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# A BILL FOR AN ACT

RELATING TO EDUCATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1           SECTION 1. The purpose of this Act is to:
- 2           (1) Prevent and reduce the use of restraint or seclusion
- 3                 in public schools;
- 4           (2) Ensure the safety of all students and personnel in
- 5                 public schools and promote a positive school culture
- 6                 and climate;
- 7           (3) Protect students from:
- 8                 (A) Physical and mental abuse;
- 9                 (B) Aversive behavioral interventions that compromise
- 10                 health and safety; and
- 11            (C) Any restraint or seclusion imposed solely for
- 12                 purposes of discipline or convenience;
- 13           (4) Ensure that restraint or seclusion are imposed in
- 14                 public schools only when a student's behavior poses an
- 15                 imminent danger of physical injury to the student,
- 16                 school personnel, or others; and
- 17           (5) Assist public schools by:



- 1 (A) Establishing policies and procedures to keep all
- 2 students and school personnel safe, including
- 3 students with the most complex and intense
- 4 behavioral needs;
- 5 (B) Providing school personnel with the necessary
- 6 tools, training, and support to ensure the safety
- 7 of all students and all school personnel;
- 8 (C) Collecting and analyzing data on the use of
- 9 restraint or seclusion in schools; and
- 10 (D) Identifying and implementing effective evidence-
- 11 based models to prevent and reduce restraint or
- 12 seclusion in schools.

13 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
 14 amended by adding a new section to be appropriately designated  
 15 and to read as follows:

16 **"§302A- Use of restraint or seclusion limited;**  
 17 **notification; policies and procedures; training; review. (a)**  
 18 **The use of restraint or seclusion shall be prohibited in public**  
 19 **schools unless:**

20 **(1) There is an emergency situation, and restraint or**  
 21 **seclusion is necessary to protect a student or other**  
 22 **person; provided that other less intrusive**



1 interventions have failed or been determined to be  
2 inappropriate; or

3 (2) The parent or legal guardian of a student has provided  
4 written consent for the use of restraint or seclusion  
5 while a behavioral intervention plan is being  
6 developed.

7 (b) At a minimum, any room or structure used for seclusion  
8 shall:

9 (1) Be free of objects and fixtures with which the student  
10 could self-inflict bodily harm;

11 (2) Provide a teacher with an unobstructed view of the  
12 student from an adjacent area; and

13 (3) Provide adequate lighting and ventilation.

14 (c) All parents and legal guardians of students shall  
15 receive, at least annually, written information issued by the  
16 department about policies and procedures for restraint or  
17 seclusion. This written information shall include:

18 (1) A brief summary describing the training received by  
19 public school staff in using restraint or seclusion in  
20 facilities or programs;



- 1        (2) Information describing state policies and procedures
- 2            that meet the minimum standards established by state
- 3            statutes and administrative rules;
- 4        (3) Information on the procedures for determining when
- 5            restraint or seclusion can and cannot be properly used
- 6            in public school settings;
- 7        (4) Definitions of restraint and seclusion;
- 8        (5) Information on the procedural safeguards that are in
- 9            place to protect the rights of children and their
- 10           parents or legal guardians;
- 11        (6) A description of the alignment of policies and
- 12           procedures on restraint or seclusion with applicable
- 13           state laws or department rules;
- 14        (7) Information on the procedures for notifying parents
- 15           and legal guardians when restraint or seclusion has
- 16           been used with their child; and
- 17        (8) Information on the procedures for notifying parents
- 18           and legal guardians about any changes to policies and
- 19           procedures on restraint or seclusion.
- 20        (d) If policy or procedural changes related to restraint
- 21           or seclusion are made during the school year, staff and parents
- 22           or legal guardians shall be notified immediately.



1       (e) The board shall establish a policy regarding the use  
2 of restraint or seclusion in public schools. The department  
3 shall establish procedures to be followed after each incident  
4 involving the imposition of restraint or seclusion upon a  
5 student, including procedures to provide to the parent or legal  
6 guardian of the student:

7       (1) An immediate verbal or electronic communication on the  
8 same day as each incident; and

9       (2) Written notification within twenty-four hours of each  
10 incident.

11       (f) All public schools shall ensure that staff who use  
12 restraint or seclusion in facilities or programs are trained and  
13 certified on a periodic basis. Training shall include:

14       (1) Evidence-based techniques shown to be effective in the  
15 prevention of restraint or seclusion;

16       (2) Evidence-based techniques shown to be effective in  
17 keeping school personnel and students safe when  
18 imposing restraint or seclusion;

19       (3) Evidence-based skills related to positive behavioral  
20 supports and interventions, safe physical escort,  
21 conflict prevention, understanding antecedents, de-  
22 escalation, and conflict management;



- 1       (4) A wide array of prevention and intervention
- 2           modalities;
- 3       (5) First aid and cardiopulmonary resuscitation; and
- 4       (6) Information describing state policies and procedures
- 5           that meet the minimum standards established by state
- 6           statute and administrative rules.

