

OLR Bill Analysis

sSB 927 (File 72, as amended by Senate "A" and "B")*

AN ACT CONCERNING SECLUSION AND RESTRAINT IN SCHOOLS.

SUMMARY:

This bill explicitly extends laws on restraint and seclusion to most public school students in grades K through 12. Currently, these laws apply predominantly to students receiving special education services.

The bill prohibits teachers, administrators, and other public school employees from using life-threatening physical restraints on any student, limits how long students can be kept in allowable physical restraints or seclusion, and specifies the types of locations in which a student may be secluded.

It bars school employees from using physical restraints on students or placing students in seclusion, unless the employees have been properly trained, and requires school boards to develop policies and procedures to (1) provide this training and (2) establish monitoring and internal reporting of the use of physical restraints and seclusion. It requires training for school professionals, paraprofessionals, and administrators to be phased in over three years, beginning with the July 1, 2015 school year.

It requires school boards to notify parents and guardians no later than 24 hours after a child has been placed in physical restraint or in seclusion, and to make a reasonable effort to notify them immediately after beginning the physical restraint or seclusion.

It requires school boards to take certain steps for students placed in physical restraint or seclusion four or more times in 20 school days. And, as under existing law, it limits when school employees may administer certain medication to students.

Among other things, the bill also (1) requires school boards to identify, by July 1, 2015, the same date the bill takes effect, crisis intervention teams to respond to incidents of physical restraint or seclusion; (2) adds reporting requirements; (3) requires the State Board of Education (SBE) to adopt or revise regulations on the use of physical restraint and seclusion; and (4) makes conforming changes.

The bill does not limit the justified use of physical force by local, state, or federal law enforcement officials performing their duties.

*Senate Amendment "A" strikes the underlying bill. It (1) separates the laws on restraint and seclusion of students from more general statutes governing restraint and seclusion and (2) makes a number of changes, including specifying the steps school

boards must take when a student is subject to restraint and seclusion four or more times in 20 school days and excluding from the definition of student children receiving educational services from Unified School District #2 or the Department of Mental Health and Addiction Services.

*Senate Amendment "B" strikes the underlying bill as amended. It incorporates many of the changes made in Senate Amendment "A" and makes additional changes, such as (1) adding training requirements for certain school professionals, (2) including a student's parent or guardian in meetings to conduct or revise behavioral assessments, and (3) creating a pilot program to compile and analyze data on incidents of physical restraint or seclusion.

EFFECTIVE DATE: July 1, 2015

APPLICABILITY

School Employee

Under the bill, a school employee is a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional school board or working in a public elementary, middle, or high school. A school employee also is anyone else who comes into regular contact with students while performing his or her duties and provides services to or on behalf of students enrolled in a public elementary, middle, or high school under a contract with the local or regional school board.

The bill requires specialized training for school professionals, paraprofessionals, and administrators. It does not define school professional but, under existing education statutes, a school professional is a school teacher, administrator, or other SBE-certified person (CGS § 10-66dd).

Student

The bill applies to children:

1. in public schools enrolled in kindergarten through 12th grade under the jurisdiction of a local or regional school board;
2. receiving special education and related services in an institution or facility ("institutions or facilities") operating under contract with a school board;
3. enrolled in a program or school administered by a regional education service center (RESC, see BACKGROUND); or

4. receiving special education and related services from an approved private special education program.

But it does not apply to children receiving education services from Unified School District #2 or the Department of Mental Health and Addiction Services (see BACKGROUND).

PROHIBITION OF LIFE THREATENING PHYSICAL RESTRAINTS

The bill bars school employees from using a life threatening physical restraint on a student. Under the bill, this is a restraint or hold that (1) restricts air flow to a student's lungs, whether by compressing the student's chest or otherwise, or (2) immobilizes or reduces a prone student's ability to freely move his or her arms, legs, or head.

As under current law, the prohibition does not limit any self-defense claim permitted to someone criminally charged with using physical force (see BACKGROUND).

LIMITED USE OF ALLOWED PHYSICAL RESTRAINT

Under the bill, as under law, a school employee may use physical restraint only in emergencies to prevent immediate or imminent injury to a student or others. An employee may not use physical restraint (1) to discipline a student (2) because it is convenient or (3) instead of a less restrictive alternative.

As under existing law, the bill requires a school employee to continually monitor a student placed in physical restraint and regularly evaluate the student for signs of physical distress. The employee conducting the evaluation must enter the evaluation in the student's educational record. Monitoring can be done either through direct observation or by video, provided the video monitoring occurs close enough for the monitor to provide aid if needed.

Under the bill, as under existing law, "physical restraint" is any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs, or head. It does not include:

1. briefly holding a student to calm or comfort him or her;
2. restraint involving the minimum contact needed to safely escort a student from one place to another;
3. medical devices, including supports prescribed by a health care provider to achieve proper body position or balance;
4. helmets or other protective gear that protects a student from being injured in a fall; or

5. helmets, mitts, and similar devices used to prevent self-injury which are the least restrictive means available to prevent the self-injury and are (a) part of a documented treatment plan or individualized education program (IEP, see BACKGROUND) or (b) prescribed or recommended by a medical professional.

