

HOUSE BILL No. 1318

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-34-8.

Synopsis: Use of restraints and seclusion in school. Establishes standards for the use of restraint and seclusion in schools. Requires parental notification when restraint or seclusion is imposed on a student. Imposes reporting requirements for school corporations. Requires training for certain school staff members in the use of positive behavior intervention and support.

Effective: July 1, 2012.

Porter, Brown T

January 11, 2012, read first time and referred to Committee on Education.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1318



A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-34-8 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO BE READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]:

4 **Chapter 8. Restraint and Seclusion**

5 **Sec. 1. As used in this chapter, "chemical restraint" means the**
6 **administration of a drug or medication to manage a student's**
7 **behavior or restrict a student's freedom of movement that is not a**
8 **standard treatment and dosage for the student's medical or**
9 **psychiatric condition.**

10 **Sec. 2. As used in this chapter, "emergency situation" means a**
11 **situation where a student's behavior poses a threat to the physical**
12 **safety of the student or others in close proximity to the student.**

13 **Sec. 3. (a) As used in this chapter, "mechanical restraint" means**
14 **the use of:**

- 15 (1) a mechanical device;
- 16 (2) a material; or
- 17 (3) equipment;



1 attached or adjacent to a student's body that the student cannot
 2 easily remove that restricts the freedom of movement of all or part
 3 of the student's body or restricts normal access to the student's
 4 body.

5 (b) The term does not include:

- 6 (1) mechanical devices;
- 7 (2) a material; or
- 8 (3) equipment;

9 used for postural support, used during transportation, or used to
 10 improve the mobility and independent functioning of a student
 11 rather than to restrict movement.

12 Sec. 4. As used in this chapter, "physical restraint" means
 13 physical contact between an educational provider and a student:

- 14 (1) in which the student unwillingly participates; and
- 15 (2) that involves the use of a manual hold to restrict freedom
 16 of movement of all or part of a student's body or to restrict
 17 normal access to the student's body.

18 The term does not include briefly holding a student without undue
 19 force in order to calm, comfort, or prevent unsafe behavior, such
 20 as running into traffic or engaging in a physical altercation, or
 21 physical contact intended to gently assist or prompt a student in
 22 performing a task or to guide or assist a student from one (1) area
 23 to another.

24 Sec. 5. As used in this chapter, "positive behavior intervention
 25 and support" means a systematic approach that:

- 26 (1) uses evidence based practices and data driven decision
 27 making to improve school climate and culture; and
- 28 (2) includes a range of systematic and individualized
 29 strategies to reinforce desired behavior and diminish
 30 reoccurrence of problem behavior;

31 to achieve improved academic and social outcomes and increase
 32 learning for all students.

33 Sec. 6. As used in this chapter, "qualified staff member" refers
 34 to a school staff member who is trained in using positive behavior
 35 intervention and support.

36 Sec. 7. As used in this chapter, "seclusion" means the
 37 involuntary confinement of a student alone in a room or area from
 38 which the student physically is prevented from leaving. The term
 39 does not include a supervised timeout in which an adult is
 40 continuously present in the room with the student.

41 Sec. 8. A school staff member may not use:

- 42 (1) seclusion;

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(2) chemical restraint;
(3) mechanical restraint; or
(4) physical restraint;
upon a student for the purpose of coercion, discipline, convenience, or retaliation. Any behavioral intervention must be consistent with the student's right to be treated with dignity and to be free from abuse, regardless of the student's educational needs or behavioral challenges.

Sec. 9. A school staff member may not use any of the following:

- (1) A physical restraint technique that obstructs a student's respiratory airway or impairs the student's breathing or respiratory capacity, including a technique in which a school staff member places pressure on a student's back or places the staff member's body weight against the student's torso or back.
- (2) A pillow, blanket, or other item covering the student's face as part of a physical restraint.
- (3) An improvised restraint device, such as a sheet or belt.
- (4) A physical restraint on a student who has a known medical, psychological, or physical condition if there is reason to believe that the use of the physical restraint would endanger the student's life or seriously exacerbate the medical, psychological, or physical condition of the student. A medical, psychological, or physical condition under this subdivision includes a history of trauma or abuse, obesity, an agitated or excited syndrome, a preexisting heart disease, and a respiratory condition, including bronchitis or asthma.
- (5) Placement of a student in a face-down position with the student's hands held or restrained behind the student's back.
- (6) Physical restraint as an extended procedure beyond the immediate emergency.

