

Senate File 2030 - Introduced

SENATE FILE 2030

BY McCOY

A BILL FOR

1 An Act relating to school-related physical restraint and
2 seclusion policies, practices, training, and prohibitions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256.7, Code 2018, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 33. Adopt rules establishing a statewide
4 policy in conformance with section 280.21C relating to physical
5 restraint and seclusion practices, training, and prohibitions.
6 The policy shall set forth evidence-based techniques and
7 strategies for preventing the use of restraint and seclusion
8 by schools; establish certification requirements for the
9 training program developed and approved pursuant to section
10 256.9, subsection 60; identify practices that keep school
11 personnel and students safe if physical restraint or seclusion
12 is necessary, including but not limited to positive behavioral
13 interventions, supports, and strategies; and identify the
14 minimum health and safety measures a school must utilize to
15 prevent or respond to conditions that may result in the use of
16 restraint or seclusion by the school.

17 Sec. 2. Section 256.9, Code 2018, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 60. Develop and approve, in cooperation
20 with the board of educational examiners and the area education
21 agencies, a training program that includes but is not limited
22 to the following:

23 a. A curriculum for practitioners and paraeducators
24 that includes evidence-based techniques and strategies for
25 preventing the use of restraint and seclusion by schools;
26 practices that keep school personnel and students safe
27 if physical restraint or seclusion is necessary; positive
28 behavioral interventions, supports, and strategies; behavioral
29 antecedents, functional behavioral assessments, de-escalation
30 of challenging behaviors, and conflict prevention and
31 management; safe physical escort; first aid, including the
32 signs of medical distress, and cardiopulmonary resuscitation.

33 b. Certification of training in state restraint and
34 seclusion policies and procedures.

35 Sec. 3. NEW SECTION. 280.21C **Seclusion and restraint**

1 **interventions — requirements.**

2 1. *Definitions.* For purposes of this section, unless the
3 context otherwise requires:

4 a. "*Chemical restraint*" means a drug or medication
5 administered to a student to control behavior or restrict
6 freedom of movement that is not prescribed, or administered
7 as prescribed, by a licensed physician or a qualified health
8 care professional prescriber for the standard treatment of a
9 student's medical or psychiatric condition.

10 b. "*Mechanical restraint*" means the use of a device as
11 a means of restricting a student's freedom of movement.

12 "*Mechanical restraint*" does not mean a device used by trained
13 school personnel, or used by a student, for the specific and
14 approved therapeutic or safety purposes for which such a
15 device was designed and, if applicable, prescribed, including
16 a restraint for medical immobilization, adaptive device or
17 mechanical support used to allow greater freedom of mobility
18 than would be possible without the use of such a device or
19 mechanical support, and a vehicle safety restraint when used as
20 intended during the transport of a student in a moving vehicle.

21 c. "*Physical escort*" means the temporary touching or holding
22 of the hand, wrist, arm, shoulder, waist, hip, or back for the
23 purpose of inducing a student to move to a safe location.

24 d. "*Physical restraint*" means a personal restriction
25 that immobilizes or reduces the ability of a student to move
26 the student's arms, legs, body, or head freely. "*Physical*
27 *restraint*" does not include a physical escort, mechanical
28 restraint, or chemical restraint.

29 e. "*Positive behavioral interventions and supports*" means
30 a school-wide systematic approach to embed evidence-based
31 practices and data-driven decision-making to improve school
32 climate and culture in order to achieve improved academic
33 and social outcomes, and increase learning for all students,
34 including those students with the most complex and intensive
35 behavioral needs; and which encompasses a range of systemic

1 and individualized positive strategies to reinforce desired
2 behaviors, diminish the reoccurrence of challenging behaviors,
3 and teach appropriate behaviors to students.

4 *f.* "School" means a public or accredited nonpublic school
5 and includes an area education agency if the agency or its
6 personnel seeks to use physical restraint or seclusion.

7 *g.* "Seclude" or "seclusion" means the involuntary
8 confinement of a student alone in a room or area from which the
9 student is physically prevented from leaving. "Seclude" or
10 "seclusion" does not include a time-out.

11 *h.* "Time-out" means a behavior management technique that
12 may involve the separation of a student from the group, in
13 a nonlocked setting, for the purpose of calming, and may be
14 written into an individualized education program. "Time-out"
15 does not mean seclusion.