SECLUSION AND ITS USE

Seclusion is a student's involuntary confinement in a room, whether alone or supervised, in a way that prevents the student from leaving. The bill and existing law bar school employees from placing a student in seclusion except to prevent immediate or imminent injury to the student or others. As in the case of the use of physical restraint, an employee may not use seclusion (1) to discipline a student, (2) because it is convenient, or (3) instead of a less restrictive alternative.

Under current law, an employee may not place a student in seclusion unless a school employee frequently monitors the student. The bill additionally requires that the area in which the student is secluded have a window or other fixture allowing the student to clearly see beyond the seclusion area. As with physical restraint, monitoring of students in seclusion can be done either through direct observation (presumably from another room) or by video, provided the video monitoring occurs close enough for the monitor to provide aid if needed.

Also, as in the case of physical restraint, a school employee must regularly evaluate the secluded student for signs of physical distress, and the employee conducting the evaluation must enter the evaluation in the student's educational record.

TIME LIMIT ON USE OF PHYSICAL RESTRAINTS AND SECLUSION

Under the bill, a student may not be placed in physical restraint or in seclusion for longer than 15 minutes, except this may be extended for additional periods of up to 30 minutes each, if a (1) school administrator or his or her designee, (2) school health or mental health professional, or (3) board certified behavioral analyst trained in the use of physical restraint and seclusion, determines that continued restraint or seclusion is necessary to prevent immediate or imminent injury to the student or others. The administrator, health or mental health professional, or behavioral analyst must make a new determination for every 30 minutes a child is physically restrained or secluded.

FREQUENT USE OF RESTRAINT OR SECLUSION

The bill specifies procedures that schools must follow in cases where a student is placed in physical restraint or seclusion four or more times in 20 school days.

In cases where such a student is requiring special education services or is being evaluated for such services and awaiting a determination, the student's planning and

placement team must meet to (1) conduct or revise the student's behavioral assessment and (2) create or revise any applicable behavioral intervention plan, including the student's IEP.

For all other students, a school administrator, at least one of the student's teachers, the student's parent or guardian, and, if any, a mental health professional, must meet to (1) conduct or revise the student's behavioral assessment, (2) create or revise any applicable behavioral intervention plan, and (3) determine if the student may require special education services.

PARENTAL NOTIFICATION

The bill requires each school board to make a reasonable effort to notify a student's parent or guardian immediately after the student is first physically restrained or placed in seclusion, and it must do so no later than 24 hours after the student was placed in restraint or seclusion.

ADMINISTERING MEDICATION

The bill bars school employees from administering any medication that affects the central nervous system and influences thinking, emotion, or behavior to any student without that child's consent. However, as under existing law, the employee may do this without such consent (1) in an emergency to prevent immediate or imminent injury to the child or someone else or (2) as an integral part of the child's established medical or behavioral support or educational plan. If there is no such plan, the employee may administer the medication without the student's consent under the initial orders of a licensed practitioner. The use of medication, alone or in combination, may be used only in therapeutically appropriate doses and not as a substitute for other appropriate treatment. The bill does not define licensed practitioner.

TRAINING ON THE USE OF PHYSICAL RESTRAINT AND SECLUSION

The bill expands on the training existing law requires. It bars a school employee from placing a student in physical restraint or seclusion unless he or she has received training in their proper use. It requires that school professionals, paraprofessionals, and administrators receive training in both the prevention of incidents requiring physical restraint or seclusion and the proper way to physically restrain or seclude someone. The training must be phased in over three years, beginning in the July 1, 2015 school year.

Overview

Starting on or after July 1, 2015, the state Department of Education (SDE) must provide, as part of the training, an annual overview of relevant laws and regulations on the use

of physical restraint and seclusion. The overview must be in the manner or form the education commissioner determines.

Prevention Training

Each school board must create a plan to provide school professionals, paraprofessionals, and administrators with training and professional development on preventing incidents requiring physical restraint or seclusion. This plan must be implemented by July 1, 2017 and provide for the training of these individuals by July 1, 2019. The bill authorizes SDE, within available appropriations, to provide continuing monitoring and support to school boards on the formulation and implementation of this plan.

Proper Use of Physical Restraint or Seclusion

Schools boards must create a plan to provide school professionals, paraprofessionals, and administrators, with training and professional development on the proper way to physically restrain or seclude a student. This plan must include:

1. various types of physical restraint and seclusion,
2. the differences between (a) life threatening physical restraint and other forms of physical restraint and (b) permissible physical restraint and pain compliance techniques, and
3. monitoring methods to prevent harm to a physically restrained or secluded student.

This training plan must be implemented by July 1, 2017 and provide for the training of all school professionals, paraprofessionals, and administrators by July 1, 2019, and periodically thereafter, as the education commissioner prescribes.

CRISIS INTERVENTION TEAMS

By July 1, 2015 and for each school year afterward, each local or regional school board must require each school in its district to identify a crisis intervention team of school professionals, paraprofessionals, and administrators trained in the use of physical restraint and seclusion under existing law. These teams must respond to any incident requiring physical restraint or seclusion under the bill. Each team member must be annually recertified in the proper use of physical restraint and seclusion. It is not clear how these teams can be identified by July 1, 2015, which is the date the bill takes effect.

