



General Assembly

January Session, 2019

Raised Bill No. 7214

LCO No. 4320



Referred to Committee on COMMITTEE ON CHILDREN

Introduced by:
(KID)

***AN ACT CONCERNING THE PHYSICAL RESTRAINT AND
SECLUSION OF STUDENTS BY SCHOOL EMPLOYEES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10-236b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2019*):

3 (a) For purposes of this section:

4 (1) "Life-threatening physical restraint" means any physical restraint
5 or hold of a person that (A) restricts the flow of air into a person's
6 lungs, whether by chest compression or any other means, or (B)
7 immobilizes or reduces the free movement of a person's arms, legs or
8 head while the person is in the prone position;

9 (2) "Psychopharmacologic agent" means any medication that affects
10 the central nervous system, influencing thinking, emotion or behavior;

11 (3) "Physical restraint" means any mechanical or personal restriction
12 that immobilizes or reduces the free movement of a person's arms, legs
13 or head, including, but not limited to, carrying or forcibly moving a

14 person from one location to another. The term does not include: (A)
15 Briefly holding a person in order to calm or comfort the person; (B)
16 restraint involving the minimum contact necessary to safely escort a
17 person from one area to another; (C) medical devices, including, but
18 not limited to, supports prescribed by a health care provider to achieve
19 proper body position or balance; (D) helmets or other protective gear
20 used to protect a person from injuries due to a fall; (E) helmets, mitts
21 and similar devices used to prevent self-injury when the device is (i)
22 part of a documented treatment plan or individualized education
23 program pursuant to section 10-76d, or (ii) prescribed or
24 recommended by a medical professional, as defined in section 38a-976,
25 and is the least restrictive means available to prevent such self-injury;
26 or (F) an exclusionary time out;

27 (4) "School employee" has the same meaning as provided in
28 subsection (b) of section 10-221o;

29 (5) "Seclusion" means the involuntary confinement of a student in a
30 room from which the student is physically prevented from leaving.
31 "Seclusion" does not include an exclusionary time out;

32 (6) "Student" means a child (A) enrolled in grades kindergarten to
33 twelve, inclusive, in a public school under the jurisdiction of a local or
34 regional board of education, (B) receiving special education and
35 related services in an institution or facility operating under contract
36 with a local or regional board of education pursuant to subsection (d)
37 of section 10-76d, (C) enrolled in a program or school administered by
38 a regional education service center established pursuant to section 10-
39 66a, or (D) receiving special education and related services from an
40 approved private special education program, but shall not include any
41 child receiving educational services from (i) Unified School District #2,
42 established pursuant to section 17a-37, or (ii) the Department of Mental
43 Health and Addiction Services; and

44 (7) "Exclusionary time out" means a temporary, continuously
45 monitored separation of a student from an ongoing activity in a non-

46 locked setting, for the purpose of calming such student or deescalating
47 such student's behavior.

48 (b) No school employee shall use a physical restraint on a student
49 except as an emergency intervention to prevent immediate or
50 imminent injury to the student or to others, [provided the restraint is]
51 except such physical restraint shall not be used during an emergency
52 intervention when the student cannot be safely restrained because
53 such restraint is medically contraindicated for reasons including, but
54 not limited to, asthma, seizures, cardiac conditions, obesity, bronchitis,
55 communication disorders or risk of vomiting. Physical restraint used
56 pursuant to this subsection shall not be used for discipline or
57 convenience [and is not used] or as a substitute for a less restrictive
58 alternative.

59 (c) No school employee shall use a life-threatening physical restraint
60 on a student. This section shall not be construed as limiting any
61 defense to criminal prosecution for the use of deadly physical force
62 that may be available under sections 53a-18 to 53a-22, inclusive.

63 (d) (1) No school employee shall place a student in seclusion except
64 as an emergency intervention to prevent immediate or imminent
65 injury to the student or to others, provided the seclusion is not used for
66 discipline or convenience and is not used as a substitute for a less
67 restrictive alternative. (2) No student shall be placed in seclusion
68 unless (A) such student is monitored by a school employee during the
69 period of such student's seclusion pursuant to subsection (m) of this
70 section, and (B) the area in which such student is secluded is equipped
71 with a window or other fixture allowing such student a clear line of
72 sight beyond the area of seclusion. (3) Seclusion shall not be utilized as
73 a planned intervention in a student's behavioral intervention plan,
74 individualized education program or plan pursuant to Section 504 of
75 the Rehabilitation Act of 1973, as amended from time to time.

