



February 22, 2013

SENATE BILL No. 345

DIGEST OF SB 345 (Updated February 20, 2013 6:23 pm - DI 71)

Citations Affected: IC 20-34; noncode.

Synopsis: Use of restraints and seclusion in schools. Establishes a commission on seclusion and restraint in schools to: (1) recommend to the state board of education rules concerning the use of seclusion and restraint in schools; (2) develop a model restraint and seclusion plan; (3) approve or disapprove school corporation restraint and seclusion plans; and (4) review incident reports of restraint and seclusion submitted annually by school corporations. Requires a school corporation to have in place an approved restraint and seclusion plan or to have adopted the model plan for the 2014-2015 school year.

Effective: Upon passage.

Head, Kruse, Breaux, Taylor, Mrvan

January 8, 2013, read first time and referred to Committee on Education and Career Development.
February 21, 2013, amended, reported favorably — Do Pass.

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SB 345—LS 6340/DI 109+



February 22, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 345

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 READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 8. Restraint and Seclusion**

5 **Sec. 1. As used in this chapter, "behavioral intervention plan"**
6 **means a plan that is agreed upon by the case conference committee**
7 **(as defined in IC 20-35-7-2) and incorporated into a student's**
8 **individualized education program (as defined in IC 20-18-2-9) and**
9 **that describes the following:**

10 (1) **The pattern of behavior that impedes the student's**
11 **learning or the learning of others.**

12 (2) **The purpose or function of the behavior as identified in a**
13 **functional behavioral assessment.**

14 (3) **The positive interventions and supports, and other**
15 **strategies, to:**

16 (A) **address the behavior; and**

17 (B) **maximize consistency of implementation across people**

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- 1 and settings in which the student is involved.
- 2 **(4) If applicable, the skills that will be taught and monitored**
- 3 **in an effort to change a specific pattern of behavior of the**
- 4 **student.**
- 5 **The behavioral intervention plan seeks to maximize consistency of**
- 6 **implementation across people and settings in which the student is**
- 7 **involved.**
- 8 **Sec. 2. As used in this chapter, "chemical restraint" means the**
- 9 **administration of a drug or medication to manage a student's**
- 10 **behavior or restrict a student's freedom of movement that is not a**
- 11 **standard treatment and dosage for the student's medical or**
- 12 **psychiatric condition.**
- 13 **Sec. 3. As used in this chapter, "commission" refers to the**
- 14 **commission on seclusion and restraint in schools established under**
- 15 **section 11 of this chapter.**
- 16 **Sec. 4. As used in this chapter, "isolated time-out" means the**
- 17 **confinement of a student in a time-out room or some other**
- 18 **enclosure, whether within or outside the classroom, from which the**
- 19 **student's egress is restricted.**
- 20 **Sec. 5. (a) As used in this chapter, "mechanical restraint" means**
- 21 **the use of:**
- 22 **(1) a mechanical device;**
- 23 **(2) a material; or**
- 24 **(3) equipment;**
- 25 **attached or adjacent to a student's body that the student cannot**
- 26 **easily remove and that restricts the freedom of movement of all or**
- 27 **part of the student's body or restricts normal access to the**
- 28 **student's body.**
- 29 **(b) The term does not include:**
- 30 **(1) mechanical devices;**
- 31 **(2) a material; or**
- 32 **(3) equipment;**
- 33 **used as prescribed by a doctor.**
- 34 **Sec. 6. (a) As used in this chapter, "physical restraint" means**
- 35 **physical contact between a school employee and a student:**
- 36 **(1) in which the student unwillingly participates; and**
- 37 **(2) that involves the use of a manual hold to restrict freedom**
- 38 **of movement of all or part of a student's body or to restrict**
- 39 **normal access to the student's body.**
- 40 **(b) The term does not include:**
- 41 **(1) briefly holding a student without undue force in order to**
- 42 **calm or comfort the student, or to prevent unsafe behavior,**

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- 1 such as running into traffic or engaging in a physical
- 2 altercation;
- 3 (2) physical escort; or
- 4 (3) physical contact intended to gently assist or prompt a
- 5 student in performing a task or to guide or assist a student
- 6 from one (1) area to another.

7 Sec. 7. As used in this chapter, "positive behavior intervention

8 and support" means a systematic approach that:

- 9 (1) uses evidence based practices and data driven decision
- 10 making to improve school climate and culture; and
- 11 (2) includes a range of systematic and individualized
- 12 strategies to reinforce desired behavior and diminish
- 13 reoccurrence of problem behavior;

14 to achieve improved academic and social outcomes and increase

15 learning for all students.

