



Reprinted
February 26, 2013

SENATE BILL No. 345

DIGEST OF SB 345 (Updated February 25, 2013 3:05 pm - DI 71)

Citations Affected: IC 20-20; noncode.

Synopsis: Use of restraints and seclusion in schools. Establishes a commission on seclusion and restraint in schools to adopt rules concerning the use of restraint and seclusion in schools and develop a model restraint and seclusion plan. Requires a school corporation to have in place a restraint and seclusion plan for the 2014-2015 school year.

Effective: Upon passage.

**Head, Kruse,
Breaux, Taylor, Mrvan, Randolph**

January 8, 2013, read first time and referred to Committee on Education and Career Development.
February 21, 2013, amended, reported favorably — Do Pass.
February 25, 2013, read second time, amended, ordered engrossed.

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SB 345—LS 6340/DI 109+



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.

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 20-20-40 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 40. Restraint and Seclusion Commission**

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**

SB 345—LS 6340/DI 109+



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and settings in which the student is involved.

(4) If applicable, the skills that will be taught and monitored in an effort to change a specific pattern of behavior of the student.

The behavioral intervention plan seeks to maximize consistency of implementation across people and settings in which the student is involved.

Sec. 2. As used in this chapter, "chemical restraint" means the administration of a drug or medication to manage a student's behavior or restrict a student's freedom of movement that is not a standard treatment and dosage for the student's medical or psychiatric condition.

Sec. 3. As used in this chapter, "commission" refers to the commission on seclusion and restraint in schools established under section 12 of this chapter.

Sec. 4. As used in this chapter, "isolated time-out" means the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student's egress is restricted.

Sec. 5. (a) As used in this chapter, "mechanical restraint" means the use of:

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

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

(b) The term does not include:

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

used as prescribed by a doctor.

Sec. 6. (a) As used in this chapter, "physical restraint" means physical contact between a school employee and a student:

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

(b) The term does not include:

- (1) briefly holding a student without undue force in order to 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 corporation" includes a
17 charter school that is not a virtual charter school.

18 Sec. 9. As used in this chapter, "school employee" means an
19 individual employed by a public school, including a charter school.

20 Sec. 10. As used in this chapter, "seclusion" means the
21 involuntary confinement of a student alone in a room or area from
22 which the student physically is prevented from leaving. The term
23 does not include a supervised time-out or scheduled break, as
24 described in a student's individualized education program, in
25 which an adult is continuously present in the room with the
26 student.

27 Sec. 11. As used in this chapter, "time-out" means a behavior
28 reduction procedure in which access to reinforcement is withdrawn
29 for a certain period of time. Time-out occurs when the ability of a
30 student to receive normal reinforcement in the school environment
31 is restricted.

32 Sec. 12. (a) The commission on seclusion and restraint in schools
33 is established.

34 (b) The commission has the following nine (9) members:

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

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

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

41 (4) A representative of the Indiana Council of Administrators
42 of Special Education, chosen by the organization, who serves

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- 1 a two (2) year term.
- 2 (5) A representative of the Indiana Protection and Advocacy
- 3 Services, chosen by the organization, who serves a two (2)
- 4 year term.
- 5 (6) A parent of a student with a disability, nominated by a
- 6 member described in subdivisions (1) through (5) and
- 7 approved by a majority of the members described in
- 8 subdivisions (1) through (5), who serves a two (2) year term.
- 9 (7) A parent of a student who does not have a disability,
- 10 nominated by a member described in subdivisions (1) through
- 11 (5) and approved by a majority of the members described in
- 12 subdivisions (1) through (5), who serves a two (2) year term.
- 13 (8) Two (2) school administrators, each nominated by a
- 14 member described in subdivisions (1) through (5) and
- 15 approved by a majority of the members described in
- 16 subdivisions (1) through (5), each of whom serves a two (2)
- 17 year term.
- 18 (c) Each member of the commission who is not a state employee
- 19 is entitled to the minimum salary per diem provided by
- 20 IC 4-10-11-2.1(b). A member who is not a state employee is also
- 21 entitled to reimbursement for traveling expenses and other
- 22 expenses actually incurred in connection with the member's duties,
- 23 as provided in the state travel policies and procedures established
- 24 by the Indiana department of administration and approved by the
- 25 budget agency.
- 26 Sec. 13. (a) The designee of the state superintendent under
- 27 section 12(b)(1) of this chapter serves as chairperson of the
- 28 commission.
- 29 (b) The commission shall meet at least annually on the call of the
- 30 chairperson, and may meet as often as is necessary. The
- 31 chairperson shall provide not less than fourteen (14) days notice of
- 32 a meeting to the members of the commission and to the public.
- 33 (c) The affirmative votes of at least five (5) members of the
- 34 commission are necessary for the commission to take action. The
- 35 votes of the commission must be recorded.
- 36 (d) All commission meetings shall be open to the public, and
- 37 each meeting must include opportunities for public comment.
- 38 (e) The department shall provide staff support for the
- 39 commission.
- 40 Sec. 14. The commission has the following duties:
- 41 (1) To adopt rules concerning the following:
- 42 (A) The use of restraint and seclusion in public schools,

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with an emphasis on minimizing the use of restraint and seclusion.

