

# SENATE BILL REPORT

## SB 5559

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As of February 6, 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:** Senators Wilson, C., Hunt, Nobles, Saldaña, Valdez and Wellman; by request of Superintendent of Public Instruction.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 2/06/23.

**Brief Summary of Bill**

- Prohibits the isolation, mechanical restraint, or chemical restraint of students by school staff, including the phasing out of isolation rooms.
- Modifies follow-up procedures and reporting requirements regarding restraint and isolation.
- Directs the Office of the Superintendent of Public Instruction (OSPI) and school districts to provide certain resources and training and allows OSPI to put school districts on plans of improvements if they are not reporting required information.
- Applies restraint and isolation requirements to nonpublic agencies operating special education programs.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Staff:** Ailey Kato (786-7434)

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

**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.

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:** Prohibition. School districts must adopt a policy to prohibit the use of isolation, mechanical restraint, or chemical restraint of students by school staff while students are attending school or participating in school-sponsored instruction or activities.

These prohibitions do not apply to school resource officers (SROs) when they are carrying out their sworn authority to make arrests, but do apply when they are addressing violations of student discipline laws.

"Isolation" means restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It includes any staff physically prohibiting a student from leaving a room by acting as a barrier with their body or an object. It does not include:

- removal of a student from a class for a short period of time;
- a student left alone in a room with a closed door for a brief period of time for a purpose that is unrelated to the behavior;
- when a room is cleared of all students but one; and
- a time out, which involves the separation of the student from the group in a nonlocked setting within the classroom.

"Mechanical restraint" means using a restraint device.

"Chemical restraint" means administering medication, including medications prescribed by the student's physician, on an as-needed basis for the sole purpose of involuntarily limiting the student's freedom of movement or controlling externalized behaviors.

Isolation Rooms. Isolation rooms must remain unlocked. Isolation room means a self-contained unit, built-in or freestanding, that is used to isolate a student from other students or physically prevent them from leaving, or causes students to believe they are prevented from leaving.

Schools are prohibited from building or constructing rooms or settings used for isolation. By January 1, 2024, isolation rooms in public schools must be removed or repurposed.

Advanced Emergency Planning. A student with an IEP or 504 plan may require more specific advanced emergency planning, which must have accompanying planning documents for behavioral support that may include de-escalation, accommodation, self-regulation, debrief, or other support strategies to mitigate the circumstances surrounding possible emergency restraint. Such document does not waive liability for injury, nor does it permit school personnel to use restraint without an imminent likelihood of serious harm. An emergency response protocol may not be used as a condition of enrollment in a student's educational program.

Follow-Up Procedures. The written report that must follow the release of a student from the use of restraint or isolation, if isolation were to occur, must include the certification and history of relevant training for crisis intervention and de-escalation of the individual who administered the restraint or isolation.

If isolation, mechanical restraint, or chemical restraint occur, staff must immediately inform the building administrator or designee. That person must notify the parents or guardians within 24 hours and must send written documentation within three business days. That person must also notify the school district within one business day and notify OSPI of such incident within three business days for further investigation.

Reports. Reporting requirements are modified. By December 31st, each school district must annually summarize the written reports of isolation or restraint at each school and submit to the elected school board. By June 30, 2024, school districts must annually submit a cumulative summary report to OSPI.

In addition to existing data, schools must include:

- the number of incidents in which staff imposing restraint were not trained in crisis intervention or de-escalation;
- the number of incidents in which SROs or school security guards were involved; and
- the location or placement of the incidents.

The incidents must be further disaggregated by certain student categories including race and ethnicity, gender, students who are dependent, students who are homeless, students who are multilingual/English learners, and status as a student with a parent who is a member of the armed forces.

Plan of Improvement. A school district that does not report its data to OSPI within six months of the deadline may be placed on a plan of improvement and be subject to direct technical assistance, monitoring, and annual site visits.

Resources and Support. OSPI must make available on its website a list of training programs and resources to support the elimination of isolation and chemical restraint. School districts must provide ongoing professional development and training to:

- comply with these requirements;
- comply with education and civil rights laws; and
- implement evidence-based systemic approaches.

School districts must also provide technical assistance to support evidence-based, crisis intervention programs that include mental health supports, restorative justice programs, trauma-informed care, and crisis and de-escalation interventions.

Nonpublic Agencies. These requirements apply to students who are being served by nonpublic agencies operating special education programs.

Definitions. Certain terms are defined or redefined including "likelihood of serious harm," "enclosure," "imminent," and "physical escort."

**Appropriation:** None.

**Fiscal Note:** Available.

**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: The use of restraint and isolation is widespread in schools across the state, and are most often used in grades K-5 and disproportionately impact students of color, students in special education, and male students. Restraint and isolation poses risks to students and staff including emotional risk and trauma, and they have no therapeutic or educational value. Schools should not be places where students are traumatized or retraumatized. With the necessary training and supports, harmful and ineffective restraint and isolation practices can be eliminated for all students in all schools. School staff need time to make the mindset shift and learn the tools to eliminate isolation and reduce restraint. Students need safe places to deescalate, decompress, self-regulate, and calm themselves, but these places should not be a locked closet. When a child

is touched in a moment of dysregulation, it can lead to a fight or flight response for the child and staff, which escalates the situation. Data shows that restraint and isolation are used as common, everyday management tools for non-violent behavior, noncompliance, and work refusal, which violates current state law. Some school districts say that they need to use restraint and isolation in order to teach, but many districts have been able to eliminate restraint and isolation when there is professional development and intentional focus. Strategies that help children are making sure they are challenged, are part of an inclusive school culture, and providing support for disabilities. Children should not be blamed for the problems that adults have created by relying on room clearings, restraint, and isolation. Children must be freed from this harm.

OTHER: This bill should not include small rooms that are used for small group or individual work. Some of the language needs to be revised to help with implementation including definitions, workability, and timelines. All classified staff need training before these requirements go into effect.

**Persons Testifying:** PRO: Senator Claire Wilson, Prime Sponsor; Richard Pope; Tracy Kahlo, PAVE; Director Liza Rankin, School Board Director, Seattle Public Schools; Samantha Fogg, Seattle Council PTSA; Lizzy Sebring, Washington State PTA; Janis White; Guy Stephens, Alliance Against Seclusion & Restraint; Susan Driscoll, Crisis Prevention Institute; Eric Warwick, Former Paraeducator; Mina Barahimi Martin, ACLU of Washington; Dorian Taylor, Survivor; Kristina De Vadder, Seattle Special Education PTSA; Lee Collyer, Office of Superintendent of Public Instruction (OSPI); Ashley Salazar, Parent of a survivor; Andrea Kadlec, Disability Rights Washington; Tamika Dean, Parent of survivor; Suzanne Hanson, Washington Federation of Independent Schools.

OTHER: Jared Mason-Gere, Washington Education Association; Kyle Rydell, West valley School District; Rick Chisa, Public School Employees of Washington (PSE).

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