

FIRST REGULAR SESSION

HOUSE BILL NO. 635

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLEY (127).

1393H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 160.263, RSMo, and to enact in lieu thereof one new section relating to reports of seclusion or restraint of students.

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Section A. Section 160.263, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.263, to read as follows: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. As used in this section, the following terms mean:

(1) "Mechanical restraint", the use of any device or equipment to restrict a student's freedom of movement. Mechanical restraint shall not include devices implemented by trained personnel or used by a student with a prescription for such devices from an appropriate medical or related services professional and that are used for specific and approved purposes for which such devices were designed, such as the following:

(a) Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;

(b) Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;

(c) Restraints for medical immobilization; or

(d) Orthopedically prescribed devices that permit a student to participate in activities without risk;

(2) "Physical restraint", a personal restriction such as person-to-person physical contact that immobilizes, reduces, or restricts the ability of a student to move the student's torso, arms, legs, or head freely. Physical restraint shall not include:

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 (a) A physical escort, which is a temporary touching or holding of the hand, wrist,
19 arm, shoulder, or back for the purpose of inducing a student to walk to a safe location;
- 20 (b) Comforting or calming a student;
- 21 (c) Holding a student's hand to transport the student for safety purposes;
- 22 (d) Intervening in a fight; or
- 23 (e) Using an assistive or protective device prescribed by an appropriately trained
24 professional or professional team;
- 25 (3) "Prone restraint", using mechanical or physical restraint or both to restrict a
26 student's movement while the student is lying with the student's front or face downward;
- 27 (4) "Restraint" includes, but is not limited to, mechanical restraint, physical restraint,
28 and prone restraint;
- 29 (5) "Seclusion", the involuntary confinement of a student alone in a room or area that
30 the student is physically prevented from leaving and that complies with the building code in
31 effect in the school district. Seclusion shall not include the following:
- 32 (a) A timeout, which is a behavior management technique that is part of an approved
33 program, involves the monitored separation of the student in a nonlocked setting, and is
34 implemented for the purpose of calming;
- 35 (b) In-school suspension;
- 36 (c) Detention; or
- 37 (d) Other appropriate disciplinary measures.
- 38 2. The school discipline policy under section 160.261 shall reserve confining a
39 student in seclusion for situations or conditions in which there is imminent danger of physical
40 harm to self or others.
- 41 3. For all school years beginning on or after July 1, 2022, no school district, charter
42 school, or publicly contracted private provider shall use any mechanical, physical, or prone
43 restraint technique that:
- 44 (1) Obstructs views of the student's face;
- 45 (2) Obstructs the student's respiratory airway, impairs the student's breathing or
46 respiratory capacity, or restricts the movement required for normal breathing to cause
47 positional or postural asphyxia;
- 48 (3) Places pressure or weight on or causes the compression of the student's chest,
49 lungs, sternum, diaphragm, back, abdomen, or genitals;
- 50 (4) Obstructs the student's circulation of blood;
- 51 (5) Involves pushing on or into the student's mouth, nose, eyes, or any part of the face
52 or involves covering the face or body with anything including, but not limited to, soft objects
53 such as pillows, blankets, or washcloths;

54 (6) Endangers the student's life or significantly exacerbates the student's medical
55 condition;

56 (7) Is purposely designed to inflict pain;

57 (8) Restricts the student from communicating. If an employee physically restrains a
58 student who uses sign language or an augmentative mode of communication as the student's
59 primary mode of communication, the student shall be permitted to have the student's hands
60 free of restraint for brief periods unless an employee determines that such freedom appears
61 likely to result in harm to self or others.

62 4. (1) By July 1, 2011, the local board of education of each school district shall adopt
63 a written policy that comprehensively addresses the use of restrictive behavioral interventions
64 as a form of discipline or behavior management technique. The policy shall be consistent
65 with professionally accepted practices and standards of student discipline, behavior
66 management, health and safety, including the safe schools act. The policy shall include
67 but not be limited to:

68 (a) Definitions of restraint, seclusion, and time-out and any other terminology
69 necessary to describe the continuum of restrictive behavioral interventions available for use
70 or prohibited in the district, consistent with the provisions of this section;

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

75 (c) Specific implementation requirements associated with a restrictive behavioral
76 intervention such as time limits, facility specifications, training requirements or supervision
77 requirements; and

78 (d) Documentation, notice and permission requirements associated with use of a
79 restrictive behavioral intervention.

