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**SENATE BILL 5559**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senator C. Wilson; by request of Superintendent of Public Instruction

1 AN ACT Relating to restraint or isolation of students in public  
2 schools and educational programs; amending RCW 28A.600.485; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that there is no  
6 therapeutic or educational justification for isolating a student and  
7 that the practice poses significant physical and psychological  
8 dangers to students. The legislature further finds that using  
9 restraints in nonemergency situations also poses significant risks to  
10 staff and students physical and emotional well-being.

11 Therefore, the legislature intends to prohibit schools, including  
12 any programs providing education services, from isolating any  
13 student. The legislature also intends to restrict the use of  
14 restraint on a student and to improve transparency by expanding  
15 documentation and data practices.

16 **Sec. 2.** RCW 28A.600.485 and 2015 c 206 s 3 are each amended to  
17 read as follows:

18 (1) The definitions in this subsection apply throughout this  
19 section unless the context clearly requires otherwise.

1       (a) "Chemical restraint" means administering medication to a  
2 student, including medications prescribed by the student's physician,  
3 on an as-needed basis for the sole purpose of involuntarily limiting  
4 the student's freedom of movement or controlling externalized  
5 behaviors.

6       (b) "Enclosure" means a nonclassroom part of a building, outdoor  
7 play equipment, or a vehicle. This includes closets, sheds, or other  
8 such space.

9       (c) "Imminent" means the state or condition of being likely to  
10 occur at any moment or near at hand, rather than distant or remote.

11       (d) "Isolation" means restricting the student alone within a room  
12 or any other form of enclosure, from which the student may not leave.  
13 (It does not include a student's voluntary use of a quiet space for  
14 self-calming, or temporary removal of a student from his or her  
15 regular instructional area to an unlocked area for purposes of  
16 carrying out an appropriate positive behavior intervention plan.

17       ~~(b))~~ Isolation includes any staff person physically prohibiting  
18 a student from leaving a room or other enclosure by acting as a  
19 barrier with their body or an object to physically isolate them.  
20 Isolation does not include:

21       (i) The removal of a student from class for a short period of  
22 time to provide the student with an opportunity to regain self-  
23 control if the student is in a setting from which the student is not  
24 physically prevented from leaving;

25       (ii) A student being left alone in a room with a closed door for  
26 a brief period of time if the student is left alone for a purpose  
27 that is unrelated to the student's behavior;

28       (iii) A "room clear" situation where the room is cleared of all  
29 students, but one;

30       (iv) A "time out" situation, sometimes used as a behavior  
31 management technique, which involves the separation of the student  
32 from the group in a nonlocked setting within the classroom.

33       (e) "Isolation room" means a self-contained unit, built in or  
34 freestanding, that is used to isolate a student from other students  
35 or physically prevent a student from leaving the unit or cause the  
36 student to believe that the student is physically prevented from  
37 leaving the unit.

38       (f) "Likelihood of serious harm" means a substantial risk that:

1 (i) Physical harm will be inflicted by a person upon his or her  
2 own person, as evidenced by threats or attempts to commit suicide, or  
3 inflict physical harm on oneself; or

4 (ii) Physical harm will be inflicted by a person upon another, as  
5 evidenced by behavior that has caused such harm or that places  
6 another person or persons in reasonable fear of sustaining such harm.

7 (g) "Mechanical restraint" means restraint using a restraint  
8 device. It does not include appropriate use of a prescribed medical,  
9 orthopedic, or therapeutic device when used as intended, such as to  
10 achieve proper body position, balance, or alignment, or to permit a  
11 student to safely participate in activities.

12 (h) "Physical escort" means the temporary touching or holding of  
13 the hand, wrist, arm, shoulder, or back for the purpose of inducing a  
14 student who is acting out to walk to a safe location.

15 (i) "Restraint" means physical intervention or force used to  
16 control a student, including the use of a restraint device to  
17 restrict a student's freedom of movement. ((It does not include  
18 appropriate use of a prescribed medical, orthopedic, or therapeutic  
19 device when used as intended, such as to achieve proper body  
20 position, balance, or alignment, or to permit a student to safely  
21 participate in activities.

22 ~~(e))~~ (j) "Restraint device" means a device used to assist in  
23 controlling a student, including but not limited to metal handcuffs,  
24 plastic ties, ankle restraints, leather cuffs, other hospital-type  
25 restraints, pepper spray, tasers, or batons. Restraint device does  
26 not mean a seat harness used to safely transport students. This  
27 section shall not be construed as encouraging the use of these  
28 devices.

