



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2828/1

MJL:KJ

2003 BILL

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SOON
TO be
7/15/03

Gen

1 AN ACT ...; relating to: the use of seclusion and restraints in schools.

Analysis by the Legislative Reference Bureau

This bill limits and conditions the use of seclusion (a behavioral control technique that secludes a pupil in a locked area) and physical or mechanical restraints (the use of a person or a device to control the behavior of a pupil).

Under the bill, a school employee may use physical restraint only in an emergency and may use a mechanical restraint only if the school at which he or she works is certified as having met the requirements of the Joint Commission on the Accreditation of Health Care Organizations. A school employee may use seclusion only if an emergency exists, the pupil's individualized special education program permits seclusion under the circumstances, or the pupil's parent or guardian consents in writing to the use of seclusion. The bill requires that the area used for seclusion be free of objects with which the pupil could self-inflict bodily harm, that it provide a view of the pupil at all times, and that it be equipped with adequate ventilation and lighting. The school employee using seclusion must also provide the pupil with an explanation of the behavior that led to the seclusion and a list of requirements to be met before the pupil will be released to his or her class. The school employee must monitor the pupil frequently and may not use seclusion for more than 30 minutes at a time, unless an emergency exists.

The bill also prohibits the use of certain kinds of restraint and seclusion, including a seclusion or restraint that is likely to cause physical harm to the pupil; that denies the pupil adequate water, physical comfort, or access to a bathroom; or that uses unreasonable and unnecessary force. Finally, the bill requires all school employees who interact with pupils to receive training on the proper use of seclusion and restraint.

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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:

1 **SECTION 1.** 118.164 (3) (b) of the statutes is amended to read:

2 118.164 (3) (b) This subsection does not prohibit the teacher who removed the
3 pupil from the class or the school board, school district administrator, school
4 principal or their designees from disciplining the pupil, subject to s. 118.315.

5 History: 1997 a. 335.

5 **SECTION 2.** 118.31 (3) (intro.) of the statutes is amended to read:

6 118.31 (3) (intro.) ~~Subsection~~ Subject to s. 118.315, subsection (2) does not
7 prohibit an official, employee or agent of a school board from:

8 History: 1987 a. 303; 1989 a. 26; 1991 a. 164; 1993 a. 334; 1997 a. 164; 1999 a. 127.

8 **SECTION 3.** 118.315 of the statutes is created to read:

9 **118.315 Use of physical restraint and seclusion. (1) DEFINITIONS.** In this
10 section:

11 (a) "Behavioral intervention plan" means a written document that is developed
12 by an individualized education program team under s. 115.78 for a pupil whose
13 behavior is self-injurious or assaultive; causes property damage or other severe,
14 pervasive behavioral problems; significantly interferes with the implementation of
15 the pupil's individualized education program; or for which the behavioral or
16 instructional approaches specified in the individualized education program are
17 ineffective.

18 (b) "Child" has the meaning in s. 115.76 (3).

19 (c) "Child with a disability" has the meaning in s. 115.76 (5).

as part of the pupil's individualized education program

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1 (d) "Emergency" means a situation in which it is necessary to control a pupil's
 2 unpredictable or spontaneous behavior that poses a clear and present danger of
 3 serious physical harm to the pupil or to others and that cannot be immediately
 4 prevented by a less restrictive technique than the one temporarily applied by a
 5 trained school employee.

6 (e) "Mechanical restraint" means a device that restricts a pupil's freedom of
 7 movement or normal access to a portion of his or her body and that the pupil cannot
 8 easily remove. The term "mechanical device" does not include a protective or
 9 stabilizing device that is prescribed by a health care professional for a child with a
 10 disability in accordance with the child's individualized education program ^{or that is}
 11 ~~prescribed in the child's behavioral intervention plan.~~

12 (f) "Physical restraint" means a restriction imposed by a person that
 13 immobilizes or reduces the ability of a pupil to move his or her arms, legs, or head
 14 freely. "Physical restraint" does not include briefly holding a pupil to calm or comfort
 15 the pupil, holding a pupil's hand or arm to escort the pupil safely from one area to
 16 another, or breaking up a fight.

(g) "Pupil" includes a child with a disability.