76 (e) No school employee may use a psychopharmacologic agent on a
77 student without that student's consent except (1) as an emergency

78 intervention to prevent immediate or imminent injury to the student or
79 to others, or (2) as an integral part of the student's established medical
80 or behavioral support or educational plan, as developed consistent
81 with section 17a-543 or, if no such plan has been developed, as part of
82 a licensed practitioner's initial orders. The use of psychopharmacologic
83 agents, alone or in combination, may be used only in doses that are
84 therapeutically appropriate and not as a substitute for other
85 appropriate treatment.

86 (f) If any instance of physical restraint or seclusion of a student
87 otherwise permissible under subsection (b) or (d) of this section
88 exceeds fifteen minutes, (1) an administrator, as defined in section 10-
89 144e, or such administrator's designee, (2) a school health or mental
90 health personnel, as defined in subsection (a) of section 10-212b, or (3)
91 a board certified behavioral analyst, who has received training in the
92 use of physical restraint and seclusion pursuant to subsection (o) of
93 this section, shall determine whether continued physical restraint or
94 seclusion is necessary to prevent immediate or imminent injury to the
95 student or to others. Upon a determination that such continued
96 physical restraint or seclusion is necessary, such individual shall make
97 a new determination every thirty minutes thereafter regarding
98 whether such physical restraint or seclusion is necessary to prevent
99 immediate or imminent injury to the student or to others.

100 (g) In the event that physical restraint or seclusion is used on a
101 student four or more times within twenty school days:

102 (1) An administrator, one or more of such student's teachers, a
103 parent or guardian of such student and, if any, a mental health
104 professional, as defined in section 10-76t, shall convene for the purpose
105 of (A) conducting or revising a behavioral assessment of the student,
106 (B) creating or revising any applicable behavioral intervention plan,
107 and (C) determining whether such student may require special
108 education pursuant to section 10-76ff; or

109 (2) If such student is a child requiring special education, as

110 described in subparagraph (A) of subdivision (5) of section 10-76a, or a
111 child being evaluated for eligibility for special education pursuant to
112 section 10-76d and awaiting a determination, such student's planning
113 and placement team shall convene for the purpose of (A) conducting
114 or revising a behavioral assessment of the student, and (B) creating or
115 revising any applicable behavioral intervention plan, including, but
116 not limited to, such student's individualized education plan.

117 (h) [Each local or regional board of education shall notify] The
118 school principal shall provide verbal notification to a parent or
119 guardian of a student who is placed in physical restraint or seclusion
120 not later than twenty-four hours after the student was placed in
121 physical restraint or seclusion and shall make a reasonable effort to
122 provide such notification immediately after such physical restraint or
123 seclusion is initiated. Not later than three business days after such
124 student was placed in physical restraint or seclusion, the principal
125 shall send the parent or guardian of such student written notice that
126 such student was placed in physical restraint or seclusion by (1)
127 electronic mail to an electronic mail address provided by the parent or
128 guardian for the purpose of communicating about the student, or (2)
129 mail.

130 (i) No school employee shall use a physical restraint on a student or
131 place a student in seclusion unless such school employee has received
132 training on the proper means for performing such physical restraint or
133 seclusion pursuant to subsection (o) of this section.

134 (j) (1) On and after July 1, 2016, each local or regional board of
135 education, and each institution or facility operating under contract
136 with a local or regional board of education pursuant to subsection (d)
137 of section 10-76d that provides special education for children,
138 including any approved private special education program, shall (A)
139 record each instance of the use of physical restraint or seclusion on a
140 student, (B) specify whether the use of seclusion was in accordance
141 with an individualized education program, (C) specify the nature of
142 the emergency that necessitated the use of such physical restraint or

143 seclusion, and (D) include such information in an annual compilation
144 on its use of such restraint and seclusion on students. Each local or
145 regional board of education and such institutions or facilities operating
146 under contract with a local or regional board of education pursuant to
147 subsection (d) of section 10-76d that provides special education for
148 children, including any approved private special education program
149 shall provide such annual compilation to the Department of Education
150 for the purposes of the pilot program established pursuant to
151 subdivision (2) of this subsection to examine incidents of physical
152 restraint and seclusion in schools and to the State Board of Education
153 for the purposes of subsection (k) of this section. Local or regional
154 boards of education and such institutions and facilities that provide
155 special education for children shall not be required to report instances
156 of in-school suspensions, as defined in subsection (c) of section 10-
157 233a.

