

2011 - 2012 LEGISLATURE

2011 SENATE BILL 353

December 28, 2011 - Introduced by Senators OLSEN, LASSA and SCHULTZ, cosponsored by Representatives KESTELL, ENDSLEY, PASCH, POCAN, POPE-ROBERTS, RIPP, SINICKI and SPANBAUER. Referred to Committee on Education.

1 **AN ACT** to create 115.787 (2) (i) and 118.305 of the statutes; **relating to:** the
2 use
of seclusion and physical restraint on pupils in public schools.

Analysis by the Legislative Reference Bureau

Effective September 1, 2012, this bill prohibits an employee of a public school (including a charter school) and certain other individuals who provide services for the benefit of a public school from using seclusion or physical restraint on a pupil at a public school except under certain conditions. Seclusion is the involuntary confinement of a pupil, apart from other pupils, in a room or area from which the pupil is physically prevented from leaving. Physical restraint is a restriction that immobilizes or reduces the ability of a pupil to freely move his or her torso, arms, legs, or head.

An individual covered by the bill may use seclusion on a pupil only if all of the following apply:

1. The pupil's behavior presents a clear, present, and immediate risk to the physical safety of the pupil or others and it is the least restrictive intervention available.
 2. The seclusion lasts only as long as necessary to resolve the risk to physical safety.
 3. A covered individual maintains constant supervision of the pupil.
 4. The seclusion room or area is free of objects or fixtures that may injure the pupil.
 5. The pupil has adequate access to bathroom facilities, drinking water, necessary medication, and meals.
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6. No door connecting the seclusion room or area to other rooms or areas is capable of being locked.

A covered individual may use physical restraint on a pupil only if all of the following apply:

1. The pupil's behavior presents a clear, present, and immediate risk to the physical safety of the pupil or others and it is the least restrictive intervention available.
2. The degree of force used and the duration of the physical restraint do not exceed the degree and duration that are reasonable and necessary to resolve the risk.
3. There are no medical contraindications to the use of physical restraint.
4. None of the following maneuvers or techniques are used:
 - a. Those that do not give adequate attention and care to protecting the pupil's head.
 - b. Those that cause chest compression.
 - c. Those that place pressure or weight on the pupil's neck or throat
5. It does not constitute corporal punishment.
6. Neither mechanical nor chemical restraints are used.

Whenever seclusion or physical restraint is used on a pupil, the school principal must notify the pupil's parent and prepare a written report.

The bill generally prohibits a covered individual from using physical restraint on a pupil at school unless he or she has received training in the use of physical restraint that includes a number of specified components. A covered individual who has not received such training may use physical restraint on a pupil at school only in an emergency and only if a trained covered individual is not immediately available. The governing body of a public school in which physical restraint is used must ensure that at least one covered individual has been trained in its use.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 115.787 (2) (i) of the statutes is created to read:

115.787 (2) (i) If the individualized education program team determines that the use of seclusion, as defined in s. 118.305 (1) (i), or physical restraint, as defined in s. 118.305 (1) (g), may reasonably be anticipated for the child, appropriate positive interventions and supports and other strategies that address the behavior of concern and that comply with all of the following:

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1. The interventions, supports, and other strategies are based upon a functional behavior assessment of the behavior of concern.
 2. The interventions, supports, and other strategies incorporate the use of the term "seclusion" or "physical restraint."

5 3. The interventions, supports, and other strategies include positive
6 behavioral
7 supports.

8 **SECTION 2.** 118.305 of the statutes is created to read:

9 **118.305 Use of seclusion and physical restraint. (1) DEFINITIONS.** In this
10 section:

11 (a) "Child" has the meaning given in s. 115.76 (3).

12 (b) "Child with a disability" has the meaning given in s. 115.76 (5).

13 (c) 1. "Covered individual" means all of the following, except as provided in
14 subd. 2.:

15 a. An individual who is employed by a governing body, or under contract
16 with
17 a governing body as an independent contractor, to provide services for the benefit of
18 the school governed by the governing body.

19 b. An individual who is employed by a person under contract with a
20 governing
21 body to provide services for the benefit of the school governed by the governing body.

22 c. An individual who is engaged in student teaching under the supervision of
23 an individual described in subd. 1. a.

24 2. "Covered individual" does not include any of the following:

25 a. A member of a governing body.

 b. A law enforcement officer who is authorized or designated by a governing
body to perform any duty under s. 118.125 (1) (bL) 1. or 2. in a school governed by
the
governing body.

1 (d) "Governing body" means the governing body in charge of a school.

2 (c) "Individualized education program" has the meaning given in s. 115.76
3 (9).

 (f) "Parent" has the meaning given in s. 115.76 (12).