
HOUSE BILL 2436

State of Washington

66th Legislature

2020 Regular Session

By Representatives Klippert and Rude

Read first time 01/14/20. Referred to Committee on Education.

1 AN ACT Relating to permitting the reasonable and moderate
2 restraint of students for their own protection; amending RCW
3 28A.600.485, 28A.600.460, and 9A.16.100; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature, in recognizing the
6 critical role that education plays in developing productive citizens,
7 has required compulsory education for school-aged children since
8 statehood. Yet, even with an established legal framework, some
9 students refuse to participate and leave school grounds without the
10 permission of, or accompanied by, a parent or guardian. In such
11 cases, the safety of the students may be at risk.

12 Although keeping students on school grounds for their education
13 and protection is reasonable, school staff may only restrain students
14 when reasonably necessary to control spontaneous behavior that poses
15 an imminent likelihood of serious harm. As a result, some principals,
16 teachers, school resource officers, and school security officers, in
17 the promotion of student safety, have been forced to follow
18 unaccompanied students off campus until the student reaches a safe
19 location. This inefficient practice does not keep the student in an
20 educational environment or off the streets. In addition, dispatching

1 a school official to follow the student removes the staff member from
2 school grounds and the completion of normal duties.

3 (2) Therefore, the legislature finds that it is in the best
4 interest of the physical and emotional safety of the students, school
5 staff, and the community to clarify when school staff may reasonably
6 and moderately restrain students for their own protection and without
7 fear of reprisal.

8 **Sec. 2.** RCW 28A.600.485 and 2015 c 206 s 3 are each amended to
9 read as follows:

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

12 (a) "Isolation" means restricting the student alone within a room
13 or any other form of enclosure, from which the student may not leave.
14 It does not include a student's voluntary use of a quiet space for
15 self-calming, or temporary removal of a student from his or her
16 regular instructional area to an unlocked area for purposes of
17 carrying out an appropriate positive behavior intervention plan.

18 (b) "Likelihood of serious harm" means:

19 (i) A substantial risk that: (A) Physical harm will be inflicted
20 by a person upon his or her own person, as evidenced by threats or
21 attempts to commit suicide or inflict physical harm on oneself; (B)
22 physical harm will be inflicted by a person upon another, as
23 evidenced by behavior which has caused physical harm or which places
24 another person or persons in reasonable fear of sustaining physical
25 harm; or (C) physical harm will be inflicted by a person upon the
26 property of others, as evidenced by behavior which has caused
27 substantial loss or damage to the property of others; or

28 (ii) The person has threatened the physical safety of another and
29 has a history of one or more violent acts.

30 (c) "Restraint" means physical intervention or force used to
31 control a student, including the use of a restraint device to
32 restrict a student's freedom of movement. It does not include
33 appropriate use of a prescribed medical, orthopedic, or therapeutic
34 device when used as intended, such as to achieve proper body
35 position, balance, or alignment, or to permit a student to safely
36 participate in activities.

37 ~~((e))~~ (d) "Restraint device" means a device used to assist in
38 controlling a student, including but not limited to metal handcuffs,
39 plastic ties, ankle restraints, leather cuffs, other hospital-type

1 restraints, pepper spray, tasers, or batons. Restraint device does
2 not mean a seat harness used to safely transport students. This
3 section shall not be construed as encouraging the use of these
4 devices.

5 (2) The provisions of this section apply to all students,
6 including those who have an individualized education program or plan
7 developed under section 504 of the rehabilitation act of 1973. The
8 provisions of this section apply only to incidents of restraint or
9 isolation that occur while a student is or is expected to be
10 participating in school-sponsored instruction or activities.

11 (3)(a) An individualized education program or plan developed
12 under section 504 of the rehabilitation act of 1973 must not include
13 the use of restraint or isolation as a planned behavior intervention
14 unless a student's individual needs require more specific advanced
15 educational planning and the student's parent or guardian agrees. All
16 other plans may refer to the district policy developed under
17 (~~subsection (3)~~) (b) of this (~~section~~) subsection. Nothing in this
18 section is intended to limit the provision of a free appropriate
19 public education under Part B of the federal individuals with
20 disabilities education improvement act or section 504 of the federal
21 rehabilitation act of 1973.

22 (b) Restraint or isolation of any student is permitted only when
23 reasonably necessary to control spontaneous behavior that poses an
24 imminent likelihood of serious harm, (~~as defined in RCW 70.96B.010~~)
25 or when reasonable and moderate for the purpose of restraining the
26 student for his or her own protection. Restraint or isolation must be
27 closely monitored to prevent harm to the student, and must be
28 discontinued as soon as the likelihood of serious harm or need for
29 protection has dissipated. Each school district shall adopt a policy
30 providing for the least amount of restraint or isolation appropriate
31 to protect the safety of students and staff under such circumstances.

32 (4) Following the release of a student from the use of restraint
33 or isolation, the school must implement follow-up procedures. These
34 procedures must include: (a) Reviewing the incident with the student
35 and the parent or guardian to address the behavior that precipitated
36 the restraint or isolation and the appropriateness of the response;
37 and (b) reviewing the incident with the staff member who administered
38 the restraint or isolation to discuss whether proper procedures were
39 followed and what training or support the staff member needs to help
40 the student avoid similar incidents.