16 Sec. 8. As used in this chapter, "school employee" means an

17 individual employed by a public school, including a charter school.

18 Sec. 9. As used in this chapter, "seclusion" means the

19 involuntary confinement of a student alone in a room or area from

20 which the student physically is prevented from leaving. The term

21 does not include a supervised time-out or scheduled break, as

22 described in a student's individualized education program, in

23 which an adult is continuously present in the room with the

24 student.

25 Sec. 10. As used in this chapter, "time-out" means a behavior

26 reduction procedure in which access to reinforcement is withdrawn

27 for a certain period of time. Time-out occurs when the ability of a

28 student to receive normal reinforcement in the school environment

29 is restricted.

30 Sec. 11. (a) The commission on seclusion and restraint in schools

31 is established.

- 32 (b) The commission has the following seven (7) members:
- 33 (1) The designee of the state superintendent, who serves at the
- 34 pleasure of the state superintendent.
- 35 (2) A representative of the Autism Society of Indiana, chosen
- 36 by the organization, who serves a two (2) year term.
- 37 (3) A representative of the Arc of Indiana, chosen by the
- 38 organization, who serves a two (2) year term.
- 39 (4) A representative of the Indiana Council of Administrators
- 40 of Special Education, chosen by the organization, who serves
- 41 a two (2) year term.
- 42 (5) A representative of the Indiana Protection and Advocacy

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- 1 Services, chosen by the organization, who serves a two (2)
 2 year term.
- 3 (6) A parent of a student with a disability, nominated by a
 4 member described in subdivisions (1) through (5) and
 5 approved by a majority of the members described in
 6 subdivisions (1) through (5), who serves a two (2) year term.
- 7 (7) A parent of a student who does not have a disability,
 8 nominated by a member described in subdivisions (1) through
 9 (5) and approved by a majority of the members described in
 10 subdivisions (1) through (5), who serves a two (2) year term.
- 11 (c) Each member of the commission who is not a state employee
 12 is entitled to the minimum salary per diem provided by
 13 IC 4-10-11-2.1(b). A member who is not a state employee is also
 14 entitled to reimbursement for traveling expenses and other
 15 expenses actually incurred in connection with the member's duties,
 16 as provided in the state travel policies and procedures established
 17 by the Indiana department of administration and approved by the
 18 budget agency.
- 19 Sec. 12. (a) The designee of the state superintendent serves as
 20 chairperson of the commission.
- 21 (b) The commission shall meet at least annually on the call of the
 22 chairperson, and may meet as often as is necessary. The
 23 chairperson shall provide not less than fourteen (14) days notice of
 24 a meeting to the members of the commission and to the public.
- 25 (c) The affirmative votes of at least four (4) members of the
 26 commission are necessary for the commission to take action. The
 27 votes of the commission must be recorded.
- 28 (d) All commission meetings shall be open to the public, and
 29 each meeting must include opportunities for public comment.
- 30 (e) The department shall provide staff support for the
 31 commission.
- 32 Sec. 13. The commission has the following duties:
- 33 (1) To recommend to the state board proposed rules
 34 concerning the following:
- 35 (A) Proper methods of chemical, mechanical, and physical
 36 restraint.
- 37 (B) The use of seclusion and timeouts.
- 38 (C) Standards for rooms used for seclusion and timeouts,
 39 including room construction, exits, the size of the room,
 40 ceiling height, and health and safety considerations.
- 41 (D) Training regarding the use of seclusion and restraint,
 42 including the frequency of training and which school

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- employees must be trained. The commission must approve at least one (1) training method that is without cost to schools.
- (2) Before August 1, 2013, to develop a model restraint and seclusion plan for schools that includes the following elements:
 - (A) A statement on how students will be treated with dignity and respect and how appropriate student behavior will be promoted and taught.
 - (B) A statement ensuring that the school will use prevention, positive behavior intervention and support, and conflict deescalation to minimize the need for use of any of the following:
 - (i) Seclusion.
 - (ii) Chemical restraint.
 - (iii) Mechanical restraint.
 - (iv) Physical restraint.
 - (C) A statement ensuring that any behavioral intervention used will be consistent with the student's most current behavioral intervention plan, or individualized education program, if applicable.
 - (D) Definitions for restraint and seclusion, as defined in this chapter.
 - (E) A statement ensuring that if a procedure listed in clause (B) is used, the procedure will be used:
 - (i) as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and
 - (ii) in a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.
 - (F) An indication that restraint or seclusion may be used only for a short time period, or until the imminent risk of injury has passed.
 - (G) A documentation and recording requirement governing instances in which procedures listed in clause (B) are used, including:
 - (i) how every incident will be documented and debriefed;
 - (ii) how responsibilities will be assigned to designated employees for evaluation and oversight; and
 - (iii) designation of a school employee to be the keeper of such documents.

