

SENATE BILL REPORT

SB 5559

As of February 5, 2023

Title: An act relating to restraint or isolation of students in public schools and educational programs.

Brief Description: Concerning restraint or isolation of students in public schools and educational programs.

Sponsors: Senators Wilson, C., Hunt, Nobles, Saldaña, Valdez and Wellman; by request of Superintendent of Public Instruction.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/06/23.

Brief Summary of Bill

- Prohibits the isolation, mechanical restraint, or chemical restraint of students by school staff, including the phasing out of isolation rooms.
- Modifies follow-up procedures and reporting requirements regarding restraint and isolation.
- Directs the Office of the Superintendent of Public Instruction (OSPI) and school districts to provide certain resources and training and allows OSPI to put school districts on plans of improvements if they are not reporting required information.
- Applies restraint and isolation requirements to nonpublic agencies operating special education programs.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: In 2013, the Legislature set out certain requirements when restraint or isolation was used on a student who has an individualized education program (IEP) or a plan developed under section 504 of the Rehabilitation Act of 1973. These requirements included certain follow-up procedures and notifying parents or guardians.

In 2015, these requirements were modified and expanded to all students. Current law permits restraint or isolation only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm.

School districts must annually summarize the written reports received after the use of restraint or isolation. The Office of the Superintendent of Public Instruction (OSPI) must publish the data received by the school districts. OSPI may use this data to investigate the training, practices, and other efforts to reduce the use of restraint and isolation.

In 2022, the Legislature directed OSPI to convene a work group to identify trauma informed strategies, approaches, and curricula for supporting students in distress and with challenging behaviors that prioritize relational safety. The work group developed four categories of recommendations:

- eliminate isolation and chemical restraint from schools;
- improve access to proactive and effective mental health supports and trauma-informed behavior supports;
- increase educator training of de-escalation practices; and
- improve data collection and reporting.

Summary of Bill: Prohibition. School districts must adopt a policy to prohibit the use of isolation, mechanical restraint, or chemical restraint of students by school staff while students are attending school or participating in school-sponsored instruction or activities.

These prohibitions do not apply to school resource officers (SROs) when they are carrying out their sworn authority to make arrests, but do apply when they are addressing violations of student discipline laws.

"Isolation" means restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It includes any staff physically prohibiting a student from leaving a room by acting as a barrier with their body or an object. It does not include:

- removal of a student from a class for a short period of time;
- a student left alone in a room with a closed door for a brief period of time for a purpose that is unrelated to the behavior;
- when a room is cleared of all students but one; and
- a time out, which involves the separation of the student from the group in a nonlocked setting within the classroom.

"Mechanical restraint" means using a restraint device.

"Chemical restraint" means administering medication, including medications prescribed by the student's physician, on an as-needed basis for the sole purpose of involuntarily limiting the student's freedom of movement or controlling externalized behaviors.

Isolation Rooms. Isolation rooms must remain unlocked. Isolation room means a self-contained unit, built-in or freestanding, that is used to isolate a student from other students or physically prevent them from leaving, or causes students to believe they are prevented from leaving.

Schools are prohibited from building or constructing rooms or settings used for isolation. By January 1, 2024, isolation rooms in public schools must be removed or repurposed.

Advanced Emergency Planning. A student with an IEP or 504 plan may require more specific advanced emergency planning, which must have accompanying planning documents for behavioral support that may include de-escalation, accommodation, self-regulation, debrief, or other support strategies to mitigate the circumstances surrounding possible emergency restraint. Such document does not waive liability for injury, nor does it permit school personnel to use restraint without an imminent likelihood of serious harm. An emergency response protocol may not be used as a condition of enrollment in a student's educational program.

Follow-Up Procedures. The written report that must follow the release of a student from the use of restraint or isolation, if isolation were to occur, must include the certification and history of relevant training for crisis intervention and de-escalation of the individual who administered the restraint or isolation.

If isolation, mechanical restraint, or chemical restraint occur, staff must immediately inform the building administrator or designee. That person must notify the parents or guardians within 24 hours and must send written documentation within three business days. That person must also notify the school district within one business day and notify OSPI of such incident within three business days for further investigation.

Reports. Reporting requirements are modified. By December 31st, each school district must annually summarize the written reports of isolation or restraint at each school and submit to the elected school board. By June 30, 2024, school districts must annually submit a cumulative summary report to OSPI.

In addition to existing data, schools must include:

- the number of incidents in which staff imposing restraint were not trained in crisis intervention or de-escalation;
- the number of incidents in which SROs or school security guards were involved; and
- the location or placement of the incidents.

The incidents must be further disaggregated by certain student categories including race and ethnicity, gender, students who are dependent, students who are homeless, students who are multilingual/English learners, and status as a student with a parent who is a member of the armed forces.

Plan of Improvement. A school district that does not report its data to OSPI within six months of the deadline may be placed on a plan of improvement and be subject to direct technical assistance, monitoring, and annual site visits.

Resources and Support. OSPI must make available on its website a list of training programs and resources to support the elimination of isolation and chemical restraint. School districts must provide ongoing professional development and training to:

- comply with these requirements;
- comply with education and civil rights laws; and
- implement evidence-based systemic approaches.

School districts must also provide technical assistance to support evidence-based, crisis intervention programs that include mental health supports, restorative justice programs, trauma-informed care, and crisis and de-escalation interventions.

Nonpublic Agencies. These requirements apply to students who are being served by nonpublic agencies operating special education programs.

Definitions. Certain terms are defined or redefined including "likelihood of serious harm," "enclosure," "imminent," and "physical escort."

Appropriation: None.

Fiscal Note: Requested on January 30, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.