school districts, charter schools, and state-tribal education compact schools, on a competitive basis, for the purposes of meeting requirements under section 1 of this act, for example: (a) Removing door locks from isolation rooms, demolishing isolation rooms, or repurposing isolation rooms; (b) hiring staff to support eliminating the use of prohibited isolation and restraint and reducing the use of physical restraint; and (c) contracting for provision of professional development to staff.

(7) Annually by November 1st, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction shall report to the appropriate committees of 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 requirements related to prohibited or permitted uses of student isolation and restraint under section 1 of this act. The report must describe the progress that school districts and other providers of public educational services have made towards training staff as required by section 1 of this act. 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.

(8) The office of the superintendent of public instruction shall adopt rules under chapter 34.05 RCW for the implementation of this section.

(9) As used in this section, "isolation," "provider of public educational services," "restraint," and "staff" have the same meaning as in section 1 of this act.

NEW SECTION. **Sec.**  (1) By December 1, 2023, and in compliance with RCW 43.01.036, the Washington professional educator standards board and the paraeducator board must jointly submit to the appropriate committees of the legislature a plan for integrating into educator preparation programs and paraeducator certificate requirements instruction on the requirements of section 1 of this act.

(2) This section expires June 30, 2024.

**Sec.**  RCW 28A.155.210 and 2013 c 202 s 3 are each amended to read as follows:

A school that is required to develop an individualized education program as required by federal law must include within the plan procedures for notification of, and incident review with, a parent or legal guardian regarding the use of restraint or isolation as provided under section 1 of this act.

**Sec.**  RCW 28A.310.515 and 2021 c 38 s 4 are each amended to read as follows:

(1)(a) A safety and security staff training program is established. The program must be jointly developed by the educational service districts, but may be administered primarily by one or more educational service districts. The program must meet the requirements of this section.

(b) When developing the safety and security staff training program, the educational service districts should engage with the state school safety center established in RCW 28A.300.630 and the school safety and student well-being advisory committee established in RCW 28A.300.635.

(2) The educational service districts must identify or develop classroom training on the following subjects:

(a) Constitutional and civil rights of children in schools, including state law governing search and interrogation of youth in schools;

(b) Child and adolescent development;

(c) Trauma-informed approaches to working with youth;

(d) Recognizing and responding to youth mental health issues;

(e) Educational rights of students with disabilities, the relationship of disability to behavior, and best practices for interacting with students with disabilities;

(f) Bias free policing and cultural competency, including best practices for interacting with students from particular backgrounds, including English learner, LGBTQ, immigrant, female, and nonbinary students;

(g) Local and national disparities in the use of force and arrests of children;

(h) Collateral consequences of arrest, referral for prosecution, and court involvement;

(i) Resources available in the community that serve as alternatives to arrest and prosecution and pathways for youth to access services without court or criminal justice involvement;

(j) De-escalation techniques when working with youth or groups of youth;

(k) State law regarding restraint and isolation in schools, including ((~~RCW 28A.600.485~~)) section 1 of this act;

(l) The federal family educational rights and privacy act (20 U.S.C. Sec. 1232g) requirements including limits on access to and dissemination of student records for noneducational purposes; and

(m) Restorative justice principles and practices.

(3) The educational service districts must provide, or arrange for the delivery of, classroom training on the subjects listed in subsection (2) of this section. At a minimum, classroom trainings on each subject must be provided annually, remotely, synchronously or asynchronously, and by at least one educational service district. Classroom training may be provided on a fee-for-service basis and should be self-supporting.

(4) The educational service districts must provide to safety and security staff, upon request, documentation that the safety and security staff training series described in RCW 28A.400.345(2) has been completed. Before providing this training series documentation, completion of each component of the training series must be verified or, in the case of safety and security staff with significant prior training and experience, waived.

(5) The educational service districts must develop and publish guidelines for on-the-job training and check-in training that include recommendations for identifying and recruiting experienced safety and security staff to provide the trainings, suggested activities during on-the-job trainings, and best practices for meaningful check-in trainings. The guidelines for check-in training must also include recommended frequency, possible topics of discussion, and options for connecting virtually.

(6) For purposes of this section, the term "safety and security staff" has the same meaning as in RCW 28A.320.124.

NEW SECTION. **Sec.**  RCW 28A.600.485 (Restraint of students—Use of restraint or isolation specified in individualized education programs or plans developed under section 504 of the rehabilitation act of 1973—Procedures—Summary of incidents of isolation or restraint—Publishing to website) and 2015 c 206 s 3 & 2013 c 202 s 2 are each repealed.

**--- END ---**