Sec. 10. (a) If seclusion is used, the room or area used for seclusion may not have locked doors. Appropriate fire and safety procedures must be developed and maintained. A school must have a room used for seclusion inspected by local fire and safety authorities, and a school must receive written approval of the room from local fire and safety authorities before a room can be used for seclusion. A school must notify the department that the school intends to use a room for seclusion and that the local fire and safety authorities have provided written notice that the room has been inspected and is suitable for use for seclusion.

(b) Any space used for seclusion must be:

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- 1 (1) free of any conditions that could be a danger to the
 2 student;
 3 (2) well ventilated and temperature controlled;
 4 (3) sufficiently lighted for the comfort and well-being of the
 5 student;
 6 (4) in a position where school personnel are in continuous,
 7 direct visual contact with the student;
 8 (5) at least forty (40) square feet; and
 9 (6) in compliance with all applicable state and local fire,
 10 health, and safety codes.

11 **Sec. 11. A school staff member may use physical restraint only**
 12 **if all the following conditions are met:**

- 13 (1) It is an emergency situation, and physical restraint is
 14 required to prevent imminent serious physical harm to the
 15 student, staff, or others.
 16 (2) The school staff member has determined that less
 17 restrictive alternatives and other positive behavior
 18 intervention supports are ineffective.
 19 (3) A school staff member is continuously present and keeps
 20 the student under constant face-to-face observation for signs
 21 of distress or difficulty breathing.
 22 (4) The school staff member applying the restraint is a
 23 qualified staff member trained in positive behavior
 24 intervention and support, including the following:
 25 (A) Evidence based techniques shown to be effective in the
 26 prevention and safe use of physical restraint and seclusion.
 27 (B) Evidence based skill training that is related to positive
 28 behavior intervention support.
 29 (C) Conflict prevention.
 30 (D) De-escalation and conflict management.
 31 (E) First aid.
 32 (F) Cardiopulmonary resuscitation.

33 **Sec. 12. A school staff member may not use chemical restraint,**
 34 **unless the staff member is licensed to prescribe and administer**
 35 **medication.**

36 **Sec. 13. A school staff member may not use mechanical**
 37 **restraint.**

38 **Sec. 14. A school staff member may not use seclusion unless all**
 39 **the following conditions are met:**

- 40 (1) The school staff member uses seclusion as an emergency
 41 behavior intervention.
 42 (2) The student placed in seclusion has a current

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1 individualized education program that includes the use of
 2 seclusion, and the student has the ability to understand the
 3 purpose of seclusion and the directives given by the school
 4 personnel regarding the seclusion. The individualized
 5 education program shall be reviewed by the case conference
 6 committee team after every incident of seclusion.

7 (3) The student placed in seclusion:

8 (A) exhibits behavior that poses an imminent risk of
 9 serious physical harm to school personnel; or

10 (B) is in a facility otherwise licensed or permitted by the
 11 state to use seclusion when the student poses an imminent
 12 risk of serious physical harm to school personnel or others;
 13 and the behavior cannot be addressed by a less restrictive
 14 intervention.

15 (4) During the use of seclusion a qualified staff member who
 16 is free from other responsibilities at the time is continually
 17 present and keeps the student under constant direct visual
 18 observation. A student may not be deprived of sleep, food,
 19 water, shelter, physical comfort, or access to bathroom
 20 facilities.

21 **Sec. 15.** A student's parents must be informed of the policies on
 22 restraint and seclusion in addition to applicable state or local laws
 23 at the student's school or other educational setting. A student's
 24 parent must be notified when physical restraint or seclusion is
 25 used. The school staff members involved in the incident when
 26 physical restraint or seclusion is used shall participate in a
 27 debriefing session as soon as possible after the incident with the
 28 parent to discuss the behavior and future prevention planning.

29 **Sec. 16.** A school staff member authorized to impose physical
 30 restraint or seclusion under this chapter must successfully
 31 complete a basic or inservice course of education and training in
 32 positive behavior intervention and support that is certified by the
 33 state board in conjunction with any other appropriate entity
 34 determined by the state board.

35 **Sec. 17.** The state board shall adopt rules under IC 4-22-2 for
 36 the following:

37 (1) Standards for continuing education and training for
 38 qualified staff members.

39 (2) Mandatory training and continuing education
 40 requirements for qualified staff members.

41 **Sec. 18.** By July 1 of each year, each school corporation shall
 42 submit a report to the department detailing the following

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- 1 **information for the current school year:**
- 2 **(1) The total number of incidents in which physical restraint**
- 3 **was imposed on a student.**
- 4 **(2) The total number of incidents in which seclusion was**
- 5 **imposed on a student.**
- 6 **(3) The race, gender, and grade level of each student upon**
- 7 **whom physical restraint or seclusion was imposed and**
- 8 **whether the student was a student with a disability (as defined**
- 9 **in IC 20-35-1-2).**

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