16 2. *Actions prohibited — exceptions.*

17 *a.* Except as provided in this section, a school employee, a
18 person under a contract to provide services to a school, or a
19 volunteer shall not impose on any student any of the following:

20 (1) Seclusion.

21 (2) Mechanical restraint.

22 (3) Chemical restraint.

23 (4) Aversive behavioral interventions that compromise
24 health or safety.

25 (5) Physical restraint that is life-threatening, including
26 but not limited to physical restraint that restricts breathing.

27 (6) Physical restraint if contraindicated based on the
28 student's disability, health care needs, or medical or
29 psychiatric condition, as documented in a health care directive
30 or medical management plan, a behavior intervention plan, an
31 individualized education program, or other relevant record made
32 available to the school district, accredited nonpublic school,
33 or area education agency.

34 *b.* Physical restraint of a student, using only the amount
35 of force necessary to protect the student or others from

1 the threatened physical harm, may be implemented by school
2 personnel qualified under subsection 3 only under the following
3 conditions:

4 (1) The student's behavior poses an immediate danger of
5 serious physical harm to self or others.

6 (2) The physical restraint does not interfere with the
7 student's ability to communicate in the student's primary
8 language or mode of communication.

9 (3) Less restrictive interventions have been ineffective in
10 ceasing the immediate danger of serious physical harm to the
11 student or others, except in the case of a clearly unavoidable
12 emergency situation posing an immediate danger of serious
13 physical harm.

14 (4) The physical restraint is implemented in a manner that,
15 based on research and evidence, is safe, appropriate, and
16 proportionate to and sensitive to the student's severity of
17 behavior, chronological and developmental age, physical size,
18 gender, physical condition, medical condition, psychiatric
19 condition, and personal history, including any history of
20 physical or sexual abuse or other trauma.

21 *c.* The use of physical restraint shall immediately cease
22 under any of the following conditions:

23 (1) A medical condition occurs putting the student at risk
24 of harm.

25 (2) The student's behavior no longer poses an immediate
26 danger of serious physical harm to the student or others.

27 (3) Less restrictive interventions would be effective in
28 ceasing such immediate danger of serious physical harm.

29 *d.* Upon the initial implementation of physical restraint of
30 a student, school personnel shall contact key identified school
31 employees for help from within the attendance center either
32 immediately at the onset of an emergency situation or, if it is
33 reasonable under the particular situation for school personnel
34 to believe that diverting attention from the situation would
35 increase the risk to the safety of the student or to the safety

1 of others, as soon as possible once the conditions no longer
2 support such a belief.

3 e. If, in an emergency situation in which a student's
4 behavior poses an immediate danger of serious physical harm
5 to the student or others, less restrictive interventions
6 have proven ineffective in ceasing the immediate danger, a
7 student may be placed in seclusion under all of the following
8 conditions:

9 (1) The seclusion does not interfere with the student's
10 ability to breathe or communicate.

11 (2) A practitioner, paraeducator, or health care
12 professional carefully, continuously, and visually monitors the
13 student while the student is in seclusion.

14 f. Emergency seclusion shall not be used longer than
15 necessary, based on research and evidence, to allow a student
16 to regain composure to the point that the emergency situation
17 necessitating the use of emergency seclusion ceases and
18 generally no longer than fifteen minutes for an elementary
19 school student or twenty minutes for a secondary school
20 student. If an emergency seclusion lasts longer than fifteen
21 minutes for an elementary school student or twenty minutes for
22 a secondary school student, the school district or nonpublic
23 school must provide for the following:

24 (1) Additional support, which may include a change of
25 staff, or introducing a nurse, specialist, or additional key
26 identified school employees.

27 (2) Documentation to explain the extension beyond the time
28 period specified in this paragraph "f".

29 3. *Qualifications of individuals imposing physical restraint*
30 *or seclusion.* School personnel imposing physical restraint or
31 seclusion on a student in accordance with this section shall
32 meet the following conditions:

33 a. Be trained and certified under a training program
34 approved under section 256.9, subsection 60, except in the case
35 of clearly unavoidable emergency situations when trained and

1 certified school personnel are not immediately available due
2 to the unforeseeable nature of the emergency situation. The
3 principal of an attendance center shall identify one or more
4 key school employees who shall be trained and certified under a
5 training program approved under section 256.9, subsection 60.

6 *b.* Engage in continuous visual monitoring of the student as
7 required by subsection 2, paragraph "e".

