

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2933
103RD GENERAL ASSEMBLY

4709H.05C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 160.263, RSMo, and to enact in lieu thereof two new sections relating to the operation of school districts.

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

Section A. Section 160.263, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 160.263 and 162.827, to read as follows:

160.263. 1. As used in this section, the following terms mean:

- 2 (1) **"Classroom", an area that is regularly utilized for student instruction;**
- 3 (2) "Mechanical restraint", the use of any device or equipment to restrict a student's
- 4 freedom of movement. Mechanical restraint shall not include devices implemented by trained
- 5 personnel or used by a student with a prescription for such devices from an appropriate
- 6 medical or related services professional and that are used for specific and approved purposes
- 7 for which such devices were designed, such as the following:
- 8 (a) Adaptive devices or mechanical supports used to achieve proper body position,
- 9 balance, or alignment to allow greater freedom of mobility than would be possible without the
- 10 use of such devices or mechanical supports;
- 11 (b) Vehicle safety restraints when used as intended during the transport of a student in
- 12 a moving vehicle;
- 13 (c) Restraints for medical immobilization; or
- 14 (d) Orthopedically prescribed devices that permit a student to participate in activities
- 15 without risk;
- 16 [~~2~~] (3) "Physical restraint", a personal restriction such as person-to-person physical
- 17 contact that immobilizes, reduces, or restricts the ability of a student to move the student's
- 18 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.

19 (a) A physical escort, which is a temporary touching or holding of the hand, wrist,
20 arm, shoulder, or back for the purpose of inducing a student to walk to a safe location;

21 (b) Comforting or calming a student;

22 (c) Holding a student's hand to transport the student for safety purposes;

23 (d) Intervening in a fight; or

24 (e) Using an assistive or protective device prescribed by an appropriately trained
25 professional or professional team;

26 ~~[(3)]~~ (4) "Prone restraint", using mechanical or physical restraint or both to restrict a
27 student's movement while the student is lying with the student's front or face downward;

28 ~~[(4)]~~ (5) "Restraint" includes, but is not limited to, mechanical restraint, physical
29 restraint, and prone restraint;

30 ~~[(5)]~~ (6) "Seclusion", the involuntary confinement of a student alone in a room or area
31 that the student is physically prevented from leaving and that complies with the building code
32 in effect in the school district. Seclusion shall not include the following:

33 (a) A timeout, which is a behavior management technique that is part of an approved
34 program, involves the monitored separation of the student in a nonlocked setting, and is
35 implemented for the purpose of calming;

36 (b) In-school suspension;

37 (c) Detention; or

38 (d) Other appropriate disciplinary measures.

39 2. The school discipline policy under section 160.261 shall reserve confining a
40 student in seclusion for situations or conditions in which there is imminent danger of physical
41 harm to self or others.

42 3. For all school years beginning on or after July 1, 2022, no school district, charter
43 school, or publicly contracted private provider shall use any mechanical, physical, or prone
44 restraint technique that:

45 (1) Obstructs views of the student's face;

46 (2) Obstructs the student's respiratory airway, impairs the student's breathing or
47 respiratory capacity, or restricts the movement required for normal breathing to cause
48 positional or postural asphyxia;

49 (3) Places pressure or weight on or causes the compression of the student's chest,
50 lungs, sternum, diaphragm, back, abdomen, or genitals;

51 (4) Obstructs the student's circulation of blood;

52 (5) Involves pushing on or into the student's mouth, nose, eyes, or any part of the face
53 or involves covering the face or body with anything including, but not limited to, soft objects
54 such as pillows, blankets, or washcloths;

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

57 (7) Is purposely designed to inflict pain;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

141 **7. For the 2027-28 school year and all subsequent school years:**

142 **(1) No school district, charter school, or publicly contracted private provider**
143 **shall confine a student in seclusion in any room other than a classroom or a sensory**
144 **room; and**

145 **(2) Each local board of education and charter school governing board shall**
146 **update the district's and the charter school's policy to incorporate the definition of**
147 **seclusion as provided in this section and to prohibit the school district, charter school, or**
148 **a publicly contracted private provider from confining a student in seclusion in any room**
149 **other than a classroom or a sensory room.**

150 ~~7.~~ **8.** The department of elementary and secondary education shall, in cooperation
151 with appropriate associations, organizations, agencies and individuals with specialized
152 expertise in behavior management~~[-]~~:

153 **(1) Develop a model policy that satisfies the requirements of subsection 2 of this**
154 **section as it existed on August 28, 2009, by July 1, 2010, and shall update such model policy**
155 **to include the requirements of subdivisions (2) and (3) of subsection 4 and subsection 5 of**
156 **this section by July 1, 2022; and**

157 **(2) For the 2027-28 school year and all subsequent school years, update the**
158 **model policy to incorporate the definition of seclusion as provided in this section and to**
159 **prohibit the confinement of a student in seclusion in any room other than a classroom or**
160 **sensory room.**

162.827. 1. A school district that is part of a special school district established
2 under section 162.825 may withdraw from such special school district as provided in this
3 section upon a vote on the question of withdrawal as follows:

4 **(1) The school board of a school district desiring to withdraw from such special**
5 **school district may approve, by resolution, a proposal to present for public vote the**
6 **question of withdrawal as provided in this section. Such resolution may include a**
7 **proposal to impose an additional levy to provide for special education, vocational**
8 **education, and technical education programs and services. Such proposed levy shall not**
9 **exceed the school district's proportion of the combined rate levied by the special school**
10 **district;**

11 **(2) Upon the approval of the resolution by at least four members of the school**
12 **board, the board shall notify the election authority of the county in which the school**
13 **district is located that the following question should be submitted to the voters residing**
14 **in the school district:**

15 **"Shall the (insert name) School District withdraw from the Special School**
16 **District of _____ County, the (insert amount) property tax levy for the Special School**
17 **District of _____ County be eliminated for property in the school district, and the**
18 **(insert name) School District be authorized to impose a levy in the amount of (insert**
19 **dollar amount) to provide for special education, vocational education, and technical**
20 **education programs and services to students eligible to be enrolled within the (insert**
21 **name) School District?";**

22 **(3) Upon receiving such notification, the election authority shall submit the**
23 **question specified in the notification to the voters of the school district on the next**
24 **available day for school district elections;**

25 **(4) If a majority of the registered voters of the school district voting on the**
26 **question approve the withdrawal of the school district and, if proposed, the adjusted**
27 **levy:**

28 **(a) The election authority shall notify the school board of the school district and**
29 **the special school district, and the school board of the school district shall notify the**
30 **state board of education; and**

31 **(b) The school district shall no longer be included in the special school district**
32 **beginning on July first of the second school year following the approval of the question;**
33 **and**

34 **(5) If a majority of the registered voters of the school district voting on the**
35 **question reject the withdrawal of the school district, the school district:**

36 **(a) Shall remain part of the special school district; and**

37 **(b) Shall not consider a question to withdraw from the special school district**
38 **sooner than twelve months after the date of the last question voted on under this section.**

39 **2. Upon a school district's withdrawal from the special school district, such**
40 **school district shall provide special education, vocational education, and technical**

41 education programs and services to students eligible to enroll within the school district's
42 boundaries as required by law.

43 **3. The tax levy authorized under section 162.920 for such special school district**
44 **within a school district that has withdrawn from such special school district shall**
45 **terminate on June thirtieth of the school year immediately before the school year in**
46 **which the withdrawal takes effect, and the adjusted levy approved by voters under**
47 **subdivision (2) of subsection 1 of this section shall go into effect as of July first of the**
48 **school year the withdrawal takes effect. The county collector shall prorate the taxes**
49 **imposed on each item or parcel of property so as to collect the proportional share for the**
50 **school district and the special school district.**

51 **4. The adjusted levy approved by voters under subdivision (2) of subsection 1 of**
52 **this section shall be used for special education, vocational education, and technical**
53 **education programs and services.**

54 **5. (1) A school district that withdraws from a special school district shall return**
55 **all property, facilities, equipment, and other assets of the special school district to the**
56 **special school district.**

57 **(2) Bonded indebtedness of the special school district shall be assumed**
58 **proportionally, according to assessed valuation, by the withdrawing school district.**

59 **(3) No existing bond or debt obligation of the special school district shall be**
60 **impaired by this section.**

61 **(4) Upon receiving notification of an affirmative vote of a school district to**
62 **withdraw from a special school district, the state board of education shall appoint a**
63 **person to supervise the disposition of property and indebtedness. Decisions made by the**
64 **person so appointed shall be subject to review by the state board of education.**

65 **6. A student of a school district that withdraws from a special school district who**
66 **was receiving special educational services at a school operated by the special school**
67 **district at the time of the withdrawal shall be allowed to continue receiving special**
68 **educational services at such school as long as the student remains otherwise eligible to**
69 **receive special educational services from the special school district at the school. The**
70 **school district withdrawing from the special school district shall be responsible for the**
71 **cost of such services as provided under section 162.705.**

72 **7. A tenured teacher who is moving from a special school district as a result of a**
73 **school district withdrawing from the special school district shall retain his or her tenure**
74 **status but shall not be guaranteed to retain his or her current salary.**

75 **8. The provisions of this section shall apply only to special school districts**
76 **located in a county with more than one million inhabitants.**

77 **9. (1) Nothing in this section shall be construed to alter, diminish, or impair any**
78 **rights or obligations of the state of Missouri or its political subdivisions under the**
79 **federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et**
80 **seq., as amended; Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C.**
81 **Section 794, as amended; or any other applicable federal or state law.**

82 **(2) The state board of education may promulgate all necessary rules and**
83 **regulations for the administration of this section. Any rule or portion of a rule, as that**
84 **term is defined in section 536.010, that is created under the authority delegated in this**
85 **section shall become effective only if it complies with and is subject to all of the**
86 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter**
87 **536 are nonseverable and if any of the powers vested with the general assembly**
88 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
89 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**
90 **and any rule proposed or adopted after the effective date of this act shall be invalid and**
91 **void.**

✓