17 (h) "School employee" means a person who serves as volunteer for or is
 18 employed by or under contract with a school district, charter school, ^{(private school under}
 19 disabilities education board, ^{or children with) s. 119.23}

20 (i) "Seclusion" means a behavioral control technique that involves a locked box,
 21 locked closet, or locked room that is designated solely to seclude a pupil. "Seclusion"
 22 does not include a behavioral management technique that is part of an approved
 23 treatment program and that may involve the separation of the pupil from his or her
 24 class in a ⁿ unlocked setting to calm the pupil.

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use 3 times

on a pupil

1 (2) USE OF RESTRAINTS. (a) A school employee may use physical restraint only
2 in an emergency.

3 (b) A school employee may use mechanical restraint only if the school at which
4 he or she works is certified as having met the requirements of the Joint Commission
5 ~~on the~~ Accreditation of Health Care Organizations.

6 (3) USE OF SECLUSION. (a) A school employee may use seclusion only if ~~one of~~
7 the following is true:

at least one of

8 1. An emergency exists.

9 2. The pupil's individualized education program under s. 115.787 ~~behavioral~~
10 ~~intervention plan~~ permits the use of seclusion under the circumstances.

11 3. The pupil's parent or guardian has consented in writing to the use of
12 seclusion.

A school employee may use seclusion on a pupil only if

13 (b) ~~An~~ area used for seclusion shall be free of objects and fixtures with which
14 a pupil could self-inflict bodily harm, ~~shall~~ ^{is} give the school employee an adequate
15 view of the pupil at all times, and ~~shall~~ ^{is} be equipped with adequate lighting and
16 ventilation.

on a pupil

17 (c) A school employee who uses seclusion shall do all of the following:

18 1. View the pupil during the entire time the pupil is in seclusion.

19 2. Provide the pupil with an explanation of the behavior that resulted in the
20 pupil's seclusion and an oral or written list that instructs the pupil on the
21 requirements that he or she must satisfy to be returned to the class or to instruction.

22 3. Reassess ~~a~~ ^{the} pupil every 15 minutes while he or she is in seclusion.

23 4. Ensure that ~~a~~ ^{the} pupil ^{is} be placed in seclusion for no more than 30 minutes at
24 a time, unless an emergency exists.

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1 (4) PROHIBITED TYPES OF RESTRAINT AND SECLUSION. No school employee may use
2 any of the following seclusions or restraints:

3 (a) One designed or likely to cause physical pain to the pupil.

4 (b) One that releases noxious, toxic, or otherwise unpleasant substances near
5 the pupil's eyes or face.

6 (c) One that denies the pupil adequate water, physical comfort, or access to a
7 bathroom.

8 (d) One that subjects the pupil to ridicule, humiliation, or excessive emotional
9 trauma.

10 (e) One performed by an untrained school employee.

11 (f) One that immobilizes both the pupil's hands and feet, except a technique
12 designed as an emergency measure.

13 (g) One that precludes adequate supervision of the pupil.

14 (h) One that deprives the pupil of the use of one or more of his or her senses.

15 (i) One that uses unreasonable and unnecessary force under the circumstances.

16 (5) TRAINING IN SECLUSION AND RESTRAINT. (a) All school employees who interact
17 with pupils shall receive training on the restraint and seclusion policy governing
18 their school or institution; the use of interventions that may eliminate the need for
19 restraint and seclusion; and the types of restraints and related safety considerations,
20 including information about the increased risk of injury to a pupil when a restraint
21 is used.

22 (b) A school employee may not use a restraint on a pupil unless the employee
23 has received training by recognized crisis intervention experts on how to administer

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1 the restraint in accordance with known medical or psychological limitations or in
2 accordance with that pupil's behavioral intervention plan.

3

(END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2828/1dn

MJL: *[Signature]*

Date

Representative Miller:

1. I spoke to Jeffrey Spitzer-Resnick, who told me that the bill draft is intended to apply to all pupils, although his primary concern is its application to children with disabilities. Based upon this understanding, I changed all references to a "child" or "student" to "pupil," which I defined to include a child with a disability who is over the age of 18, but not older than 21.

