

SENATE BILL REPORT

E2SHB 1479

As of March 20, 2023

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: Passed House: 3/7/23, 63-31.

Committee Activity: Early Learning & K-12 Education: 3/20/23.

Brief Summary of Bill

- Prohibits certain isolation and restraint of students including chemical restraint and mechanical restraint.
- Phases out the use of isolation on students and the use of isolation rooms by January 1, 2026.
- Expands the procedures following the use of restraint or isolation including notifications, incident reviews, incident reports, and behavioral intervention plans.
- Adds training and professional development requirements and requires multiple reports to the Legislature.
- Directs the Office of the Superintendent of Public Instruction to provide technical assistance, monitor and support compliance with these requirements, and publish certain data.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff:

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Background: In 2013, the Legislature set out certain requirements when restraint or isolation was used on a student who has an individualized education program (IEP) or a plan developed under section 504 of the Rehabilitation Act of 1973. These requirements included certain follow-up procedures and notifying parents or guardians.

In 2015, these requirements were modified and expanded to all students. Current law permits restraint or isolation only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm.

Following the use of restraint or isolation, the school must implement certain follow-up procedures including notifying and reviewing the incident with the student and parent or guardian and reviewing the incident with the staff member who administered the restraint or isolation. Staff who used restraint or isolation must inform the building administrator and within two days report to the district office in a written report with certain information.

School districts must annually summarize the written reports received after the use of restraint or isolation. The Office of the Superintendent of Public Instruction (OSPI) must publish the data received by the school districts. OSPI may use this data to investigate the training, practices, and other efforts to reduce the use of restraint and isolation.

In 2022, the Legislature directed 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 developed four categories of recommendations:

- eliminate isolation and chemical restraint from schools;
- improve access to proactive and effective mental health supports and trauma-informed behavior supports;
- increase educator training of de-escalation practices; and
- improve data collection and reporting.

Summary of Bill: Prohibited Isolation and Restraint of Students. The staff of any school district or other provider of public educational services (provider) may not subject any student to prohibited isolation or restraint. Prohibited isolation and restraint means:

- chemical restraint;
- 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;
- 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 certain plans;

- corporal punishment; and
- noxious spray and other aversive intervention.

The isolation of any student in prekindergarten through grade two is prohibited. Beginning January 1, 2026, the isolation of any student in grade three through 12 is prohibited.

Neither a student nor the parent or guardian may consent or be asked to consent to the use of prohibited isolation and restraint.

Limited Physical Restraint of Students. Staff may use physical restraint only when:

- the student's behavior poses an imminent likelihood of serious harm to the student or others;
- less restrictive interventions would be ineffective in stopping the imminent likelihood of serious harm to the student or to others;
- 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
- the physical restraint of the student ends immediately upon the cessation of the imminent likelihood of serious harm to the student or others.

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.

Limited Isolation of Students in Isolation Rooms. Through December 31, 2025, staff may use isolation on a student who is in grade three through 12 only when similar requirements for limited physical restraint are met.

Beginning August 1, 2023, school districts and other providers must require that doors to isolation rooms remain unlocked to the occupants except if a waiver is claimed for students in grades three through 12 through December 31, 2025.

School districts and other providers are prohibited from constructing isolation rooms or other settings for the purpose of isolating a student. By January 1, 2026, school districts and other providers must remove or repurpose all isolation rooms.

Waiver and Exemptions. By August 1, 2023, OSPI must establish and implement a process for school districts and other providers to claim a waiver and permit the isolation of students in grades 3 through 12 in a locked room. OSPI must provide technical assistance to those that claim a waiver to assist compliance with the requirements no later than January 1, 2026.

Restrictions on the use of isolation rooms do not apply to a state-operated psychiatric hospital that serves students.

Nothing prohibits a school resource office from carrying out the lawful duties of a commissioned law enforcement officer.

Notifications. After incidents of isolation, restraint, and room clears, the following notifications must be made:

- immediately following the release of the student, the staff who used the isolation, restraint, or room clear must notify the principal or designee;
- within 24 hours, the principal or designee must notify the parent or guardian; and
- within three business days, the principal or designee must send written documentation to the parent or guardian.

