

FIRST REGULAR SESSION

# HOUSE BILL NO. 119

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MACKEY.

0221H.02I

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal section 160.263, RSMo, and to enact in lieu thereof one new section relating to school district policies on restrictive behavioral interventions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 160.263, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.263, to read as follows:

160.263. 1. **As used in this section, the following terms mean:**

(1) **"Mechanical restraint", the use of any device or equipment to restrict a student's freedom of movement. "Mechanical restraint" shall not include devices implemented by trained personnel or used by a student with a prescription for such devices from an appropriate medical or related services professional and that are used for specific and approved purposes for which such devices were designed, such as the following:**

(a) **Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;**

(b) **Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;**

(c) **Restraints for medical immobilization; or**

(d) **Orthopedically prescribed devices that permit a student to participate in activities without risk;**

(2) **"Physical restraint", a personal restriction such as person-to-person physical contact that immobilizes, reduces, or restricts the ability of a student to move the student's torso, arms, legs, or head freely. "Physical restraint" shall not include:**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (a) A physical escort, which is a temporary touching or holding of the hand, wrist,  
19 arm, shoulder, or back for the purpose of inducing a student to walk to a safe location;

20 (b) Comforting or calming a student;

21 (c) Holding a student's hand to transport the student for safety purposes;

22 (d) Intervening in a fight; or

23 (e) Using an assistive or protective device prescribed by an appropriately trained  
24 professional or professional team;

25 (3) "Restraint" includes, but is not limited to, mechanical restraint or physical  
26 restraint;

27 (4) "Seclusion", the involuntary confinement of a student alone in a room or area  
28 that the student is physically prevented from leaving and that complies with the building  
29 code in effect in the school district. "Seclusion" shall not include the following:

30 (a) A timeout, which is a behavior management technique that is part of an  
31 approved program, involves the monitored separation of the student in a nonlocked setting,  
32 and is implemented for the purpose of calming;

33 (b) In-school suspension;

34 (c) Detention; or

35 (d) Other appropriate disciplinary measures.

36 2. The school discipline policy under section 160.261 shall ~~prohibit~~ reserve confining  
37 a student in ~~[an unattended, locked space except]~~ seclusion for ~~[an emergency situation while~~  
38 ~~awaiting the arrival of law enforcement personnel]~~ situations or conditions in which there is  
39 imminent danger of physical harm to self or others.

40 ~~[2.]~~ 3. (1) By July 1, 2011, the local board of education of each school district shall  
41 adopt a written policy that comprehensively addresses the use of restrictive behavioral  
42 interventions as a form of discipline or behavior management technique. The policy shall be  
43 consistent with professionally accepted practices and standards of student discipline, behavior  
44 management, health, and safety, including the safe schools act. The policy shall include but not  
45 be limited to:

46 ~~[(1)]~~ (a) Definitions of restraint, seclusion, and time-out and any other terminology  
47 necessary to describe the continuum of restrictive behavioral interventions available for use or  
48 prohibited in the district, consistent with the provisions of this section;

49 ~~[(2)]~~ (b) Description of circumstances under which a restrictive behavioral intervention  
50 is allowed and prohibited, consistent with the provisions of this section, and any unique  
51 application requirements for specific groups of students such as differences based on age,  
52 disability, or environment in which the educational services are provided;

53           ~~[(3)]~~ (c) Specific implementation requirements associated with a restrictive behavioral  
54 intervention such as time limits, facility specifications, training requirements or supervision  
55 requirements; and

56           ~~[(4)]~~ (d) Documentation, notice and permission requirements associated with use of a  
57 restrictive behavioral intervention.