29 (2) The provisions of this section apply to all students,  
30 including those who have an individualized education program or plan  
31 developed under section 504 of the rehabilitation act of 1973, or who  
32 are being served by nonpublic agencies operating special education  
33 programs for students with disabilities, as described in RCW  
34 28A.155.060. The provisions of this section apply only to incidents  
35 of restraint or isolation, in such an event that isolation were to  
36 occur, that occur while a student is participating in school-  
37 sponsored instruction or activities.

38 (3) (a) No student shall be subjected to isolation, mechanical  
39 restraint, or chemical restraint by school staff while attending  
40 school or participating in school-sponsored instruction or

1 activities. With respect to school resource officers, as defined in  
2 RCW 28A.320.124, these prohibitions do not apply when school resource  
3 officers are carrying out their sworn authority to make arrests as  
4 commissioned law enforcement officers, but do apply when school  
5 resource officers are addressing violations of student discipline  
6 laws, which are more appropriately handled within the educational  
7 system.

8 (b) Isolation rooms must remain unlocked.

9 (c) Schools are prohibited from building or constructing rooms or  
10 settings used for the purpose of isolation. By January 1, 2024,  
11 isolation rooms in public schools must be removed or repurposed.

12 (4) An individualized education program or plan developed under  
13 section 504 of the rehabilitation act of 1973 must not include the  
14 use of restraint (~~(or isolation)~~) as a planned behavior intervention  
15 (~~(unless a)~~). A student's individual needs may require more specific  
16 advanced (~~(educational)~~) emergency planning (~~(and)~~) with the  
17 agreement of the student's parent or guardian (~~(agrees)~~). A student  
18 in need of advanced emergency planning must also have accompanying  
19 planning documents for behavioral support that may include de-  
20 escalation, accommodation, self-regulation, debrief or other support  
21 strategies to mitigate the circumstances surrounding the possible  
22 event of an emergency restraint. Such documentation does not waive  
23 liability for injury, nor does it permit school personnel to use  
24 restraint without an imminent likelihood of serious harm. An  
25 emergency response protocol may not be used as a condition of  
26 enrollment in a student's educational program. All other plans may  
27 refer to the district policy developed under subsection (~~((3)(b))~~)  
28 (5) of this section. Nothing in this section is intended to limit the  
29 provision of a free appropriate public education under Part B of the  
30 federal individuals with disabilities education improvement act or  
31 section 504 of the federal rehabilitation act of 1973.

32 (~~(b)~~) (5) Restraint (~~(or isolation)~~) of any student is  
33 permitted only when reasonably necessary to control spontaneous  
34 behavior that poses an imminent likelihood of serious harm(~~(, as~~  
35 defined in RCW 70.96B.010)). Restraint or isolation must be closely  
36 monitored to prevent harm to the student, and must be discontinued as  
37 soon as the likelihood of serious harm has dissipated.

38 (6) Each school district shall adopt a policy providing for the  
39 least amount of restraint (~~(or isolation)~~) appropriate to protect the  
40 safety of students and staff under such circumstances and a policy to

1 prohibit the use of isolation, mechanical restraint, and chemical  
2 restraint.

3 ((4)) (7) Following the release of a student from the use of  
4 restraint or isolation, in such an event that isolation were to  
5 occur, the school must implement follow-up procedures. These  
6 procedures must include:

7 (a) Reviewing the incident with the student and the parent or  
8 guardian to address the behavior that precipitated the restraint or  
9 isolation, in such an event that isolation were to occur, and the  
10 appropriateness of the response; and

11 (b) ((reviewing)) Reviewing the incident with the staff member  
12 who administered the restraint or isolation, in such an event that  
13 isolation were to occur, to discuss whether proper procedures were  
14 followed and what training or support the staff member needs to help  
15 the student avoid similar incidents.

16 ((5)) (8) Any school employee, resource officer, or school  
17 security officer who uses isolation or restraint on a student during  
18 school-sponsored instruction or activities, including activities  
19 offered through nonpublic agencies operating special education  
20 programs for students with disabilities, as described in RCW  
21 28A.155.060, must inform the building administrator or building  
22 administrator's designee as soon as possible, and within two business  
23 days submit a written report of the incident to the district office.  
24 The written report must include, at a minimum, the following  
25 information:

26 (a) The date and time of the incident;

27 (b) The name and job title of the individuals who administered  
28 the restraint or isolation, and their certification and history of  
29 relevant training for crisis intervention and de-escalation;

30 (c) A description of the activity that led to the restraint ((or  
31 isolation));

32 (d) ((The type)) A description of the restraint or isolation used  
33 on the student, including the duration;

34 (e) Whether the student or staff was physically injured during  
35 the restraint or isolation incident and any medical care provided;  
36 and

37 (f) Any recommendations for changing the nature or amount of  
38 resources available to the student and staff members in order to  
39 avoid similar incidents.