8 *4. Use of physical restraint or seclusion as planned*
9 *intervention.* The use of physical restraint or seclusion as
10 a planned intervention shall not be written into a student's
11 individualized education program or any other planning document
12 prepared for an individual student unless agreed upon by school
13 administrators, the parent or guardian of the student, and the
14 individualized education team or other key identified school
15 employees and the following conditions have been met:

16 *a.* All parties to the agreement have considered less
17 restrictive means to address behavioral concerns that would
18 meet the emergency action conditions described in subsection 2.

19 *b.* The individualized education team or other key
20 identified school employees have conducted a research-based,
21 individualized functional behavioral assessment and implemented
22 a corresponding positive intervention plan that addresses
23 preventative measures used to reduce or prevent emergencies and
24 is written into the student's individualized education program
25 or a planning document prepared for the individual student.

26 *5. School responsibilities.* The board of directors of each
27 school district and the authorities in charge of a nonpublic
28 school shall do the following:

29 *a.* Establish policies and procedures that ensure school
30 personnel and parents and guardians are aware of the state
31 board of education's rules, the department's guidance, and
32 the school district's or school's policies, as appropriate,
33 regarding physical restraint and seclusion.

34 *b.* Establish policies and procedures to be followed after
35 each incident involving the imposition of physical restraint

1 or seclusion upon a student, including but not limited to the
2 following:

3 (1) Procedures to provide to the parent or guardian of
4 the student, with respect to each such incident, a verbal or
5 electronic communication on the same day as each such incident
6 and, within twenty-four hours of each such incident, written
7 notification.

8 (2) Procedures to ensure that the person who imposed
9 a physical restraint or seclusion, any adult witness, a
10 representative of the administration, a school mental health
11 professional, and at least one family member or the guardian
12 of the student participate in a debriefing session. The
13 procedures shall ensure that the student who was physically
14 restrained or secluded is given the opportunity to discuss the
15 student's perspective about the event with a trusted adult who
16 will communicate to the debriefing session group.

17 c. The debriefing session described in paragraph "b",
18 subparagraph (2), shall occur as soon as practicable, but
19 not later than five school days following the imposition of
20 physical restraint or seclusion unless it is delayed by written
21 mutual agreement of the parent or guardian and the school
22 district or nonpublic school.

23 (1) Each adult witness in the proximity of the student
24 immediately before and during the time of the physical
25 restraint or seclusion but not directly involved shall submit
26 the witness's observations in writing for the debriefing
27 session.

28 (2) The debriefing session shall include the following:

29 (a) Identification of antecedents to the physical restraint
30 or seclusion and consideration of relevant information in the
31 student's records, and such information from teachers, other
32 professionals, the parent or guardian, and student.

33 (b) Planning to prevent and reduce reoccurrence of the use
34 of physical restraint or seclusion, including consideration
35 of the results of any functional behavioral assessments,

1 whether positive behavior plans were implemented with fidelity,
2 and recommendations of appropriate positive behavioral
3 interventions and supports to assist school personnel
4 responsible for the student's individualized educational
5 program or other planning document prepared for the individual
6 student.

7 (c) A plan to have a functional behavioral assessment
8 conducted, reviewed, or revised by qualified professionals, the
9 parent or guardian, and the student.

10 (3) Information communicated by a student attending a
11 debriefing session in accordance with this subsection shall not
12 be used against the student in any disciplinary, criminal, or
13 civil investigation or proceeding.

14 6. *Prohibition against retaliation.* The board of directors
15 of a school district and the authorities in charge of a
16 nonpublic school, and the employees of such school district
17 or nonpublic school, shall not retaliate against any person
18 for having reported or having provided information regarding a
19 violation of this section or a violation of the rules adopted
20 by the state board to administer this section.

21 Sec. 4. STATE MANDATE FUNDING SPECIFIED. In accordance
22 with section 25B.2, subsection 3, the state cost of requiring
23 compliance with any state mandate included in this Act shall
24 be paid by a school district from state school foundation aid
25 received by the school district under section 257.16. This
26 specification of the payment of the state cost shall be deemed
27 to meet all of the state funding-related requirements of
28 section 25B.2, subsection 3, and no additional state funding
29 shall be necessary for the full implementation of this Act
30 by and enforcement of this Act against all affected school
31 districts.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill establishes training requirements, procedures,

1 and prohibitions relating to the use of physical restraint and
2 seclusion by school districts, accredited nonpublic schools,
3 and area education agencies.