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(H) A requirement that the student's parent must be notified as soon as possible when an incident involving the student occurs that includes use of procedures listed in clause (B).

(I) A requirement that a copy of an incident report must be sent to the student's parent after the student is subject to a procedure listed in clause (B).

(J) Required recurrent training for appropriate school employees on the appropriate use of effective alternatives to physical restraint and seclusion, including the use of positive behavioral intervention and support and conflict deescalation. The training must include the safe use of physical restraint and seclusion in incidents involving imminent danger or serious harm to the student, school employees, or others.

(3) To adopt procedures for the approval or disapproval of school corporation restraint and seclusion plans submitted under section 14 of this chapter.

(4) To adopt procedures for the review of incident reports submitted to the commission under section 15 of this chapter.

Sec. 14. (a) Before January 1, 2014, each school corporation shall either:

(1) submit to the commission a restraint and seclusion plan that contains the elements set forth in section 13(2) of this chapter; or

(2) inform the commission that the school corporation has adopted the commission's model restraint and seclusion plan.

A school corporation may submit the school corporation's restraint and seclusion plan or communicate the school corporation's adoption of the model restraint and seclusion plan to the department.

(b) The commission may approve or not approve a school corporation's restraint and seclusion plan submitted under subsection (a). If the commission takes no action concerning a school corporation's submitted restraint and seclusion plan, the restraint and seclusion plan is considered to be approved.

(c) A school corporation's restraint and seclusion plan submitted or adopted under this section must become effective not later than July 1, 2014.

Sec. 15. A school corporation shall submit an annual report to the commission and to the department of the number and types of incidents of restraint and seclusion that occurred in each school in

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1 the school corporation. The report must be in the form required by
 2 the commission.
 3 Sec. 16. The state board shall adopt rules under IC 4-22-2 to
 4 carry out the recommendations of the commission made under
 5 section 13 of this chapter.
 6 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this
 7 SECTION, "commission" refers to the commission on seclusion
 8 and restraint in schools established under IC 20-34-8-11, as added
 9 by this act.
 10 (b) Before May 31, 2013, the organizations set forth in
 11 IC 20-34-8-11(b)(2) through IC 20-34-8-11(b)(5), as added by this
 12 act, shall select their representatives to serve on the commission
 13 and submit the names and contact information for the
 14 representatives to the department of education.
 15 (c) The individual designated by the state superintendent of
 16 public instruction to serve on the commission shall call the initial
 17 meeting of the commission before July 1, 2013.
 18 (d) This SECTION expires July 1, 2013.
 19 SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 345, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 2, delete "JULY" and insert "UPON PASSAGE]:".

Page 1, delete line 3.

Page 1, delete lines 5 through 17.

Page 2, delete lines 1 through 2.

Page 2, line 3, delete "2." and insert "1."

Page 2, line 23, delete "3." and insert "2."

Page 2, between lines 27 and 28, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "commission" refers to the commission on seclusion and restraint in schools established under section 11 of this chapter."

Page 3, line 29, delete ":" and insert **"a public school, including a charter school."**

Page 3, delete lines 30 through 31.

Page 4, delete lines 2 through 42, begin a new paragraph and insert:

"Sec. 11. (a) The commission on seclusion and restraint in schools is established.

(b) The commission has the following seven (7) members:

(1) The designee of the state superintendent, who serves at the pleasure of the state superintendent.

(2) A representative of the Autism Society of Indiana, chosen by the organization, who serves a two (2) year term.

(3) A representative of the Arc of Indiana, chosen by the organization, who serves a two (2) year term.

(4) A representative of the Indiana Council of Administrators of Special Education, chosen by the organization, who serves a two (2) year term.

(5) A representative of the Indiana Protection and Advocacy Services, chosen by the organization, who serves a two (2) year term.

(6) A parent of a student with a disability, nominated by a member described in subdivisions (1) through (5) and approved by a majority of the members described in subdivisions (1) through (5), who serves a two (2) year term.

(7) A parent of a student who does not have a disability, nominated by a member described in subdivisions (1) through (5) and approved by a majority of the members described in



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subdivisions (1) through (5), who serves a two (2) year term.

(c) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member who is not a state employee is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 12. (a) The designee of the state superintendent serves as chairperson of the commission.