1 (5) Any school employee, resource officer, or school security
2 officer who uses isolation or restraint on a student during school-
3 sponsored instruction or activities must inform the building
4 administrator or building administrator's designee as soon as
5 possible, and within two business days submit a written report of the
6 incident to the district office. The written report must include, at
7 a minimum, the following information:

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

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

11 (c) A description of the activity that led to the restraint or
12 isolation;

13 (d) The type of restraint or isolation used on the student,
14 including the duration;

15 (e) Whether the student or staff was physically injured during
16 the restraint or isolation incident and any medical care provided;
17 and

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

21 (6) The principal or principal's designee must make a reasonable
22 effort to verbally inform the student's parent or guardian within
23 twenty-four hours of the incident, and must send written notification
24 as soon as practical but postmarked no later than five business days
25 after the restraint or isolation occurred. If the school or school
26 district customarily provides the parent or guardian with school-
27 related information in a language other than English, the written
28 report under this section must be provided to the parent or guardian
29 in that language.

30 (7)(a) Beginning January 1, 2016, and by January 1st annually,
31 each school district shall summarize the written reports received
32 under subsection (5) of this section and submit the summaries to the
33 office of the superintendent of public instruction. For each school,
34 the school district shall include the number of individual incidents
35 of restraint and isolation, the number of students involved in the
36 incidents, the number of injuries to students and staff, and the
37 types of restraint or isolation used.

38 (b) No later than ninety days after receipt, the office of the
39 superintendent of public instruction shall publish to its web site
40 the data received by the districts. The office of the superintendent

1 of public instruction may use this data to investigate the training,
2 practices, and other efforts used by schools and districts to reduce
3 the use of restraint and isolation.

4 (8) In the event a school employee restrains or isolates a
5 student in substantial compliance with this section, the employee may
6 not be disciplined, discharged, nor liable in any criminal action or
7 for civil damages as a result of the restraint or isolation.

8 **Sec. 3.** RCW 28A.600.460 and 2013 2nd sp.s. c 18 s 305 are each
9 amended to read as follows:

10 (1) School district boards of directors shall adopt policies that
11 restore discipline to the classroom. Such policies must provide for
12 at least the following: Allowing each teacher to take disciplinary
13 action to correct a student who disrupts normal classroom activities,
14 abuses or insults a teacher as prohibited by RCW 28A.635.010,
15 willfully disobeys a teacher, uses abusive or foul language directed
16 at a school district employee, school volunteer, or another student,
17 violates school rules, or who interferes with an orderly education
18 process. Disciplinary action may include but is not limited to: Oral
19 or written reprimands; reasonable restraint as permitted by RCW
20 28A.600.485; written notification to parents of disruptive behavior,
21 a copy of which must be provided to the principal.

22 (2) A student committing an offense under chapter 9A.36, 9A.40,
23 9A.46, or 9A.48 RCW when the activity is directed toward the teacher,
24 shall not be assigned to that teacher's classroom for the duration of
25 the student's attendance at that school or any other school where the
26 teacher is assigned.

27 (3) A student who commits an offense under chapter 9A.36, 9A.40,
28 9A.46, or 9A.48 RCW, when directed toward another student, may be
29 removed from the classroom of the victim for the duration of the
30 student's attendance at that school or any other school where the
31 victim is enrolled. A student who commits an offense under one of the
32 chapters enumerated in this section against a student or another
33 school employee, may be expelled or suspended.

34 (4) Nothing in this section is intended to limit the authority of
35 a school under existing law and rules to expel or suspend a student
36 for misconduct or criminal behavior.

37 (5) All school districts must collect data on disciplinary
38 actions taken in each school and must record these actions using the
39 statewide student data system, based on the data collection standards

1 established by the office of the superintendent of public instruction
2 and the K-12 data governance group. The information shall be made
3 available to the public, but public release of the data shall not
4 include personally identifiable information including, but not
5 limited to, a student's social security number, name, or address.

6 **Sec. 4.** RCW 9A.16.100 and 1986 c 149 s 1 are each amended to
7 read as follows:

8 It is the policy of this state to protect children from assault
9 and abuse and to encourage parents, teachers or other school staff
10 members, and their authorized agents to use methods of correction and
11 restraint of children that are not dangerous to the children.
12 However, the physical discipline of a child is not unlawful when it
13 is reasonable and moderate and is inflicted by a parent, teacher or
14 other school staff member, or guardian for purposes of restraining or
15 correcting the child. Any use of force on a child by any other person
16 is unlawful unless it is reasonable and moderate and is authorized in
17 advance by the child's parent or guardian for purposes of restraining
18 or correcting the child.

19 The following actions are presumed unreasonable when used to
20 correct or restrain a child: (1) Throwing, kicking, burning, or
21 cutting a child; (2) striking a child with a closed fist; (3) shaking
22 a child under age three; (4) interfering with a child's breathing;
23 (5) threatening a child with a deadly weapon; or (6) doing any other
24 act that is likely to cause and which does cause bodily harm greater
25 than transient pain or minor temporary marks. The age, size, and
26 condition of the child and the location of the injury shall be
27 considered when determining whether the bodily harm is reasonable or
28 moderate. This list is illustrative of unreasonable actions and is
29 not intended to be exclusive.

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