
Education Committee

HB 1240

Brief Description: Concerning restraint or isolation of students, including students with disabilities, in public schools.

Sponsors: Representatives Pollet, Santos, S. Hunt, Orwall, Senn, Lytton, Robinson, Walsh, Griffey, Goodman, Buys and Tarleton.

Brief Summary of Bill

- Makes the section on restraint of students with Individualized Education Programs or Section 504 plans applicable to all students.
- Provides that restraint or isolation of any student is permitted only when reasonably necessary to control unpredicted, spontaneous behavior that poses an imminent likelihood of serious harm, and may not be used as planned behavioral interventions.
- Requires the Washington State School Directors' Association to develop and school districts to adopt policy limiting the use of restraint or isolation of students.
- Modifies the school's restraint or isolation follow-up procedures and reporting requirements.

Hearing Date: 1/26/15

Staff: Megan Wargacki (786-7194).

Background:

Special Education.

Each school district is required to provide an appropriate educational opportunity to children with disabilities, meaning those children who have been determined eligible for special education due to a disability. Two federal laws require school districts to provide individualized education and support services to these children. The Individuals with Disabilities Education Act requires that districts provide to each public school child who receives special education an Individualized Education Program (IEP). An IEP guides the delivery of special education

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supports and services designed to meet the child's unique needs. The Rehabilitation Act of 1973, Section 504, requires that districts provide to each qualified student with a disability regular or special education services and related services designed to meet the student's individual educational needs.

Restraint or Isolation Laws.

State law encourages parents and teachers to use methods of correction and restraint that are not dangerous to children. The physical discipline of a child is allowed when it is reasonable and moderate and it is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child. The following actions are presumed unreasonable when used to correct or restrain a child:

- throwing, kicking, burning, or cutting a child;
- striking a child with a closed fist;
- shaking a child under age three;
- interfering with a child's breathing;
- threatening a child with a deadly weapon; or
- doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks.

In 2013, the legislature enacted ESHB 1688. This bill placed certain requirements on the restraint or isolation of students who have an IEP or section 504 plan and who are participating in school-sponsored instruction or activities.

- After school staff releases a student from restraint or isolation, the school must conduct follow-up procedures, including:
 - reviewing the incident with the student and the student's parent or guardian to address the student's behavior; and
 - reviewing the incident with the staff member involved to discuss whether proper procedures were followed.
- School employees, resource officers, or school security officers who use chemical spray, mechanical restraint, or physical force on a student must inform the administrator as and file a written report to the district office.
- The principal must make a reasonable effort to verbally inform the parent or guardian about restraint or isolation within 24 hours and provide written notification postmarked within five days. Schools must provide this notification in a language other than English if the school customarily provides school related information to parents in languages other than English.
- Schools that are required to develop IEPs must include within the plan procedures for notification of a parent or guardian. Parents or guardians of children who have an IEP or 504 plan must be provided a copy of the district policy on the use of isolation and restraint.
- The terms "isolation," "restraint," and "restraint device" were defined.

Conditions for the Use of Restraint or Isolation.

The Office of the Superintendent of Public Instruction (OSPI) is required to establish in rule eligibility criteria for special education programs for children with disabilities, including the use of aversive interventions.

By rule, the use of aversive interventions that involve "isolation," meaning excluding a student from his or her regular instructional area and isolating the student within a room or any other form of enclosure, are subject to the following conditions:

- the isolation, including the duration of its use, shall be addressed in the student's aversive intervention plan.
- the enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy.
- the enclosure shall permit continuous visual monitoring of the student from outside the enclosure.
- an adult responsible for supervising the student shall remain in visual or auditory range of the student.
- either the student shall be capable of releasing himself or herself from the enclosure or the student shall continuously remain within view of an adult responsible for supervising the student.

By rule, the use of aversive interventions that involve "physical restraint," meaning involving physically restraining or immobilizing a student by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, are subject to the following conditions:

- the restraint shall only be used when and to the extent it is reasonably necessary to protect the student, other persons, or property from serious harm.
- the restraint, including the duration of its use, shall be addressed in the student's aversive intervention plan.
- the restraint shall not interfere with the student's breathing.
- an adult responsible for supervising the student shall remain in visual or auditory range of the student.
- either the student shall be capable of releasing himself or herself from the restraint or the student shall continuously remain within view of an adult responsible for supervising the student.

Summary of Bill:

The provision related to restraint of students with IEPs or section 504 plans is made applicable to all students. The definition of "isolation" is modified by removing the statement that it means excluding a student from his or her regular instructional area, and adding that it does not include a student's voluntary use of a quiet space for self-calming. The definition of "restraint device" is modified by adding that it must not be construed as encouraging the use of these devices.

An IEP or section 504 plan must not include the use of restraint or isolation as a planned behavior intervention. Restraint or isolation of any student is permitted only when reasonably necessary to control unpredicted, spontaneous behavior that poses an imminent likelihood of serious harm, meaning:

- Evidence of a substantial risk that the student will inflict physical harm upon his or own person, upon another, or upon the property of others, or
- The student has threatened the physical safety of another and has a history of one or more violent acts.

Each school district must adopt a policy providing for the least amount of restraint or isolation appropriate to protect the safety of students and staff under such circumstances. Schools are required to follow-up after incidents of restraint or isolation:

- With the student and the parent or guardian, to review the appropriateness of the response.
- With the staff member who administered the restraint or isolation, to review what training or support the staff member needs to help the student avoid similar incidents.

Schools are required to report incidents of isolation, in addition to incidents of restraint, and to both reports include any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid further incidents.

The Washington State School Directors' Association is required to develop, in consultation with various stakeholders, a model policy limiting restraint or isolation, which must be distributed to school districts by 180 days after the effective date of the bill.

In the statute that requires the OSPI to establish in rule special education eligibility criteria, the term "aversive interventions" is changed to "positive behavior interventions."

Technical changes are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.