(b) The commission shall meet at least annually on the call of the chairperson, and may meet as often as is necessary. The chairperson shall provide not less than fourteen (14) days notice of a meeting to the members of the commission and to the public.

(c) The affirmative votes of at least four (4) members of the commission are necessary for the commission to take action. The votes of the commission must be recorded.

(d) All commission meetings shall be open to the public, and each meeting must include opportunities for public comment.

(e) The department shall provide staff support for the commission.

Sec. 13. The commission has the following duties:

(1) To recommend to the state board proposed rules concerning the following:

(A) Proper methods of chemical, mechanical, and physical restraint.

(B) The use of seclusion and timeouts.

(C) Standards for rooms used for seclusion and timeouts, including room construction, exits, the size of the room, ceiling height, and health and safety considerations.

(D) Training regarding the use of seclusion and restraint, including the frequency of training and which school employees must be trained. The commission must approve at least one (1) training method that is without cost to schools.

(2) Before August 1, 2013, to develop a model restraint and seclusion plan for schools that includes the following elements:

(A) A statement on how students will be treated with dignity and respect and how appropriate student behavior will be promoted and taught.

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(B) A statement ensuring that the school will use prevention, positive behavior intervention and support, and conflict deescalation to minimize the need for use of any of the following:

- (i) Seclusion.**
- (ii) Chemical restraint.**
- (iii) Mechanical restraint.**
- (iv) Physical restraint.**

(C) A statement ensuring that any behavioral intervention used will be consistent with the student's most current behavioral intervention plan, or individualized education program, if applicable.

(D) Definitions for restraint and seclusion, as defined in this chapter.

(E) A statement ensuring that if a procedure listed in clause (B) is used, the procedure will be used:

- (i) as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and**
- (ii) in a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.**

(F) An indication that restraint or seclusion may be used only for a short time period, or until the imminent risk of injury has passed.

(G) A documentation and recording requirement governing instances in which procedures listed in clause (B) are used, including:

- (i) how every incident will be documented and debriefed;**
- (ii) how responsibilities will be assigned to designated employees for evaluation and oversight; and**
- (iii) designation of a school employee to be the keeper of such documents.**

(H) A requirement that the student's parent must be notified as soon as possible when an incident involving the student occurs that includes use of procedures listed in clause (B).

(I) A requirement that a copy of an incident report must be sent to the student's parent after the student is subject to a procedure listed in clause (B).

(J) Required recurrent training for appropriate school employees on the appropriate use of effective alternatives

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to physical restraint and seclusion, including the use of positive behavioral intervention and support and conflict deescalation. The training must include the safe use of physical restraint and seclusion in incidents involving imminent danger or serious harm to the student, school employees, or others.

(3) To adopt procedures for the approval or disapproval of school corporation restraint and seclusion plans submitted under section 14 of this chapter.

(4) To adopt procedures for the review of incident reports submitted to the commission under section 15 of this chapter.

Sec. 14. (a) Before January 1, 2014, each school corporation shall either:

(1) submit to the commission a restraint and seclusion plan that contains the elements set forth in section 13(2) of this chapter; or

(2) inform the commission that the school corporation has adopted the commission's model restraint and seclusion plan.

A school corporation may submit the school corporation's restraint and seclusion plan or communicate the school corporation's adoption of the model restraint and seclusion plan to the department.

(b) The commission may approve or not approve a school corporation's restraint and seclusion plan submitted under subsection (a). If the commission takes no action concerning a school corporation's submitted restraint and seclusion plan, the restraint and seclusion plan is considered to be approved.

(c) A school corporation's restraint and seclusion plan submitted or adopted under this section must become effective not later than July 1, 2014.

Sec. 15. A school corporation shall submit an annual report to the commission and to the department of the number and types of incidents of restraint and seclusion that occurred in each school in the school corporation. The report must be in the form required by the commission.

Sec. 16. The state board shall adopt rules under IC 4-22-2 to carry out the recommendations of the commission made under section 13 of this chapter.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the commission on seclusion and restraint in schools established under IC 20-34-8-11, as added by this act.



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(b) Before May 31, 2013, the organizations set forth in IC 20-34-8-11(b)(2) through IC 20-34-8-11(b)(5), as added by this act, shall select their representatives to serve on the commission and submit the names and contact information for the representatives to the department of education.

(c) The individual designated by the state superintendent of public instruction to serve on the commission shall call the initial meeting of the commission before July 1, 2013.

(d) This SECTION expires July 1, 2013.

SECTION 3. An emergency is declared for this act."

Delete page 5.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 345 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 12, Nays 0.

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