With regard to prohibited isolation or restraint, the principal or designee must notify the following:

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

Behavioral Intervention Plan. After incidents of isolation, restraint, and room clears, certain activities must be completed including:

- a functional behavioral assessment of the student who was isolated, restrained, or caused the emergency; and
- a behavioral intervention plan or a modified plan if one has already been developed.

When the student has an individualized education program (IEP), the behavioral intervention plan must be developed and modified in accordance with the IEP.

Incident Reviews. After incidents of isolation, restraint, and room clears, the following reports must be completed as soon as practicable:

- the principal or designee must review the incident with the student and parent or guardian and inform them about a behavioral intervention plan no later than one week after the incident;
- staff must provide the student with an opportunity to meet with a counselor, nurse, psychologist, or social worker; and
- a team of staff must review the incident and determine whether procedures were followed and identify additional training, coaching, or assistance.

Incident Reports. The following reports related to incidents of isolation and restraint must be prepared and submitted:

- within two business days of an incident, staff must submit a written report with certain elements to the school district superintendent or other chief administrator;
- at least annually, the school district superintendent or other chief administrator must

- submit a summary of the incident reports, disaggregated by certain groups, to OSPI;
- within 90 days of receipt, OSPI must publish incident report data on its website in a manner that allows trend analyses.

Policies and Procedures. School district board of directors or other governing bodies must adopt a student isolation and restraint policy and procedure that meets these requirements. The procedures must include a process for convening a team to review every incident of isolation or restraint. During the 2024-25 school year, and periodically thereafter, the governing bodies must review and revise the policies and procedures with input from various groups.

Training Program. OSPI must develop and periodically update a training program for school district board of directors and other governing bodies and make it available at no cost. The training program must include certain content and developed in partnership with the Washington State School Directors' Association. Beginning in the 2023-24 school year, and every four years thereafter, members of these governing bodies must complete this training program.

Reports and Plans. A number of reports and plans are required regarding restraint and isolation.

School District Professional Development Plans. By January 30, 2024, school districts and other providers must submit to OSPI a staff professional development plan and timeline. By August 31, 2024, and annually thereafter, an update on the implementation of the professional development plan must be submitted to OSPI. The plan must include:

- professional development on certain topics including:
 1. evidence-based, trauma-informed, student-centered, proactive crisis prevention and intervention practices that are less restrictive such as de-escalation strategies and corresponding classroom management techniques;
 2. evidence-based, trauma informed, behavioral health supports for student and staff that include restorative practices; and
 3. evidence-based, systemic approaches to eliminating the use of prohibited isolation and restraint, reduce physical restraint, and eliminate disparities such as multitiered systems of support and universal design for learning.
- programs and resources selected from a list developed by OSPI;
- professional development appropriate to each staff type, experience, and assignment; and
- the mechanism used to determine whether a contracted entity is providing the required professional development.

Professional development must be prioritized to staff in a certain order, starting with pre-kindergarten through grade 5. Funding for professional learning days may be used to meet these requirements.

On an annual basis, the school district board of directors or other governing body must monitor the impact of the policy and procedures including performing trend analyses and reviewing the professional development plans.

Within three months of receipt, OSPI must review each professional development plan and update.

OSPI Professional Development Strategy. By December 1, 2024, OSPI must report to the Legislature with its progress on developing a professional development deployment strategy. The report must include an assessment of need and demand for professional development in the coming biennium.

OSPI Compliance Report. By November 1st, OSPI must annually report to the Legislature a summary of its activities to monitor and support compliance with requirements related to prohibited and limited uses of student isolation and restraint.

Integration into Preparation Programs. By December 1, 2023, the Professional Educator Standards Board and the Paraeducator Board must jointly submit to the Legislature a plan for integrating into educator programs and paraeducator certificate requirements related to prohibited and limited uses of student isolation and restraint.

Report on Room Clears. OSPI must contract with a research entity to study and report on the use of room clears. The research entity must analyze the impacts of a room clear on the students involved. The report must consider the impact on lost instructional time, student mental health, and social-emotional learning and identify best practices. The report must be submitted to OSPI and the Legislature by September 1, 2024.

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. Except as provided in OSPI rule, a room clear is not isolation.

OSPI Technical Assistance. Subject to appropriations, OSPI must provide technical assistance to school districts and other providers to meet these requirements. Technical assistance must include developing guidance, identifying professional development programs and resources, providing professional development based on certain priorities, and completing site visits and providing on-site coaching.

