
SECOND SUBSTITUTE SENATE BILL 5908

State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators McAuliffe, Chase, Cleveland, Billig, Kohl-Welles, Habib, and Hasegawa)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to restraint or isolation of students, including
2 students with disabilities, in public schools; amending RCW
3 28A.155.020 and 28A.600.485; adding a new section to chapter 28A.345
4 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that there is no
7 educational or therapeutic benefit to children from physically
8 restraining or isolating them as part of their public school
9 programs. The use of seclusion or restraints in nonemergency
10 situations poses significant physical and psychological danger to
11 students and school staff. The legislature declares that it is the
12 policy of the state of Washington to prohibit the planned use of
13 aversive interventions, to promote positive interventions when a
14 student with disabilities is determined to need specially designed
15 instruction to address behavior, and to prohibit schools from
16 physically restraining or isolating any student except when the
17 student's behavior poses an imminent likelihood of serious harm to
18 that student or another person.

19 **Sec. 2.** RCW 28A.155.020 and 2007 c 115 s 2 are each amended to
20 read as follows:

1 There is established in the office of the superintendent of
2 public instruction an administrative section or unit for the
3 education of children with disabilities who require special
4 education.

5 Students with disabilities are those children whether enrolled in
6 school or not who through an evaluation process are determined
7 eligible for special education due to a disability.

8 In accordance with part B of the federal individuals with
9 disabilities education improvement act and any other federal or state
10 laws relating to the provision of special education services, the
11 superintendent of public instruction shall require each school
12 district in the state to insure an appropriate educational
13 opportunity for all children with disabilities between the ages of
14 three and twenty-one, but when the twenty-first birthday occurs
15 during the school year, the educational program may be continued
16 until the end of that school year. The superintendent of public
17 instruction, by rule, shall establish for the purpose of excess cost
18 funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010
19 through 28A.155.160, functional definitions of special education, the
20 various types of disabling conditions, and eligibility criteria for
21 special education programs for children with disabilities, including
22 referral procedures, use of ((aversive)) positive behavior
23 interventions, the education curriculum and statewide or
24 district-wide assessments, parent and district requests for special
25 education due process hearings, and procedural safeguards. For the
26 purposes of RCW 28A.155.010 through 28A.155.160, an appropriate
27 education is defined as an education directed to the unique needs,
28 abilities, and limitations of the children with disabilities who are
29 enrolled either full time or part time in a school district. School
30 districts are strongly encouraged to provide parental training in the
31 care and education of the children and to involve parents in the
32 classroom.

33 Nothing in this section shall prohibit the establishment or
34 continuation of existing cooperative programs between school
35 districts or contracts with other agencies approved by the
36 superintendent of public instruction, which can meet the obligations
37 of school districts to provide education for children with
38 disabilities, or prohibit the continuation of needed related services
39 to school districts by the department of social and health services.

1 This section shall not be construed as in any way limiting the
2 powers of local school districts set forth in RCW 28A.155.070.

3 **Sec. 3.** RCW 28A.600.485 and 2013 c 202 s 2 are each amended to
4 read as follows:

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

7 (a) "Isolation" means (~~excluding a student from his or her~~
8 ~~regular instructional area and~~) restricting the student alone within
9 a room or any other form of enclosure, from which the student may not
10 leave. It does not include a student's voluntary use of a quiet space
11 for self-calming.

12 (b) "Restraint" means physical intervention or force used to
13 control a student, including the use of a restraint device to
14 restrict a student's freedom of movement.

15 (c) "Restraint device" means a device used to assist in
16 controlling a student, including but not limited to metal handcuffs,
17 plastic ties, ankle restraints, leather cuffs, other hospital-type
18 restraints, pepper spray, tasers, or batons. Restraint device does
19 not mean a seat harness used to safely transport students. This
20 section shall not be construed as encouraging the use of these
21 devices.

22 (2) The provisions of this section apply (~~only to any restraint~~
23 ~~of a student who has an individualized education program or plan~~
24 ~~developed under section 504 of the rehabilitation act of 1973 that~~
25 ~~results in a physical injury to a student or a staff member, any~~
26 ~~restraint of a student who has an individualized education program or~~
27 ~~plan developed under section 504 of the rehabilitation act of 1973,~~
28 ~~and any isolation of a student who has~~) to all students, including
29 those who have an individualized education program or plan developed
30 under section 504 of the rehabilitation act of 1973. The provisions
31 of this section apply only to incidents of restraint or isolation
32 that occur while a student (~~who has an individualized education~~
33 ~~program or plan developed under section 504 of the rehabilitation act~~
34 ~~of 1973)) is participating in school-sponsored instruction or~~
35 activities.

