

SENATE BILL REPORT

SB 5624

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 19, 2009
Ways & Means, March 2, 2009

Title: An act relating to student discipline policies.

Brief Description: Restricting the use of mechanical restraints and chemical sprays for discipline in public schools.

Sponsors: Senators Kauffman, Keiser, Berkey, Kline and Kohl-Welles.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/16/09, 2/19/09 [DPS-WM, w/oRec].
Ways & Means: 2/26/09, 3/02/09 [DP2S, DNP, w/oRec].

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5624 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King, Ranking Minority Member; Brandland, Hobbs, Jarrett, McDermott and Tom.

Minority Report: That it be referred without recommendation.

Signed by Senator Holmquist.

Staff: Kimberly Cushing (786-7421)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5624 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Pridemore, Regala and Rockefeller.

Minority Report: Do not pass.

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.

Signed by Senator Zarelli, Ranking Minority Member.

Minority Report: That it be referred without recommendation.

Signed by Senators Carrell and Schoesler.

Staff: Elise Greef (786-7708)

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

In the 2008 supplemental budget, the Legislature appropriated \$40,000 for the Washington State School Directors' Association (WSSDA) to facilitate a school disciplinary action task force to review and make recommendations on a model policy regarding the use of physical force in schools.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Second Substitute): Seven terms are defined: "Chemical sprays" is the use of pepper spray or chemicals or the administration of medication to control a student or limit freedom of movement; "Mechanical restraint" means the use of a mechanical device to control a student or limit freedom of movement; "Physical force" means the use of any bodily force or physical movement, which does involve mechanical restraint or chemical sprays. Physical force does not include the momentary periods of minimal restriction by person-to-person contact when it is designed to (1) prevent a student from completing an act that would result in potential bodily harm to self or other or damage property; or (2) remove a disruptive student who is unwilling to leave the area involuntarily. "Bodily harm" and "substantial bodily harm" are also defined.

A "school resource officer" (SRO) is a commissioned law enforcement officer who has been assigned by the employing police department or agency to work in collaboration with the district. A "school security officer" (SSO) is a classified or contracted school district employee who provides security services under the direction of the school building administrator.

The use of mechanical restraints or chemical sprays on a student at a public school by a school employee is prohibited, unless it is administered by (1) a SRO or (2) a SSO or building staff designated by the school district. The SSO or the designated building staff must receive (1) appropriate annual training from either a local law enforcement agency or the criminal justice training commission for each type of restraint or spray authorized to be used; and (2) ongoing supervision from the school building administrator.

The use of physical force in public schools is limited. Physical force must always be reasonable and used in circumstances only when (1) a student's behavior poses a threat of substantial bodily harm to self or others; and (2) nonphysical interventions would not be effective in preventing or minimizing the threat of substantial bodily harm. Physical force is specifically prohibited as (1) a means of punishment; or (2) a disciplinary response to the destruction of school property, disruption in school, noncompliance with a school rule or staff directive, or communication of a verbal threat that does not constitute a threat of substantial bodily harm.

Commissioned law enforcement officers, including SROs, are not prohibited from exercising their authority or executing their responsibilities, including the ability to use physical force, mechanical restraints, or chemical sprays.

Each school district must establish a written policy regarding the use of physical force, mechanical restraints, and chemical sprays on students by school employees. The policy should include a description of the types of force, restraint, or sprays and which school employees are authorized to use each; training requirements; and incident reporting requirements and follow-up procedures.

Each school district must report annually to the Office of Superintendent of Public Instruction the total number of instances when physical force, mechanical restraint, or chemical spray was used.

Nothing in this section should be construed to be inconsistent with the state or federal special education laws.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): Several terms are clarified. SSOs are supervised by "district administrators" rather than "building administrators." Incidents must be reported immediately to both a district and a school building administrator or designee.

Appropriation: None.

Fiscal Note: Available on original bill.

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 Recommended First Substitute (Early Learning & K-12 Education): PRO: This legislation is to protect children and to provide regulations

for security officers. Defiance is not a reason to handcuff children. There should be additional de-escalation techniques as well as a plan for dealing with discipline. The use of handcuffs has negative social and psychological effects on kids. The use of handcuffs impacts the child who is handcuffed as well as the children who witness the handcuffing. Private security officers who are untrained should not be allowed to work with children; this provides an opportunity to abuse children. Officers are handcuffing without reasonable cause and do not know how to talk to scared teenagers. Restraint is disproportionately used on the minority student population in Kent. The policy in this bill should apply regardless of student age. Children should be protected. School districts have failed to work out nonviolent plans.

CON: Kids are at school to learn; they should not be handcuffed.

OTHER: Pepper spray should not be used at any time; there is no basis that such spray is safe. No first aid is specified after pepper spray is used. Data collection is important. Staff who can use restraint techniques must be fully trained, and this must be done correctly and not on the cheap. The substitute bill includes helpful changes; however, who must be trained? Who provides the training? Who pays for it? Even if training is free to school districts, there are related costs such as release time. Physical force may be necessary to prevent the destruction of property and disruptive classroom behavior. The annual reporting requirements add costs to school districts. Currently, there is a lack of respect shown by educators and officers toward children. This is being addressed by working with officers to help them develop relationships with children.

Persons Testifying (Early Learning & K-12 Education): PRO: Senator Kauffman, prime sponsor; James Bible, Daniel Nguyen, Ashley Dunn, Seattle King County NAACP; Gabriel Trawl, Reverend Jimmie James, A. Phillip Randolph Institute; Lindsay Grad, Washington State Association of Justice; Pastor Kenneth Ransfer, United Black Christian Clergy Association;

CON: Ken Banks, United Ministers of King County.

OTHER: Ruth Shearer, Ph.D., retired toxicologist; Christie Perkins, Washington State Special Education Coalition; Dan Steele, WSSDA; David Madden, Business Consulting and Solutions, LLC.

Staff Summary of Public Testimony (Ways & Means): None.

Persons Testifying (Ways & Means): No one.