Before implementing technical assistance, OSPI must collaborate with certain groups to better understand staff challenges related to implementing these requirements.

OSPI Monitoring. OSPI must monitor and support the compliance with requirements related to prohibited and limited uses of student isolation and restraint. When a school district or provider is not making sufficient progress toward goals established in the professional development plan or when disparities are identified, OSPI must provide

targeted technical assistance, including site visits, until the goals are met or disparities are eliminated.

OSPI must adopt rules to implement these requirements.

Definitions. Definitions for various terms are revised or added.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act, and a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available. New fiscal note requested on March 9, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: Restraint and isolation are ineffective practices. Using isolation rooms with locked doors is traumatizing to both students and staff and often leads to injuries. Isolation is the opposite of inclusion because it ostracizes students from their peers. Students cannot learn when they are escalated and having a fight or flight response. Restraint and isolation incidents disproportionately impact students of color, students receiving special education services, students from low-income families, and elementary school students. Many schools have already stopped using isolation rooms with locked doors. However, Washington has some of the highest numbers in the nation regarding the use of restraint and isolation. A number of other states have been involved in federal investigations regarding their use of restraint and isolation, and this state could be next unless changes are made. A work group looked at this issue and came up with recommendations, which became this agency request legislation. There needs to be a nuanced conversation around this topic. The underlying goal of this bill is to give schools that are still using restraint and isolation the tools, professional development, and resources they need to end these practices. Training, debriefing and coaching, and commitment from school leadership are needed. Each child has their own unique needs. Strong relationships between staff and students are needed to address their needs. This bill is attempting to move forward with best practices. These best practices will help staff intervene early, so crises can be avoided and not impact all the students in the classroom. This bill will hold schools and agencies accountable. This bill tries to avoid pitting groups against each other and support every student, teacher, and family. It strikes a balance between protecting students' rights and giving schools the tools they need, so all students can succeed.

CON: This bill does not adequately address the difference between quiet, sensory, and de-escalation rooms, which are needed for some students, and isolation rooms.

OTHER: Paraeducators have been kicked, punched, bitten, pushed, and spat at by students,

which is physically, mentally, and emotionally draining. Paraeducators and teachers were not invited to participate in the work group, so these perspectives were missing when developing this legislation. These perspectives need to be included and will help make this bill more successful. Reduction in restraint or isolation is important, but there is concern about implementation of this bill. Because of inadequate funding, it can take years to get a student assessed and placed on a formal behavior intervention plan. Many staff have not been trained in de-escalation strategies. Professional development, training, resources, and a well thought-out plan are needed.

Persons Testifying: PRO: Representative Lisa Callan, Prime Sponsor; Richard Pope, Parent of Isolation Room Survivor; Jen Chong Jewell, Special Education Advisory Council for OSPI ; Samantha Fogg, Seattle Council PTSA; Guy Stephens, Alliance Against Seclusion and Restraint; Diana Stadden, The Arc of WA State; Jennifer Crespi, WA PTA; Susan Driscoll, Crisis Prevention Institute; Roxana Gomez, ACLU of Washington; Andrea Kadlec, Disability Rights Washington; Sarah Butcher, Roots of Inclusion; Kayla Bishop, Special Education Teacher at South Shore (Seattle Public Schools); Eric Warwick, The Arc of King County; Eliza Rankin, Seattle Public Schools – School Board Director; Chris Baglein, Survivor; Kristina De Vadder, Restraint & Isolation Committee Chair, Seattle Special Education PTSA; Pamela Phillips; Janis White; Erica Hieggelke, Inclusionary Practices Committee Co-Chair, SSEPTSA; Michelle Whitehead; Christie Robertson; Mikhail Cherniske, Office of Superintendent of Public Instruction; KC Chiu, TeamChild Youth Advisory Board.

CON: Tracey Edou, Cascade School District.

OTHER: Rick Chisa, Public School Employees of WA/SEIU 1948; Piper Burris; Brandy Strait; Corrine Miles; Jared Mason-Gere, Washington Education Association; Freedom Gassoway; Erin Smelser.

Persons Signed In To Testify But Not Testifying: No one.