80 (2) Before July 1, 2022, each written policy adopted under this subsection shall be
81 updated to prohibit the school district, charter school, or publicly contracted private provider
82 from using any restraint that employs any technique listed in subsection 3 of this section.

83 (3) Before July 1, 2022, each written policy adopted under this subsection shall be
84 updated to state that the school district, charter school, or publicly contracted private provider
85 will reserve restraint or seclusion for situations or conditions in which there is imminent
86 danger of physical harm to self or others.

87 5. Before July 1, 2022, each school district, charter school, and publicly contracted
88 private provider shall ensure that the policy adopted under subsection 4 of this section
89 requires the following:

90 (1) Any student placed in seclusion or restraint shall be removed from such seclusion
91 or restraint as soon as the school district, charter school, or publicly contracted private
92 provider determines that the student is no longer an imminent danger of physical harm to self
93 or others;

94 (2) All school district, charter school, and publicly contracted private provider
95 personnel shall annually review the policy and procedures involving the use of seclusion and
96 restraint. Personnel who use seclusion or restraint shall annually complete mandatory
97 training in the specific seclusion and restraint techniques the school district, charter school, or
98 publicly contracted private provider uses under this section;

99 (3) (a) Each time seclusion or restraint is used for a student, the incident shall be
100 monitored by a member of the school district, charter school, or publicly contracted private
101 provider personnel, and a report shall be completed by the school district, charter school, or
102 publicly contracted private provider that contains, at a minimum, the following:

103 a. The date, time of day, location, duration, and description of the incident and
104 interventions;

105 b. Any event leading to the incident and the reason for using seclusion or restraint;

106 c. A description of the methods of seclusion or restraint used;

107 d. The nature and extent of any injury to the student;

108 e. The names, roles, and certifications of each employee involved in the use of
109 seclusion or restraint;

110 f. The name, role, and signature of the person who prepared the report;

111 g. The name of an employee whom the parent or guardian can contact regarding the
112 incident and use of seclusion or restraint;

113 h. The name of an employee to contact if the parent or guardian wishes to file a
114 complaint; and

115 i. A statement directing parents and legal guardians to a sociological, emotional, or
116 behavioral support organization and a hotline number to report child abuse and neglect.

117 (b) The school district, charter school, or publicly contracted private provider shall
118 maintain the report as an education record of the student[;] **and** provide a copy to the parent
119 or legal guardian within five school days[; ~~and a copy of each incident report shall be given to~~
120 ~~the department of elementary and secondary education within thirty days of the incident~~];

121 (4) The school district, charter school, or publicly contracted private provider shall
122 attempt to notify the parents or legal guardians as soon as possible but no later than one hour
123 after the end of the school day on which the use of seclusion or restraint occurred.
124 Notification shall be oral or electronic and shall include a statement indicating that the school
125 district, charter school, or publicly contracted private provider will provide the parents or

126 legal guardians a copy of the report described in subdivision (3) of this subsection within five
127 school days;

128 (5) An officer, administrator, or employee of a public school district or charter school
129 shall not retaliate against any person for having:

130 (a) Reported a violation of any policy established under this section or failure of a
131 district or charter school to follow any provisions of this section in relation to incidents of
132 seclusion and restraint; or

133 (b) Provided information regarding a violation of this section by a public school
134 district or charter school or a member of the staff of the public school district or charter
135 school.

136 6. ~~[The department of elementary and secondary education shall compile and~~
137 ~~maintain all incidents reported under this section in the department's core data system and~~
138 ~~make such data available on the Missouri comprehensive data system. No personally~~
139 ~~identifiable data shall be accessible on the database.~~

140 7.] The department of elementary and secondary education shall, in cooperation with
141 appropriate associations, organizations, agencies and individuals with specialized expertise in
142 behavior management, develop a model policy that satisfies the requirements of subsection 2
143 of this section as it existed on August 28, 2009, by July 1, 2010, and shall update such model
144 policy to include the requirements of subdivisions (2) and (3) of subsection 4 and subsection 5
145 of this section by July 1, 2022.

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