58           **(2) Before July 1, 2022, each written policy adopted under this subsection shall be**  
59 **updated to state that the school district, charter school, or publicly contracted private**  
60 **provider will reserve restraint or seclusion for situations or conditions in which there is**  
61 **imminent danger of physical harm to self or others.**

62           **4. Before July 1, 2022, each school district, charter school, and publicly contracted**  
63 **private provider shall ensure that the policy adopted under subsection 3 of this section**  
64 **requires the following:**

65           **(1) Any student placed in seclusion or restraint shall be removed from such**  
66 **seclusion or restraint as soon as the school district, charter school, or publicly contracted**  
67 **private provider determines that the student is no longer an imminent danger of physical**  
68 **harm to self or others;**

69           **(2) All school district, charter school, and publicly contracted private provider**  
70 **personnel shall annually review the policy and procedures involving the use of seclusion**  
71 **and restraint. Personnel who use seclusion or restraint shall annually complete mandatory**  
72 **training in the specific seclusion and restraint techniques the school district, charter school,**  
73 **or publicly contracted private provider uses under this section;**

74           **(3) (a) Each time seclusion or restraint is used for a student, the incident shall be**  
75 **monitored by a member of the school district, charter school, or publicly contracted private**  
76 **provider personnel, and a report shall be completed by the school district, charter school,**  
77 **or publicly contracted private provider that contains, at a minimum, the following:**

78           **a. The date, time of day, location, duration, and description of the incident and**  
79 **interventions;**

80           **b. Any event leading to the incident and the reason for using seclusion or restraint;**

81           **c. A description of the methods of seclusion or restraint used;**

82           **d. The nature and extent of any injury to the student;**

83           **e. The names, roles, and certifications of each employee involved in the use of**  
84 **seclusion or restraint;**

85           **f. The name, role, and signature of the person who prepared the report;**

86           **g. The name of an employee whom the parent or guardian can contact regarding**  
87 **the incident and use of seclusion and restraint;**

88           **h. The name of an employee to contact if the parent or guardian wishes to file a**  
89 **complaint; and**

90           **i. A statement directing parents and legal guardians to a sociological, emotional,**  
91 **or behavioral support organization and a hotline number to report child abuse and neglect.**

92           **(b) The school district, charter school, or publicly contracted private provider shall**  
93 **maintain the report as an education record of the student, provide a copy to the parent or**  
94 **legal guardian within five school days, and a copy of each incident report shall be given to**  
95 **the department of elementary and secondary education within thirty days of the incident;**  
96 **and**

97           **(4) The school district, charter school, or publicly contracted private provider shall**  
98 **attempt to notify the parents or legal guardians as soon as possible but no later than one**  
99 **hour after the end of the school day on which the use of seclusion or restraint occurred.**  
100 **Notification shall be oral or electronic and shall include a statement indicating that the**  
101 **school district, charter school, or publicly contracted private provider will provide the**  
102 **parents or legal guardians a copy of the report described in subdivision (3) of this**  
103 **subsection within five school days;**

104           **(5) An officer, administrator, or employee of a public school district or charter**  
105 **school shall not retaliate against any person for having:**

106           **(a) Reported a violation of any policy established under this section, or failure of**  
107 **a district or charter school to follow any provisions of this section in relation to incidents**  
108 **of seclusion and restraint; or**

109           **(b) Provided information regarding a violation of this section by a public school**  
110 **district or charter school or a member of the staff of the public school district or charter**  
111 **school.**

112           **5. The department of elementary and secondary education shall compile and**  
113 **maintain all incidents reported under this section in the department's core data system and**  
114 **make such data available on the Missouri comprehensive data system. No personally**  
115 **identifiable data shall be accessible on the database.**

116           ~~[3-]~~ **6. The department of elementary and secondary education shall, in cooperation with**  
117 **appropriate associations, organizations, agencies, and individuals with specialized expertise in**  
118 **behavior management, develop a model policy that satisfies the requirements of subsection 2 of**  
119 **this section as it existed on August 28, 2009, by July 1, 2010, and shall update such model**  
120 **policy to include the requirements of subdivision (2) of subsection 3 and subsection 4 of this**  
121 **section by July 1, 2022.**

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