7       (g) No less than quarterly, there shall be a review of  
8 data on students at each public school who were restrained or  
9 secluded conducted as directed by each complex area  
10 superintendent. The review shall determine whether:

- 11       (1) There are strategies in place to address the students
- 12           with dangerous behaviors at issue;
- 13       (2) The strategies in place are effective in increasing
- 14           appropriate behaviors of students with dangerous
- 15           behaviors; and
- 16       (3) New strategies need to be developed or current
- 17           strategies need to be revised or changed to prevent
- 18           the reoccurrence of dangerous behaviors.

19 Patterns and trends in the data that are identified by the  
20 review shall be reported to the department.

21       (h) Each public school shall maintain records of its  
22 reviews of restraint and seclusion data and any resulting

1 decisions or actions regarding the use of restraint or  
2 seclusion.

3 (i) The department shall review policies and procedures on  
4 the use of restraint or seclusion, including by reviewing  
5 available data on such use, outcomes, settings, individual staff  
6 involvement, and programs, and the frequency of use for student  
7 populations categorized by: individual students; groups of  
8 students; gender; race; national origin; disability status and  
9 type of disability; and limited English proficiency, for the  
10 purposes of determining:

11 (1) Whether policies for restraint and seclusion are being  
12 applied consistently;

13 (2) The accuracy and consistency with which restraint and  
14 seclusion data is being collected, as well as the  
15 extent to which this data is being used to plan  
16 behavioral interventions and staff training;

17 (3) Whether policies and procedures are being implemented  
18 with fidelity;

19 (4) Whether policies and procedures continue to protect  
20 children and adults; and



1       (5) Whether policies and procedures remain properly  
2           aligned with applicable state statutes and  
3           administrative rules and consistent with privacy laws.

4       (j) As used in this section:

5       "Behavioral intervention plan" means a proactive plan  
6       designed to address problem behaviors exhibited by a student in  
7       the educational setting through the use of positive behavioral  
8       supports and interventions.

9       "Positive behavioral supports and interventions" means a  
10       systematic approach to embed evidence-based practices and data-  
11       driven decision making to improve public school climate and  
12       culture and includes a range of systemic and individualized  
13       strategies to reinforce desired behaviors and diminish the  
14       reoccurrence of problem behaviors in order to achieve improved  
15       academic and social outcomes and increase learning for all  
16       students, including students with the most complex and intense  
17       behavioral needs.

18       "Restraint" means:

19       (1) A mechanical restraint, which means the use of devices  
20       as a means of restricting a student's freedom of  
21       movement; or





1       (2) A physical restraint, which means a personal  
2               restriction that immobilizes or reduces the ability of  
3               a student to move the student's arms, legs, or head  
4               freely.

5       "Seclusion" means the confinement of a student alone in a  
6       room or structure from which the student is physically prevented  
7       from leaving."

8       SECTION 3. Section 302A-1141, Hawaii Revised Statutes, is  
9       amended to read as follows:

10       "~~+~~**\$302A-1141**~~+~~ **Punishment of pupils limited.** No  
11       physical punishment of any kind may be inflicted upon any pupil,  
12       ~~[but reasonable force may be used by a teacher in order to~~  
13       ~~restrain a pupil in attendance at school from hurting oneself or~~  
14       ~~any other person or property, and reasonable force may be used~~  
15       ~~as defined in section 703-309(2) by a principal or the~~  
16       ~~principal's agent only with another teacher present and out of~~  
17       ~~the presence of any other student but only for the purposes~~  
18       ~~outlined in section 703-309(2)(a).]~~ except as provided for under  
19       sections 302A-     and 703-309(2)."

20       SECTION 4. There is appropriated out of the general  
21       revenues of the State of Hawaii the sum of \$                or so much  
22       thereof as may be necessary for fiscal year 2014-2015 to provide

1 resources for training and data accountability to assist with  
2 the effective implementation of this Act.

3 The sum appropriated shall be expended by the department of  
4 education for the purposes of this Act.

5 SECTION 5. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on August 26, 2151.



**Report Title:**

Restraint and Seclusion; Public Schools

**Description:**

Establishes conditions and procedures for the use of restraint or seclusion in public schools. Requires collection and review of data. Makes an appropriation. Effective August 26, 2151. (HB1796 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