4 STATE BOARD OF EDUCATION RULES — POLICY. The state board of
5 education is directed to adopt rules establishing a statewide
6 policy in conformance with new Code section 280.21C, relating
7 to physical restraint and seclusion practices, training, and
8 prohibitions.

9 TRAINING CURRICULUM AND CERTIFICATION BY DEPARTMENT. The
10 director of the department of education is required to develop
11 and approve, in cooperation with the board of educational
12 examiners and the area education agencies, certification in
13 state restraint and seclusion policies and procedures and
14 a training program that includes but is not limited to a
15 curriculum for practitioners and paraeducators that includes
16 evidence-based techniques and strategies for preventing the use
17 of physical restraint and seclusion by schools; practices that
18 keep school personnel and students safe if physical restraint
19 or seclusion is necessary; positive behavioral interventions,
20 supports, and strategies; behavioral antecedents, functional
21 behavioral assessments, de-escalation of challenging behaviors,
22 and conflict prevention and management; safe physical escort;
23 and first aid, including the signs of medical distress, and
24 cardiopulmonary resuscitation.

25 DEFINITIONS. The bill defines "chemical restraint"
26 to mean a drug or medication administered to a student
27 to control behavior or restrict freedom of movement that
28 is not prescribed, or administered as prescribed, by a
29 licensed physician or a qualified health care professional
30 prescriber for the standard treatment of a student's medical
31 or psychiatric condition; "mechanical restraint" to mean the
32 use of devices as a means of restricting a student's freedom
33 of movement, but not devices used by trained school personnel
34 or a student for therapeutic or safety purposes for which such
35 devices were designed and, if applicable, prescribed.

1 "Physical escort" means temporary touching or holding for
2 the purpose of inducing a student to move to a safe location;
3 "physical restraint" means a personal restriction that
4 immobilizes or reduces the ability of an individual to move
5 freely, but does not include a physical escort, mechanical
6 restraint, or chemical restraint; "positive behavioral
7 interventions and supports" means a school-wide systematic
8 approach to embed evidence-based practices and data-driven
9 decision-making to improve school climate and culture in order
10 to achieve improved academic and social outcomes, and increase
11 learning for all students, and which encompasses a range of
12 systemic and individualized positive strategies to reinforce
13 desired behaviors, diminish reoccurrence of challenging
14 behaviors, and teach appropriate behaviors to students;
15 "seclude" or "seclusion" means the involuntary confinement
16 of a student alone in a room or area from which the student
17 is physically prevented from leaving, but does not include a
18 time-out; and "time-out" means a behavior management technique
19 that may involve the separation of a student from the group,
20 in a nonlocked setting, for the purpose of calming, and may be
21 written into an individualized education program.

22 ACTIONS PROHIBITED — EXCEPTIONS. Except in emergency
23 situations, the bill prohibits a school employee, person under
24 contract to provide services to the school, or volunteer from
25 imposing on any student seclusion, mechanical restraint,
26 chemical restraint, aversive behavioral interventions that
27 compromise health or safety, or physical restraint that is
28 life-threatening or contraindicated based on the student's
29 documented disability, health care needs, or medical or
30 psychiatric condition.

31 Physical restraint, using only the amount of force necessary
32 to protect the student or others from the threatened harm,
33 may be implemented only if the student's behavior poses
34 immediate danger of serious physical harm to self or others,
35 the physical restraint does not interfere with the student's

1 ability to communicate, less restrictive interventions have
2 been ineffective, except in the case of a clearly unavoidable
3 emergency situation, and the physical restraint is performed in
4 a manner that is safe, appropriate, and proportionate to and
5 sensitive to the student's severity of behavior, chronological
6 and developmental age, physical size, gender, physical
7 condition, medical condition, psychiatric condition, and
8 personal history, including any history of physical or sexual
9 abuse or other trauma.

10 The use of physical restraint must immediately cease when
11 a medical condition occurs putting the student at risk of
12 harm, the student's behavior no longer poses immediate danger
13 of serious physical harm to the student or others, and less
14 restrictive interventions would be effective in stopping such
15 immediate danger of serious physical harm.

16 Upon the initial implementation of physical restraint,
17 school personnel must contact key identified employees for help
18 from within the attendance center either immediately at the
19 onset of an emergency situation or as soon as possible.