158 (2) The Department of Education shall establish a pilot program for
159 the school year commencing July 1, 2015. Such pilot program shall be
160 implemented in various districts, including, but not limited to, an
161 alliance district, a regional school district and a regional education
162 service center. Under the pilot program, the Department of Education
163 shall examine incidents of physical restraint and seclusion in schools
164 and shall compile and analyze data regarding such incidents to enable
165 the department to better understand and respond to incidents of
166 physical restraint and seclusion on students in the state.

167 (k) The State Board of Education shall review the annual
168 compilation of each local or regional board of education, and each
169 institution or facility operating under contract with a local or regional
170 board of education pursuant to subsection (d) of section 10-76d that
171 provides special education for children, including any approved
172 private special education program, and shall produce an annual
173 summary report specifying (1) the frequency of use of physical
174 restraint or seclusion on students, (2) whether any student subjected to
175 such restraint or seclusion was a special education student, and (3) if
176 any such student was a special education student, whether the use of

177 such seclusion was in accordance with an individualized education
178 program or whether the use of such seclusion was an emergency
179 intervention to prevent immediate or imminent injury to the student or
180 to others. Such report shall be submitted not later than January 15,
181 2017, and annually thereafter, to the joint standing committees of the
182 General Assembly having cognizance of matters relating to children
183 and education for inclusion in the annual report card prepared
184 pursuant to section 2-53m.

185 (l) Any use of physical restraint or seclusion on a student shall be
186 documented in the student's educational record. The documentation
187 shall include (1) the nature of the emergency and what other steps,
188 including attempts at verbal deescalation, were taken to prevent the
189 emergency from arising if there were indications that such an
190 emergency was likely to arise, and (2) a detailed description of the
191 nature of the restraint or seclusion, the duration of such restraint or
192 seclusion and the effect of such restraint or seclusion on the student's
193 established educational plan.

194 (m) Any student who is physically restrained or involuntarily
195 placed in seclusion shall be continually monitored by a school
196 employee, [Any student who is involuntarily placed in seclusion shall
197 be frequently monitored by a school employee] except, in the case of a
198 student who has been assigned a school paraprofessional and such
199 paraprofessional is available, such paraprofessional shall be the school
200 employee who shall continually monitor such student during the
201 period of physical restraint or involuntary seclusion. Each student so
202 restrained or in seclusion shall be regularly evaluated by a school
203 employee for indications of physical distress. The school employee
204 conducting the evaluation shall enter each evaluation in the student's
205 educational record. For purposes of this subsection, "monitor" means
206 [(1)] direct observation, [or (2) observation by way of video
207 monitoring within physical proximity sufficient to provide aid as may
208 be needed.]

209 (n) If the use of such restraint or seclusion results in physical injury

210 to the student, the local or regional board of education, and each
211 institution or facility operating under contract with a local or regional
212 board of education pursuant to subsection (d) of section 10-76d that
213 provides special education for children, including any approved
214 private special education program, shall report the incident to the State
215 Board of Education, which shall include such incident in the report
216 required pursuant to subsection (k) of this section. The State Board of
217 Education shall report any incidence of serious injury or death to the
218 nonprofit entity designated by the Governor in accordance with
219 section 46a-10b to serve as the Connecticut protection and advocacy
220 system, as required by the Developmental Disabilities Assistance and
221 Bill of Rights Act of 2000, 42 USC 15041, et seq., as amended from time
222 to time, and any regulations promulgated thereunder, and as required
223 by the Protection and Advocacy for Individuals with Mental Illness
224 Act, 42 USC 10801 et seq., as amended from time to time, and any
225 regulations promulgated thereunder, and, if appropriate, to the Child
226 Advocate of the Office of the Child Advocate.

