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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) Prohibit the use of seclusion and reduce the use of
- 3 restraint 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 imposed solely for purposes of
- 12 discipline or convenience;
- 13 (4) Ensure that restraint is imposed in public schools
- 14 only when a student's behavior poses an imminent
- 15 danger of property damage or physical injury to the
- 16 student, school personnel, or others and only for so
- 17 long as the danger persists; and
- 18 (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 in schools; and

10 (D) Identifying and implementing effective evidence-  
11 based models to prevent and reduce restraint in  
12 schools.

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

16 **§302A-A Use of seclusion, chemical restraint, or**  
17 **mechanical restraint prohibited.** The use of seclusion, chemical  
18 restraint, or mechanical restraint shall be prohibited in public  
19 schools regardless of any consent of the student, parents, or  
20 guardians.

21 **§302A-B Use of physical restraint limited; notification;**  
22 **policies and procedures; training; review.** (a) The use of

1 physical restraint shall be prohibited in public schools unless  
2 a student's behavior poses an imminent danger of property damage  
3 or physical injury to the student, school personnel, or others  
4 and only for so long as the danger persists; provided that other  
5 less intrusive interventions have failed or been determined to  
6 be inappropriate for the student.

7 (b) No physical restraint may be imposed that is:

8 (1) Life threatening, including physical restraint that  
9 may restrict breathing; or

10 (2) Contraindicated based on the student's disability,  
11 health care needs, or medical or psychiatric  
12 condition, as documented in a health care directive or  
13 medical management plan, a behavior intervention plan,  
14 an individual education program, or an individualized  
15 family service plan (as defined in Section 602 of the  
16 Individuals with Disabilities Education Act, (20  
17 U.S.C. 1401)), or plan developed pursuant to Section  
18 504 of the Rehabilitation Act of 1973.

19 (c) The board shall establish a policy regarding the use  
20 of restraint in public schools. The department shall establish  
21 procedures to be followed after each incident involving the



1 imposition of restraint upon a student, including procedures to  
2 provide to the parent or legal guardian of the student:

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

5 (2) Written notification within twenty-four hours of each  
6 incident.

7 (d) All parents and legal guardians of students shall  
8 receive, at least annually, written information issued by the  
9 department about policies and procedures for restraint. This  
10 written information shall include:

11 (1) A brief summary describing the training received by  
12 public school staff in using restraint in facilities  
13 or programs;

14 (2) Information describing state policies and procedures  
15 that meet the minimum standards established by state  
16 statutes and administrative rules;

17 (3) Information on the procedures for determining when  
18 restraint can and cannot be properly used in public  
19 school settings;

20 (4) Definitions of restraint;



1       (5) Information on the procedural safeguards that are in  
2       place to protect the rights of children and their  
3       parents or legal guardians;

4       (6) A description of the alignment of policies and  
5       procedures on restraint with applicable state laws or  
6       department rules;

7       (7) Information on the procedures for notifying parents  
8       and legal guardians when restraint has been used with  
9       their child; and

10       (8) Information on the procedures for notifying parents  
11       and legal guardians about any changes to policies and  
12       procedures on restraint.

13       (e) If policy or procedural changes related to restraint  
14       are made during the school year, staff and parents or legal  
15       guardians shall be notified immediately.

16       (f) All public schools shall ensure that staff who use  
17       restraint in facilities or programs are trained and certified on  
18       a periodic basis no less frequently than annually. Training  
19       shall include:

20       (1) Evidence-based techniques shown to be effective in the  
21       prevention of restraint;



- 1        (2) Evidence-based techniques shown to be effective in  
2        keeping school personnel and students safe when  
3        imposing restraint;
- 4        (3) Evidence-based skills related to positive behavioral  
5        supports and interventions, safe physical escort,  
6        conflict prevention, understanding antecedents, de-  
7        escalation, and conflict management;
- 8        (4) A wide array of prevention and intervention  
9        modalities;
- 10       (5) First aid and cardiopulmonary resuscitation; and
- 11       (6) Information describing state policies and procedures  
12       that meet the minimum standards established by state  
13       statutes and administrative rules.
- 14       (g) No less than quarterly, there shall be a review of  
15 data on students at each public school who were restrained,  
16 which shall be conducted as directed by each complex area  
17 superintendent. The review shall determine whether:
- 18       (1) There are strategies in place to address the students  
19       with dangerous behaviors at issue;
- 20       (2) The strategies in place are effective in increasing  
21       appropriate behaviors of students with dangerous  
22       behaviors; and



1       (3) New strategies need to be developed or current  
2                   strategies need to be revised or changed to prevent  
3                   the reoccurrence of dangerous behaviors.

