

STAND. COM. REP. NO. **2953**

Honolulu, Hawaii

MAR 20 2014

RE: H.B. No. 1796
H.D. 2
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Education, to which was referred H.B. No. 1796, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose and intent of this measure is to establish conditions and procedures for the use of restraint or seclusion in public schools.

Your Committee received testimony in support of this measure from the Department of Education, State Council on Developmental Disabilities, Hawaii Disability Rights Center, Hawaii Association of School Psychologists, Community Children's Council of Hawaii, Special Education Advisory Council, and six individuals. Your Committee received testimony in opposition to this measure from three individuals. Your Committee received comments on this measure from Handle with Care Behavior Management System, Inc. and one individual.

Your Committee finds that this measure will promote the safety and well-being of students and school personnel by requiring the Board of Education and Department of Education to establish policies and procedures for the limited use of restraint in public schools.

Your Committee has amended this measure by:



- (1) Prohibiting the use of seclusion, chemical restraint, or mechanical restraint in public schools;
- (2) Prohibiting the use of physical restraint unless a student's behavior poses an imminent danger of property damage or physical injury to the student, school personnel, or others and only for so long as the danger persists; provided that other less intrusive interventions have failed or been determined to be inappropriate for the student;
- (3) Prohibiting the use of any physical restraint that is:
 - (A) Life threatening, including physical restraint that may restrict breathing; or
 - (B) Contraindicated based on the student's disability, health care needs, or medical or psychiatric condition, as documented in a health care directive or medical management plan, a behavior intervention plan, an individual education program, or an individualized family service plan, or plan developed pursuant to Section 504 of the Rehabilitation Act of 1973;
- (4) Clarifying that staff who use restraint must be trained and certified at least annually;
- (5) Clarifying that a mechanical restraint includes the use of devices that restrict a student's ability to communicate in the student's primary language or mode of communication;
- (6) Defining and including chemical restraint as a type of restraint;
- (7) Amending the definition of "seclusion" to mean the confinement of a student alone in a room or structure from which the student is physically denied voluntary egress;
- (8) Adding language to require the Department of Education to submit a report to the Legislature no later than twenty days prior to the convening of the Regular Sessions of 2017, 2018, and 2019, on the Department of



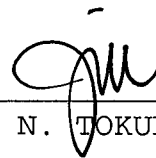
Education's policy and procedures on the use of restraint in public schools; and

- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

If this measure is considered for passage by your Committee on Ways and Means, your Committee requests that your Committees on Judiciary and Labor and Ways and Means give consideration to any funding request by the Department of Education for the purposes of carrying out the purposes of this measure.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1796, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1796, H.D. 2, S.D. 1, and be referred to the Committees on Judiciary and Labor and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Education,



JILL N. TOKUDA, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Education
EDU

Bill / Resolution No.:* HB1796 HD2	Committee Referral: EDU, JDL/WAM	Date: 3-14-14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TOKUDA, Jill N. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
GABBARD, Mike				✓
RUDERMAN, Russell E.	✓			
SLOM, Sam				✓
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes