

FIRST REGULAR SESSION

HOUSE BILL NO. 1023

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MACKEY.

2034H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 160.263, RSMo, and to enact in lieu thereof one new section relating to school district policies on restrictive behavioral interventions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 160.263, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.263, to read as follows:

160.263. 1. **For purposes of this section, the following terms mean:**

(1) **"Restraint", the use of physical force, with or without the use of any physical device or material, to restrict the free movement of all or a portion of a student's body. The term "restraint" shall not include comforting or calming a student, holding the hand or arm of a student to escort the student if the student is complying, intervening in a fight, or using an assistive or protective device prescribed by an appropriately trained professional or professional team;**

(2) **"Seclusion", removing a student from a classroom or other school activity and isolating the student in a separate area. The term "seclusion" shall not include a student-requested break or an in-school suspension, detention, or other appropriate disciplinary measure.**

2. The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.

[2-] 3. By July 1, 2011, the local board of education of each school district shall adopt a written policy that comprehensively addresses the use of restrictive behavioral interventions as a form of discipline or behavior management technique. The policy shall be consistent with

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 professionally accepted practices and standards of student discipline, behavior management,
19 health and safety, including the safe schools act. **The policy shall prohibit the use of seclusion
20 or restraint for any purpose other than to promote the health and safety of students,
21 teachers, and staff members.** The policy shall include but not be limited to:

22 (1) Definitions of restraint, seclusion, and time-out and any other terminology necessary
23 to describe the continuum of restrictive behavioral interventions available for use or prohibited
24 in the district, **consistent with the provisions of this section;**

25 (2) Description of circumstances under which a restrictive behavioral intervention is
26 allowed and prohibited, **consistent with the provisions of this section,** and any unique
27 application requirements for specific groups of students such as differences based on age,
28 disability, or environment in which the educational services are provided;

29 (3) Specific implementation requirements associated with a restrictive behavioral
30 intervention such as time limits, facility specifications, training requirements or supervision
31 requirements; and

32 (4) Documentation, notice and permission requirements associated with use of a
33 restrictive behavioral intervention.

34 **[3-] 4. Before July 1, 2020, each school district shall ensure that the policy adopted
35 under subsection 3 of this section requires the following:**

36 (1) **Each time seclusion or restraint is used for a student, every individual other
37 than a student who was involved or witnessed such use, including any law enforcement
38 personnel working with the school district, shall complete a report on the details of the use
39 of seclusion or restraint for the student. The report shall state the reason for the use of
40 seclusion or restraint and describe the methods of seclusion or restraint used;**

41 (2) **The school district shall notify the parents or legal guardians of the use of
42 seclusion or restraint for their child within twenty-four hours of such use. The notice shall
43 be signed by the parents or legal guardians and returned to the school district. The notice
44 shall advise the parents or legal guardians of their right to:**

45 (a) **Review the report or reports as described under subdivision (3) of this
46 subsection;**

47 (b) **File a complaint with the board of education of the school district as described
48 under subdivision (4) of this subsection; and**

49 (c) **File a written appeal with the department of elementary and secondary
50 education as described under subdivision (6) of this subsection;**

51 (3) **The school district shall allow the parents or legal guardians to review the
52 report or reports required under subdivision (1) of this subsection regarding their child;**

53 **(4) The parents or legal guardians may file a complaint with the board of education**
54 **of the school district regarding any use of seclusion or restraint for their child;**

55 **(5) The board of education of the school district shall hold a hearing on any**
56 **complaint filed under subdivision (4) of this subsection to allow the parents or legal**
57 **guardians to describe their dissatisfaction with the manner in which the incident was**
58 **handled or reported. The board of education of the school district shall not be required**
59 **to take any action on the complaint unless otherwise required by law;**

60 **(6) The parents or legal guardians may file a written appeal with the department**
61 **of elementary and secondary education after the hearing is held under subdivision (5) of**
62 **this subsection; and**

63 **(7) In response to a written appeal, the department of elementary and secondary**
64 **education may issue a report finding the claims of the parents or legal guardians**
65 **substantiated or unsubstantiated. The department of elementary and secondary education**
66 **shall not be required to take any action in response to a written appeal unless otherwise**
67 **required by law.**

68 **5. The department of elementary and secondary education shall, in cooperation with**
69 **appropriate associations, organizations, agencies and individuals with specialized expertise in**
70 **behavior management, develop a model policy that satisfies the requirements of [subsection 2]**
71 **subsections 3 and 4 of this section by July 1, [2010] 2020.**

72 **6. The department of elementary and secondary education shall promulgate any**
73 **rules necessary to implement or enforce the provisions of this section. Any rule or portion**
74 **of a rule, as that term is defined in section 536.010, that is created under the authority**
75 **delegated in this section shall become effective only if it complies with and is subject to all**
76 **of the provisions of chapter 536 and, if applicable, section 536.028. This section and**
77 **chapter 536 are nonseverable, and if any of the powers vested with the general assembly**
78 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
79 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**
80 **any rule proposed or adopted after August 28, 2019, shall be invalid and void.**

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