1        ~~((6))~~ (9) The principal or principal's designee must make a  
2 reasonable effort to verbally inform the student's parent or guardian  
3 within ~~((twenty-four))~~ 24 hours of the incident, and must send  
4 written notification as soon as practical but postmarked no later  
5 than five business days after the restraint or isolation occurred. If  
6 the school or school district customarily provides the parent or  
7 guardian with school-related information in a language other than  
8 English, the written report under this section must be provided to  
9 the parent or guardian in that language.

10        ~~((7)(a) Beginning January 1, 2016, and by January 1st annually,~~  
11 ~~each))~~ (10) Should a prohibited activity under subsection (3) of this  
12 section occur, staff shall immediately inform the building  
13 administrator or building administrator's designee of the incident.  
14 The building administrator or designee shall notify the parents or  
15 legal guardian of the student within 24 hours of the incident and  
16 must send written documentation via electronic communication or  
17 physical mail within three business days of the incident. The  
18 building administrator or designee must notify the school district  
19 within one business day, and notify the office of the superintendent  
20 of public instruction of such incident within three business days for  
21 further investigation.

22        (11)(a) Annually by December 31st, each school district shall  
23 summarize the written reports received to date under subsection  
24 ~~((5))~~ (8) of this section and submit ~~((the summaries to the office~~  
25 ~~of the superintendent of public instruction))~~ the summary to the  
26 elected school board of the district.

27        (b) By June 30, 2024, and annually thereafter, school districts  
28 must submit to the office of the superintendent of public instruction  
29 a cumulative summary report including data required under subsections  
30 (8) and (10) of this section from the current school year.

31        (c) For each school and nonpublic agency operating special  
32 education programs for students with disabilities, as described in  
33 RCW 28A.155.060, the school district shall include the number of  
34 individual incidents of restraint and isolation, the number of  
35 students involved in the incidents, the number of incidents that  
36 resulted in injuries to students and staff, the number of incidents  
37 in which staff imposing restraint were not trained in crisis  
38 intervention or de-escalation, the number of incidents in which  
39 school resource officers or school security guards were involved in  
40 the incident, the location/placement of the student where the

1 incident occurred, and the types of restraint or isolation used.  
2 Incidents must be further disaggregated by the student categories and  
3 subcategories described in RCW 28A.300.042 (1) and (3), and by:

4 (i) Gender;

5 (ii) Students who are dependent pursuant to chapter 13.34 RCW;

6 (iii) Students who are homeless as defined in RCW 43.330.702;

7 (iv) Students who are multilingual/English learners; and

8 (v) Status as student with a parent who is a member of the armed  
9 forces.

10 ~~((b))~~ (d) No later than ((ninety)) 90 days after receipt, the  
11 office of the superintendent of public instruction shall publish to  
12 its website the data received by the districts. The office of the  
13 superintendent of public instruction may use this data to investigate  
14 the training, practices, and other efforts used by schools and  
15 districts to reduce the use of restraint and eliminate isolation.

16 (e) A school district that does not report its data to the office  
17 of superintendent of public instruction within six months of the  
18 deadline established in subsection (8) of this section may be placed  
19 on a plan of improvement. A school district on a plan of improvement  
20 will be subject to direct technical assistance and monitoring by the  
21 office of the superintendent of public instruction. The office of the  
22 superintendent of public instruction shall conduct annual site visits  
23 until the school district demonstrates improvement in its data  
24 submission.

25 (f) The information in subsection (8) of this section shall also  
26 include any incidents of isolation, if one were to occur.

27 (12) School districts shall carry out the following activities,  
28 with the support of the office of the superintendent of public  
29 instruction, to support the elimination of isolation and chemical  
30 restraint and reduce the use of restraint in schools:

31 (a) Ongoing professional development and training assistance for  
32 staff to comply with this section;

33 (b) Ongoing training to staff on how to comply with education and  
34 civil rights laws, including the individuals with disabilities  
35 education act (20 U.S.C. 1400 et seq.) and the Americans with  
36 disabilities act of 1990 (42 U.S.C. 12101 et seq.), when interacting  
37 with students with disabilities, including when conducting  
38 disciplinary actions involving students with disabilities;

39 (c) Professional development and training programs to implement  
40 evidence-based systematic approaches, such as multitiered systems of

1 supports, school-wide positive behavioral interventions and supports,  
2 and universal design for learning and training in addressing  
3 disparity when using restraint; and  
4 (d) Technical assistance to support evidence-based, crisis  
5 intervention programs that include mental health supports,  
6 restorative justice programs, trauma-informed care, and crisis and  
7 de-escalation interventions.  
8 (13) The office of the superintendent of public instruction must  
9 make available on its website a list of training programs and  
10 resources to support subsection (12)(a) through (d) of this section.

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