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

6       (h) Each public school shall maintain records of its  
7 reviews of restraint data and any resulting decisions or actions  
8 regarding the use of restraint.

9       (i) The department shall review policies and procedures on  
10 the use of restraint, including by reviewing available data on  
11 such use, outcomes, settings, individual staff involvement, and  
12 programs, and the frequency of use for student populations  
13 categorized by: individual students; groups of students; gender;  
14 race; national origin; disability status and type of disability;  
15 and limited English proficiency, for the purposes of  
16 determining:

17       (1) Whether policies for restraint are being applied  
18                   consistently;

19       (2) The accuracy and consistency with which restraint data  
20 is being collected, as well as the extent to which  
21 this data is being used to plan behavioral  
22 interventions and staff training;



1       (3) Whether policies and procedures are being implemented  
2       with fidelity;

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

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

8       (j) As used in this section:

9       "Chemical restraint" means a drug or medication used on a  
10      student to control behavior or restrict freedom of movement;  
11      provided that the term does not include a drug or medication  
12      that is:

13      (1) Prescribed by a licensed physician, or other qualified  
14      health professional acting under the scope of the  
15      professional's authority under state law, for the  
16      standard treatment of a student's medical or  
17      psychiatric condition; and

18      (2) Administered as prescribed by a licensed physician or  
19      other qualified health professional acting under the  
20      scope of the professional's authority under state law.

21      "Mechanical restraint" means the use of devices as a means  
22      of restricting a student's freedom of movement or the ability to





1 communicate in the student's primary language or mode of  
2 communication.

3 "Physical restraint" means a personal restriction, other  
4 than a chemical or mechanical restraint, that immobilizes or  
5 reduces the ability of a student to move the student's arms,  
6 legs, or head freely.

7 "Restraint" means:

- 8 (1) A mechanical restraint;
- 9 (2) A chemical restraint; or
- 10 (3) A physical restraint.

11 "Seclusion" means the confinement of a student alone in a  
12 room or structure from which the student is physically denied  
13 voluntary egress."

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

16 **"[+]§302A-1141[+] Punishment of pupils limited.** No  
17 physical punishment of any kind may be inflicted upon any pupil,  
18 ~~[but reasonable force may be used by a teacher in order to~~  
19 ~~restrain a pupil in attendance at school from hurting oneself or~~  
20 ~~any other person or property, and reasonable force may be used~~  
21 ~~as defined in section 703-309(2) by a principal or the~~  
22 ~~principal's agent only with another teacher present and out of~~



1 ~~the presence of any other student but only for the purposes~~  
2 ~~outlined in section 703-309(2)(a).]~~ except as provided for under  
3 sections 302-B and 703-309(2)."

4 SECTION 4. The department of education shall report to the  
5 legislature no later than twenty days prior to the convening of  
6 the regular sessions of 2017, 2018, and 2019, on the department  
7 of education's policy and procedures on the use of restraint in  
8 public schools.

9 SECTION 5. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so  
11 much thereof as may be necessary for fiscal year 2014-2015 to  
12 provide resources for training and data accountability to assist  
13 with the effective implementation of this Act.

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

16 SECTION 6. In codifying the new sections added by section  
17 2 of this Act, the revisor of statutes shall substitute  
18 appropriate section numbers for the letters used in designating  
19 the new sections in this Act.

20 SECTION 7. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22 SECTION 8. This Act shall take effect on August 26, 2151.



**Report Title:**

Restraint and Seclusion; Public Schools; Appropriation

**Description:**

Prohibits the use of seclusion in public schools. Establishes conditions and procedures for the use of restraint in public schools. Requires collection and review of data. Requires reports to the legislature. Makes an appropriation. Effective August 26, 2151. (SD1)

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