36 (3)(a) An individualized education program or plan developed
37 under section 504 of the rehabilitation act of 1973 must not include
38 the use of restraint or isolation as a planned behavior intervention,
39 but may refer to the district policy developed under (b) of this

1 subsection. Nothing in this section is intended to limit the
2 provision of a free appropriate public education under Part B of the
3 federal individuals with disabilities education improvement act or
4 section 504 of the federal rehabilitation act of 1973.

5 (b) Restraint or isolation of any student is permitted only when
6 reasonably necessary to control spontaneous behavior that poses an
7 imminent likelihood of serious harm, as defined in RCW 70.96B.010.
8 Restraint or isolation must be closely monitored to prevent harm to
9 the student, and must be discontinued as soon as the likelihood of
10 serious harm has dissipated. Each school district shall adopt a
11 policy providing for the least amount of restraint or isolation
12 appropriate to protect the safety of students and staff under such
13 circumstances.

14 (4) Following the release of a student from the use of restraint
15 or isolation, the school must implement follow-up procedures. These
16 procedures must include: (a) Reviewing the incident with the student
17 and the parent or guardian to address the behavior that precipitated
18 the restraint or isolation and the appropriateness of the response;
19 and (b) reviewing the incident with the staff member who administered
20 the restraint or isolation to discuss whether proper procedures were
21 followed and what training or support the staff member needs to help
22 the student avoid similar incidents.

23 ((+4)) (5) Any school employee, resource officer, or school
24 security officer who uses ((any chemical spray, mechanical))
25 isolation or restraint(, or physical force)) on a student during
26 school-sponsored instruction or activities must inform the building
27 administrator or building administrator's designee as soon as
28 possible, and within two business days submit a written report of the
29 incident to the district office. The written report ((should)) must
30 include, at a minimum, the following information:

31 (a) The date and time of the incident;

32 (b) The name and job title of the individual who administered the
33 restraint or isolation;

34 (c) A description of the activity that led to the restraint or
35 isolation;

36 (d) The type of restraint or isolation used on the student,
37 including the duration; ((and))

38 (e) Whether the student or staff was physically injured during
39 the restraint or isolation incident and any medical care provided;
40 and

1 (f) Any recommendations for changing the nature or amount of
2 resources available to the student and staff members in order to
3 avoid similar incidents.

4 ~~((+5+))~~ (6) The principal or principal's designee must make a
5 reasonable effort to verbally inform the student's parent or guardian
6 within twenty-four hours of the incident, and must send written
7 notification as soon as practical but postmarked no later than five
8 business days after the restraint or isolation occurred. If the
9 school or school district customarily provides the parent or guardian
10 with school-related information in a language other than English, the
11 written report under this section must be provided to the parent or
12 guardian in that language.

13 (7)(a) Beginning January 1, 2016, and by January 1st annually,
14 each school district shall summarize the written reports received
15 under subsection (5) of this section and submit the summaries to the
16 office of the superintendent of public instruction. For each school,
17 the school district shall include the number of individual incidents
18 of restraint and isolation, the number of students involved in the
19 incidents, the number of injuries to students and staff, and the
20 types of restraint or isolation used.

21 (b)(i) No later than ninety days after receipt, the office of the
22 superintendent of public instruction shall publish to its web site
23 the data received by the school districts. The office of the
24 superintendent of public instruction may use this data to investigate
25 the training, practices, and other efforts used by schools and school
26 districts to reduce the use of restraint and isolation.

27 (ii) This subsection (7)(b) is subject to the availability of
28 amounts appropriated for this specific purpose.

29 NEW SECTION. Sec. 4. A new section is added to chapter 28A.345
30 RCW to read as follows:

31 (1) Subject to the availability of amounts appropriated for this
32 specific purpose, the Washington state school directors' association
33 shall adopt a model policy limiting restraint or isolation in
34 accordance with RCW 28A.600.485.

35 (2) By one hundred eighty days after the effective date of this
36 section, the school directors' association shall distribute the model

1 policy to the school districts, with encouragement to adopt the model
2 policy locally.

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