227 (o) (1) Each local or regional board of education shall provide
228 training regarding the physical restraint and seclusion of students to
229 the members of the crisis intervention team for each school in the
230 district, identified pursuant to subdivision (2) of this subsection. A
231 local or regional board of education may provide such training to any
232 teacher, as defined in section 10-144d, administrator, as defined in
233 section 10-144e, school paraprofessional or other school employee, as
234 defined in section 10-222d, designated by the school principal and who
235 has direct contact with students. Such training shall be provided
236 during the school year commencing July 1, 2017, and each school year
237 thereafter, and shall include, but not be limited to:

238 (A) An overview of the relevant laws and regulations regarding the
239 use of physical restraint and seclusion on students and the proper uses
240 of physical restraint and seclusion. For the school year commencing
241 July 1, 2017, and annually thereafter, such overview shall be provided
242 by the Department of Education, in a manner and form as prescribed
243 by the Commissioner of Education;

244 (B) The creation of a plan by which each local and regional board of
245 education shall provide training regarding the prevention of incidents
246 requiring physical restraint or seclusion of students. Such plan shall be
247 implemented not later than July 1, 2018. The Department of Education
248 may, within available appropriations, provide ongoing monitoring
249 and support to local or regional boards of education regarding the
250 formulation and implementation of the plan; and

251 (C) The creation of a plan by which each local or regional board of
252 education shall provide training regarding the proper means of
253 physical restraint or seclusion of a student, including, but not limited
254 to, (i) various types of physical restraint and seclusion; (ii) the
255 differences between life-threatening physical restraint and other
256 varying levels of physical restraint; (iii) the differences between
257 permissible physical restraint and pain compliance techniques; and (iv)
258 monitoring methods to prevent harm to a student who is physically
259 restrained or in seclusion. Such plan shall be implemented not later
260 than July 1, 2018;

261 (2) For the school year commencing July 1, 2017, and each school
262 year thereafter, each local and regional board of education shall
263 require each school in the district to identify a crisis intervention team
264 consisting of any teacher, as defined in section 10-144d, administrator,
265 as defined in section 10-144e, school paraprofessional or other school
266 employee, as defined in section 10-222d, designated by the school
267 principal and who has direct contact with students. Such teams shall
268 respond to any incident in which the use of physical restraint or
269 seclusion may be necessary as an emergency intervention to prevent
270 immediate or imminent injury to a student or to others. Each member
271 of the crisis intervention team shall be recertified in the use of physical
272 restraint and seclusion pursuant to subparagraph (C) of subdivision (1)
273 of this subsection or chapter 814e on an annual basis. Each local and
274 regional board of education shall maintain a list of the members of the
275 crisis intervention team for each school.

276 (p) Each local or regional board of education shall develop policies

277 and procedures that establish monitoring and internal reporting of the
278 use of physical restraint and seclusion on students and shall make such
279 policies and procedures available on such local or regional board of
280 education's Internet web site and in such local or regional board of
281 education's procedures manual.

282 (q) Nothing in this section shall be construed as limiting the justified
283 use of physical force by a local, state or federal law enforcement official
284 while in the performance of such official's duties.

285 (r) The State Board of Education shall adopt or revise regulations, in
286 accordance with the provisions of chapter 54, concerning the use of
287 physical restraint and seclusion pursuant to this section. Not later than
288 sixty days after the adoption or revision of such regulations, each local
289 or regional board of education shall update any applicable policies and
290 procedures regarding the physical restraint and seclusion of students
291 and shall make such updated policies and procedures available in a
292 manner consistent with the provisions of subsection (p) of this section.

293 (s) Not later than January 1, 2019, each local or regional board of
294 education shall establish a policy regarding the use of an exclusionary
295 time out. Such policy shall include, but need not be limited to, a
296 requirement that (1) exclusionary time outs are not to be used as a
297 form of discipline, (2) at least one school employee remain with the
298 student, or be immediately available to the student such that the
299 student and school employee are able to communicate verbally,
300 throughout the exclusionary time out, (3) the space used for an
301 exclusionary time out is clean, safe, sanitary and appropriate for the
302 purpose of calming such student or deescalating such student's
303 behavior, (4) the exclusionary time out period terminate as soon as
304 possible, and (5) if such student is a child requiring special education,
305 as defined in section 10-76a, or a child being evaluated for special
306 education, pursuant to section 10-76d, and awaiting a determination,
307 and the interventions or strategies are unsuccessful in addressing such
308 student's problematic behavior, such student's planning and
309 placement team shall convene as soon as is practicable to determine

310 alternative interventions or strategies.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2019	10-236b

Statement of Purpose:

To (1) prohibit the physical restraint of a student who cannot be safely restrained because such restraint is medically contraindicated, (2) require school principals to provide verbal and written notification to the parent or guardian of any student placed in physical restraint or seclusion, (3) require continual rather than frequent monitoring of a student placed in involuntary seclusion, and (4) require the presence of a student's assigned school paraprofessional if such student is placed in physical restraint or seclusion.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]