(B) The prevention of the use of types of restraint or seclusion that may harm a student, a school employee, a school volunteer, or the educational environment of the school.

(C) Requirements for notifying parents and reporting incidents of restraint and seclusion.

(D) Training regarding the use of restraint and seclusion, including the frequency of training and what employees must be trained.

(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.

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(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 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.

Sec. 15. A school corporation shall adopt a restraint and seclusion plan that incorporates, at a minimum, the elements of the model plan developed under section 14 of this chapter. The school corporation's plan must become effective not later than July 1, 2014.

Sec. 16. This chapter may not be construed to give rise to a cause of action, either civil or criminal, against the state, the department, the commission, or a member of the commission.

Sec. 17. The commission shall adopt rules under IC 4-22-2 to carry out the purposes 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 20-20-40-12, as added by this act.

(b) Before May 31, 2013, the organizations set forth in IC 20-20-40-12(b)(2) through IC 20-20-40-12(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.

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1 (c) The individual designated by the state superintendent of
2 public instruction to serve on the commission under
3 IC 20-20-40-12(b)(1), as added by this act, shall call the initial
4 meeting of the commission before July 1, 2013.

5 (d) This SECTION expires July 1, 2013.
6 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.

SENATE MOTION

Madam President: I move that Senate Bill 345 be amended to read as follows:

Page 1, line 1, delete "IC 20-34-8" and insert "IC 20-20-40".

Page 1, line 4, delete "8." and insert "40."

Page 1, line 4, after "Seclusion" insert "Commission".

Page 2, line 15, delete "11" and insert "12".

Page 3, between lines 15 and 16, begin a new paragraph and insert: "Sec. 8. As used in this chapter, "school corporation" includes a charter school that is not a virtual charter school."

Page 3, line 16, delete "8." and insert "9."

Page 3, line 18, delete "9." and insert "10."

Page 3, line 25, delete "10." and insert "11."

Page 3, line 30, delete "11." and insert "12."

Page 3, line 32, delete "seven (7)" and insert "nine (9)".

Page 4, between lines 10 and 11, begin a new line block indented and insert:

"(8) Two (2) school administrators, each nominated by a member described in subdivisions (1) through (5) and approved by a majority of the members described in subdivisions (1) through (5), each of whom serves a two (2)



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year term."

Page 4, line 19, delete "12." and insert "13."

Page 4, line 19, after "superintendent" insert "**under section 12(b)(1) of this chapter**".

Page 4, line 25, delete "four (4)" and insert "**five (5)**".

Page 4, line 32, delete "13." and insert "14."

Page 4, line 33, delete "recommend to the state board proposed rules" and insert "**adopt rules concerning the following:**

(A) The use of restraint and seclusion in public schools, with an emphasis on minimizing the use of restraint and seclusion.

(B) The prevention of the use of types of restraint or seclusion that may harm a student, a school employee, a school volunteer, or the educational environment of the school.

(C) Requirements for notifying parents and reporting incidents of restraint and seclusion.

(D) Training regarding the use of restraint and seclusion, including the frequency of training and what employees must be trained."

Page 4, delete lines 34 through 42.

Page 5, delete lines 1 through 3.

Page 6, delete lines 16 through 20.

Page 6, line 21, delete "14. (a) Before January 1, 2014, each school corporation" and insert "15."

Page 6, delete lines 22 through 36.

Page 6, line 37, delete "(c)".

Page 6, run in lines 21 through 37.

Page 6, line 37, delete "corporation's" and insert "**corporation shall adopt a**".

Page 6, line 38, delete "submitted or adopted under this section" and insert "**that incorporates, at a minimum, the elements of the model plan developed under section 14 of this chapter. The school corporation's plan**".

Page 6, delete lines 40 through 42, begin a new paragraph and insert:

"Sec. 16. This chapter may not be construed to give rise to a cause of action, either civil or criminal, against the state, the department, the commission, or a member of the commission."

Page 7, delete lines 1 through 2.

Page 7, line 3, delete "16." and insert "17."

Page 7, line 3, delete "state board" and insert "**commission**".



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Page 7, line 4, delete "recommendations of the commission made under" and insert "**purposes of this chapter.**".

Page 7, delete line 5.

Page 7, line 8, delete "IC 20-34-8-11," and insert "**IC 20-20-40-12,**".

Page 7, line 11, delete "IC 20-34-8-11(b)(2) through IC 20-34-8-11(b)(5)," and insert "**IC 20-20-40-12(b)(2) through IC 20-20-40-12(b)(5),**".

Page 7, line 16, after "commission" insert "**under IC 20-20-40-12(b)(1), as added by this act,**".

(Reference is to SB 345 as printed February 22, 2013.)

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