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SENATE BILL 5624

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State of Washington

61st Legislature

2009 Regular Session

By Senators Kauffman, Keiser, Berkey, Kline, and Kohl-Welles

Read first time 01/27/09. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to student discipline policies; adding a new  
2 section to chapter 28A.600 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
5 preserve and promote a safe and beneficial learning environment for all  
6 students while also balancing each student's right to be free from  
7 unreasonable use of physical force, mechanical restraint, or chemical  
8 sprays. The legislature recognizes that a truly beneficial learning  
9 environment is dependent on the quality of the interaction between  
10 staff, students, and parents and is fostered through the development of  
11 a sense of community within the school. The legislature acknowledges  
12 that school district boards of directors may find it necessary to  
13 employ school security personnel or to rely upon school resource  
14 officers in order to preserve a safe and beneficial learning  
15 environment within certain schools. The legislature finds that the  
16 establishment of appropriate student discipline policies, security  
17 models, and training requirements, which stress techniques meant to  
18 diffuse anger, de-escalate conflict, and reduce violent behavior within  
19 the school, will help to further a quality learning environment where

1 all students are treated with dignity and respect. The legislature  
2 further finds that use of physical force, mechanical restraint, or  
3 chemical sprays, as an intervention in the school environment should be  
4 used only in emergency situations after other less invasive  
5 alternatives have failed or have been deemed inappropriate and, if  
6 used, should only be used by appropriately trained personnel.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.600  
8 RCW to read as follows:

9 (1) The definitions in this subsection apply throughout this  
10 section unless the context clearly requires otherwise.

11 (a) "Chemical sprays" means the use of pepper spray or chemicals,  
12 or the administration of any medication to control a student or limit  
13 a student's freedom of movement.

14 (b) "Mechanical restraint" means the use a mechanical device  
15 including, but not limited to, metal handcuffs, plastic ties, ankle  
16 restraints, leather cuffs, other hospital-type restraints, tasers, or  
17 batons to control a student or limit a student's freedom of movement.

18 (c) "Physical force" means the use of any bodily force or physical  
19 intervention to control a student or limit a student's freedom of  
20 movement in a way that does not involve a mechanical restraint or  
21 chemical spray. Physical restraint does not include momentary periods  
22 of minimal physical restriction by direct person-to-person contact,  
23 without the aid of mechanical restraint, accomplished with limited  
24 force and designed to:

25 (i) Prevent a student from completing an act that would result in  
26 potential bodily harm to self or others or damage property; or

27 (ii) Remove a disruptive student who is unwilling to leave the area  
28 voluntarily.

29 (d) "School resource officer" means a person who provides security  
30 and law enforcement services at one or more public schools and is a  
31 commissioned law enforcement officer who has been assigned by the  
32 employing police department or agency to work in collaboration with the  
33 district.

34 (e) "School security officer" means a classified or contracted  
35 school district employee other than a school resource officer who  
36 provides security services at one or more public schools under the  
37 direction of a school building administrator.

1 (f) "Bodily harm" means physical pain or injury, illness, or an  
2 impairment of physical condition.

3 (g) "Substantial bodily harm" means bodily injury that involves a  
4 temporary but substantial disfigurement or that causes a temporary but  
5 substantial loss or impairment of the function of any bodily part or  
6 organ or that causes a fracture of any bodily part.

7 (2) Except as provided in subsection (5) of this section, the use  
8 of mechanical restraints or chemical sprays on a student at public  
9 school by a school employee, other than a school resource officer, is  
10 prohibited.

11 (3) Except as provided in subsection (5) of this section, the use  
12 of physical force in public schools is limited to the use of reasonable  
13 force under the following circumstances only:

14 (a) The student's behavior poses a threat of substantial bodily  
15 harm to self or to others; and

16 (b) Nonphysical interventions would not be effective in preventing  
17 or minimizing the threat of substantial bodily harm.

18 (4) Except as provided in subsection (5) of this section, the use  
19 of physical force in public schools is prohibited in the following  
20 circumstances:

21 (a) As a means of punishment; or

22 (b) As a disciplinary response to destruction of school property,  
23 disruption of school or classroom order, noncompliance with a school  
24 rule or staff directive, or communication of a verbal threat that does  
25 not constitute a threat of substantial bodily harm.

26 (5) This section does not prohibit:

27 (a) The right of any individual to report to appropriate  
28 authorities a crime committed by a student or other individual; or

29 (b) Commissioned law enforcement officers, including school  
30 resource officers, or judicial authorities from exercising their  
31 authority or executing their responsibilities, including the ability to  
32 use physical force, mechanical restraints, or chemical sprays.

33 (6) Each school district shall establish a written policy regarding  
34 the use of physical force, mechanical restraints, and chemical sprays  
35 on students by school employees. The policy shall be made available to  
36 students and parents or guardians. The policy shall include at a  
37 minimum:

1 (a) A description and explanation of the types of physical force,  
2 mechanical restraint, or chemical spray authorized at the school and  
3 under what circumstances each is allowed to be used;

4 (b) Which school employees at the school are authorized to use each  
5 type of physical force, mechanical restraint, or chemical spray;

6 (c) A description of the school's training requirements for those  
7 authorized to use physical force, mechanical restraint, or chemical  
8 sprays; and

9 (d) Incident reporting requirements and the follow-up procedures  
10 used when any type of physical force, mechanical restraint, or chemical  
11 spray is used on a student, including:

12 (i) A requirement that the incident be immediately reported to the  
13 building administrator or a designee;

14 (ii) A description of what must be included in a written report of  
15 the incident;

16 (iii) The timeline for when the written report must be submitted  
17 and when student's parents or guardians will be informed of the  
18 incident;

19 (iv) The manner by which the information will be provided to  
20 parents or guardians; and

21 (v) A requirement that a log of all instances of use of physical  
22 force, mechanical restraint, and chemical sprays be maintained and  
23 provided to the school board annually.

24 (7) School districts shall report annually to the office of the  
25 superintendent of public instruction the total number of instances when  
26 physical force, mechanical restraint, or chemical spray was used,  
27 including:

28 (a) The type of physical force, mechanical restraint, or chemical  
29 spray used;

30 (b) The duration of the physical force or mechanical restraint if  
31 longer than five minutes;

32 (c) A brief description or classification of the activity that was  
33 the cause of the physical force, mechanical restraint, or chemical  
34 spray;

35 (d) The person who administered the physical force, mechanical  
36 restraint, or chemical spray;

37 (e) Whether the physical force, mechanical restraint, or chemical  
38 spray resulted in any injury to the student or employee; and

1           (f) What additional disciplinary action was taken toward the  
2 student.

3           (8) Nothing in this section shall be construed to be inconsistent  
4 with chapter 28A.155 RCW, section 504 of the federal rehabilitation act  
5 of 1972 as amended (29 U.S.C. Sec. 794), or rules or regulations  
6 adopted thereunder.

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