Monitoring, Reporting, and Regulations

The bill requires school boards to develop policies and procedures to (1) provide this training and (2) establish monitoring and internal reporting of the use of physical restraints and seclusion. School boards must post these policies and procedures on their websites and in their procedures manual.

The bill requires SBE to adopt or revise regulations on the use of physical restraint and seclusion. No later than 60 days after the adoption or revising the regulations, each local or regional school board must update its policies on restraint and seclusion and make these updated policies and procedures available on its website and procedures manual.

PHYSICAL INJURY

As under existing law, if restraint or seclusion causes the student physical injury, the school board, institution, or facility providing special education services under contract with a school board, or approved private special education program, must report the incident to SBE, which must include it in its annual report. SBE must report any instance of serious injury or death to the Office of Protection and Advocacy for Persons with Disabilities and, if appropriate, to the Office of the Child Advocate.

RECORDING AND REPORTING REQUIREMENTS

As under existing law, the bill requires each school board and institutions and facilities to record each instance of the use of physical restraint or seclusion on a student and specify whether the use of (1) seclusion was according to the student's IEP, if applicable, or (2) physical restraint was an emergency, including the nature of the emergency. They must include this information in an annual compilation of their use of restraint and seclusion on students. The bill specifies that school boards must record this information on and after July 1, 2016. As under existing law, school boards and institutions and facilities need not report instances of in-school suspensions.

Under current law, SBE must review the compilations and produce an annual summary report identifying the frequency of use of physical restraint or seclusion for special education students and whether it was used in accordance with an IEP or in an emergency. SBE must submit the report by December 15 annually to the Committee on Children.

The bill requires SBE, in preparing its annual report to specify if any student placed in physical restraint or seclusion is a special education student and, if so, whether the restraint or seclusion was used according to an IEP or was in an emergency. The bill requires SBE to submit the report annually, starting by January 15, 2017, to both the Education and Children's committees. The Committee on Children must include the information in the annual report card it prepares evaluating state policies and programs affecting children. The bill also requires school boards, institutions, and facilities, and approved private special education programs to also send such annual reports to SDE

for the purposes of its pilot program examining incidents of physical restraint and seclusion in schools.

Pilot Program

The bill requires SDE, for the school year beginning July 1, 2015, to establish the pilot program in various districts, including an alliance district, a regional school district, and a RESC. Under the pilot program, SDE must examine incidents of physical restraint and seclusion in schools and compile and analyze data on these incidents to help SDE better understand and respond to them.

Student's Educational Record

As under existing law, the bill requires that any use of physical restraint or seclusion be documented in the student's educational record. The documentation must include, in the case of emergency use, the nature of the emergency and what other steps, including attempts at verbal de-escalation, were taken to prevent the emergency from arising if there were signs that such an emergency might occur. It also must include a detailed description of the nature of the restraint or seclusion, how long it lasted, and its effect on the student's established educational plan.

BACKGROUND

Use of Physical Force as a Defense

By law, the use of physical force on another person that would otherwise constitute an offense is justifiable in certain circumstances. For example, a teacher may use reasonable physical force on a minor to the extent he or she reasonably believes it is necessary to (1) protect himself or others from immediate physical injury; (2) obtain possession of a dangerous instrument or controlled substance on or in the control of the minor; (3) protect property from physical damage; or (4) restrain the minor or remove him or her to another area, to maintain order (CGS § 53a-18 (6)).

Under CGS 53a-19, an individual is generally justified in using reasonable physical force on someone else to defend himself or herself or a third person from what the individual reasonably believes to be the use or imminent use of physical force. With some exceptions, a person may use deadly physical force if he or she reasonably believes another person is (1) using or about to use deadly physical force or (2) inflicting or about to inflict great bodily harm.

Unified School District # 2

USD #2 serves children in Department of Children and Families (DCF)-run residential and day treatment facilities who cannot attend public school (CGS § 17a-37). According

to DCF, USD #2 serves the North and South campuses of the Albert J. Solnit Psychiatric Center (formerly Connecticut Children's Place and Riverview Hospital, respectively), and the Connecticut Juvenile Training School.

Department of Mental Health and Addiction Services (DMHAS) Education Services

By law, DMHAS provides regular education and special education and related services to eligible residents of DMHAS facilities between ages 18 and 21 (CGS § 10-76d (e) (4)).

Individualized Education Program (IEP)

Under federal law, an IEP is a written document describing the educational program for a child with a disability developed, reviewed, and revised as federal law requires (34 CFR 300.320).

Regional Education Service Centers (RESCs)

RESCs supply educational services and programs to boards of education so that the boards do not have to provide them individually (CGS § 10-66a et seq.).

COMMITTEE ACTION

Committee on Children

Joint Favorable

Yea 10 Nay 0 (02/26/2015)

Education Committee

Joint Favorable

Yea 30 Nay 0 (05/13/2015)

Appropriations Committee

Joint Favorable

Yea 41 Nay 4 (05/22/2015)