20 Seclusion may be used in an emergency situation in which a
21 student's behavior poses immediate danger of serious physical
22 harm to the student or others and restrictive interventions
23 have proven ineffective in ceasing the immediate danger.
24 However, the seclusion cannot interfere with the student's
25 ability to breathe or communicate, and a practitioner,
26 paraeducator, or health professional must carefully,
27 continuously, and visually monitor the student while the
28 student is in seclusion.

29 Emergency seclusion shall not be used longer than necessary,
30 generally no longer than 15 minutes for an elementary school
31 student or 20 minutes for a secondary school student. For
32 longer periods, schools must provide for additional support,
33 which may include a change of staff, or introducing a nurse,
34 specialist, or additional key identified school employees, and
35 documentation to explain the extension beyond the time limit.

1 QUALIFICATIONS OF INDIVIDUALS IMPOSING PHYSICAL RESTRAINT
2 OR SECLUSION. School personnel imposing physical restraint
3 or seclusion must engage in continuous visual monitoring of
4 the student and, except in the case of clearly unavoidable
5 emergency situations when school personnel trained and
6 certified are not immediately available, must be trained and
7 certified in state physical restraint and seclusion policies
8 and procedures. The school principal must identify at least
9 one or more school employees who shall be trained and certified
10 under a training program approved by the department.

11 USE OF PHYSICAL RESTRAINT OR SECLUSION AS PLANNED
12 INTERVENTION. The use of physical restraint or seclusion as
13 a planned intervention shall not be written into a student's
14 education plan or any other planning document for an individual
15 student unless agreed upon in writing by school administrators,
16 the parent or guardian of the student, and the individualized
17 education team or other key identified school employees; the
18 parties to the agreement considered less restrictive means
19 to address behavioral concerns that would meet the emergency
20 standard; and the individualized education team or other key
21 identified school employees have conducted a research-based,
22 individualized functional behavioral assessment and implemented
23 a corresponding positive intervention plan that addresses
24 preventative measures used to reduce or prevent emergencies and
25 is written into the student's individualized education program
26 or other planning document prepared for the individual student.

27 SCHOOL RESPONSIBILITIES. The board of directors of each
28 school district and the authorities in charge of a nonpublic
29 school are required to establish policies and procedures
30 that ensure school personnel and parents and guardians are
31 aware of the state and local rules, guidance, or policies, as
32 appropriate, regarding seclusion and restraint.

33 School districts and nonpublic schools also must establish
34 policies and procedures to be followed after each incident
35 of physical restraint or seclusion, verbal or electronic

1 notification of the parent or guardian on the same day as the
2 incident, followed by written notification within 24 hours of
3 the incident; procedures to ensure that parties to the incident
4 participate in a debriefing session; and procedures for giving
5 the student who was restrained or secluded the opportunity to
6 discuss the event with a trusted adult who will communicate to
7 the debriefing session group.

8 The debriefing session shall occur as soon as practicable,
9 but not later than five school days following the imposition of
10 physical restraint or seclusion unless it is delayed by written
11 mutual agreement. Adult witnesses who were not directly
12 involved in the incident shall submit their observations in
13 writing. The debriefing session shall include identification
14 of antecedents to the physical restraint or seclusion and
15 consideration of relevant information in the student's records;
16 planning to prevent and reduce reoccurrence of the use of
17 physical restraint or seclusion; a plan to have a functional
18 behavioral assessment conducted, reviewed, or revised by
19 qualified professionals, the parent or guardian, and the
20 student; and, when a student attends a debriefing session,
21 information communicated by the student may not be used against
22 the student.

23 PROHIBITION AGAINST RETALIATION. School districts and
24 nonpublic schools, and their employees, are prohibited from
25 retaliating against any person for reporting or providing
26 information regarding a violation of the bill, or a violation
27 of the rules adopted by the state board for the implementation
28 of the bill.

29 STATE MANDATE. The bill may include a state mandate as
30 defined in Code section 25B.3. The bill requires that the
31 state cost of any state mandate included in the bill be
32 paid by a school district from state school foundation aid
33 received by the school district under Code section 257.16. The
34 specification is deemed to constitute state compliance with
35 any state mandate funding-related requirements of Code section

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1 25B.2. The inclusion of this specification is intended to
2 reinstate the requirement of political subdivisions to comply
3 with any state mandates included in the bill.