

Introduced by

Representatives Klemin, Hanson, M. Johnson, Vetter

Senators Dever, Heckaman, Oban

1 A BILL for an Act to create and enact a new section to chapter 15.1-19 of the North Dakota
2 Century Code, relating to the adoption of a restraint and seclusion policy by school districts.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 15.1-19 of the North Dakota Century Code is created
5 and enacted as follows:

6 **School districts - Restraint and seclusion policy.**

7 1. As used in this section:

8 a. "Chemical restraint" means medication that is not a standard treatment for an
9 individual's medical or psychological condition which is used to control the
10 behavior or restrict the movement of an individual.

11 b. "Mechanical restraint" means the use of any device or equipment to restrict the
12 movement of an individual. The term does not include devices that are designed
13 or prescribed for therapeutic or safety purposes, and which are used by trained
14 school district personnel on a student or by a student on the student's own body.

15 c. "Physical restraint" means the use of the body of an individual to restrict or
16 immobilize another individual from moving the individual's torso, arms, legs, or
17 head. The term does not include a temporary touching or holding of the hand,
18 wrist, arm, shoulder, or back for the purpose of directing or escorting an individual
19 to walk to a designated location.

20 d. "Restraint" means a chemical restraint, mechanical restraint, physical restraint, or
21 any combination of chemical, mechanical, or physical restraints.

22 e. "Seclusion" means the involuntary confinement of an individual alone in a room
23 or area from which the individual is physically prevented from leaving. The term
24 does not include a time-out.

- 1 f. "Time-out" means the monitored separation of an individual in an unlocked
2 setting implemented for the purpose of calming the individual.
- 3 2. Before July 1, 2022, each school district shall adopt a written policy regarding the use
4 of restraint and seclusion methods by school district personnel which:
- 5 a. Prohibits the use of seclusion, mechanical restraint, or chemical restraint by
6 school district personnel on students enrolled in prekindergarten through grade
7 twelve;
- 8 b. Prohibits the use of physical restraint by school district personnel on students
9 enrolled in prekindergarten through grade twelve, except if the student's behavior
10 poses a threat of imminent danger of serious physical harm to the student or
11 other individuals in which case physical restraint may be used only if other less
12 intrusive, nonphysical interventions have been attempted unsuccessfully or
13 deemed inappropriate to protect the student or other individuals;
- 14 c. Prohibits the use of physical restraint under subdivision b:
- 15 (1) In a face-down position;
- 16 (2) In a position likely to impair a student's ability to breathe or communicate
17 distress;
- 18 (3) In a position that places pressure on the student's head, neck, or torso; or
- 19 (4) In a position that obstructs the student's face from the view of school district
20 personnel; and
- 21 d. Requires school district personnel to receive annual professional development
22 and training in positive behavior interventions and trauma-informed practices,
23 including crisis de-escalation, restorative practices, and behavior management.
- 24 3. Beginning July 1, 2023, and annually by July first each year thereafter, each school
25 district shall submit a written report to the superintendent of public instruction. The
26 report must include:
- 27 a. The number of incidents, not to exceed one incident per student per day for state
28 purposes, of both restraint and seclusion in each school located within the district
29 during the preceding calendar year, and whether the student who was the subject
30 of the restraint or seclusion was on an individualized education program, or a 504

- 1 plan in compliance with the requirements of section 504 of the Rehabilitation Act
2 [29 U.S.C. 794];
3 b. The number of students, not to exceed one incident per student per day for state
4 purposes, who were the subject of restraint and seclusion methods by school
5 district personnel during the preceding calendar year, and whether the students
6 were on an individualized education program, or a 504 plan in compliance with
7 the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794]; and
8 c. The type of restraint or seclusion used during each incident.
9 4. The superintendent of public instruction shall publish the data received under
10 subsection 3 to the department's website within ninety days of receipt of the data.