2. It is not clear from Mr. Spitzer-Resnick's draft whether private schools that do not receive state money should be subject to this bill. For example, Mr. Spitzer-Resnick included a definition of a non-public school in his draft, but he does not actually use this definition in his draft. His definition would appear to include charter schools under s. 118.40 and choice schools under s. 119.23. I assumed that he wanted to include these entities and exclude private schools that receive no state aid. Accordingly, I defined the term "school employee" to mean a person employed by or under contract with a school district, charter school, private choice school, or a children with disabilities education board or a school volunteer. If this term does not cover all the persons you intended, please let me know, and I will redefine the term. X

3 2. I did not include in this draft those definitions that Mr. Spitzer-Resnick proposed but did not actually include in the substantive provisions of his draft. Also, in some cases, I modified or combined definitions. For example, because the definition of "emergency" means, among other things, a situation in which a less restrictive technique than the one being temporarily applied cannot be used, I did not include the phrase "after less intrusive interventions have failed or been deemed inappropriate in Section B; OK? Also, I incorporated the proposed definition of "serious behavioral problems" into the definition of "behavioral intervention plan" because the latter definition appears several times in the bill, but the former does not; OK?

4 3. Please note that while the list given the pupil under created s. 118.315 (3) (c) 2. may be oral or written, it is not clear whether the explanation for seclusion may be either written or oral.

5 4. I was not sure whether the Joint Commission ^{on} ~~for the~~ Accreditation of Health ~~Care~~ Organizations certifies individual schools, school districts, or employees, so I did not depart from the proposed language, which refers to certification of the school.

- 6 5. The definition in Mr. Resnick's draft of seclusion excludes a behavioral management technique that is part of an approved treatment program. By whom must the treatment program be approved?
- 7 6. I did not use the term "prone containment" but instead the term "technique" in created s. 118.315 (4) (f) because the former term is not defined in the statutes, in the proposed language, or in the California regulation upon which it is based; OK?

Madelon J. Lief
Senior Legislative Attorney
Phone: (608) 267-7380

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2828/1dn
MJL:kjf:jf

July 17, 2003

Representative Miller:

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7. I did not use the term "prone containment" but instead the term "technique" in created s. 118.315 (4) (f) because the former term is not defined in the statutes, in the proposed language, or in the California regulation upon which it is based; OK?

Madelon J. Lief
Senior Legislative Attorney
Phone: (608) 267-7380

Dear Representative Miller,

I am writing to provide you with an analysis of the LRB draft of the proposed statute entitled 118.315. This document is a brief yet thorough analysis of the LRB draft of the legislation combined with the WCA proposed legislation. In this draft I have addressed which changes must be made to the LRB draft of Proposed Statute 118.315 as well as any additions that need to be added to make this bill more effective.

Answers To the Drafter's Questions Concerning Proposed Statute 118.315.

The LRB drafter of 118.315 had several questions about this particular bill. I will now attempt to answer these questions to give Ms. Lief and yourself a better understanding of some confusing passages in this bill.

The first question Ms Lief posed to WCA was whether it was acceptable to change all the references to a child or a student and replace them with the word pupil. Ms Lief defined pupil as a child with a disability who is over the age of 18 but not older than 21.ⁱ The main difference between the term "child" and the term "pupil" is purely one of semantics. Since these terms have virtually the same meaning the WCA will have no problem adopting the word "pupil" instead of the word "child" in bill 118.315.

The second question Ms. Lief posed to WCA was whether private and charter schools who receive public funds are covered under this proposed bill? WCA believes that any private school or charter school that receives state money should be subject to the requirements of 118.315.

Furthermore Ms. Lief asked if she could replace the term school personnel to school employee. Ms. Lief defined school employee as "a person who serves as a

volunteer for or is employed by or under contract with a school district, charter school, private school as defined under s. 119.23 or children with disabilities education board.”ⁱⁱ

WCA has no problem using the word “school employee rather than school personnel in 118.315.

The third question Ms. Lief posed to WCA is whether it is alright to modify or combine definitions. The answer to this question is sometimes. In certain situations it is perfectly acceptable to combine two terms or definitions together into one term. One situation where it is acceptable to combine two terms into one involves the terms “serious behavioral problem” with “behavioral intervention plan”. The two terms combine nicely together and WCA has no problem with a definition that combines both of these terms into one more complete term. However, the combination of important terms like seclusion with the term time-out is not acceptable. Additionally the modification of the term emergency is also not acceptable to the WCA.

The Fourth question posed by Ms. Lief involved section 118.315 (3) (c) (2) and whether the instructions given to the student in 118.315 (3) (c) (2) may be oral or written. In WCA’s original draft an error was made stating that the instructions had to be given either orally or written. What the author of the draft meant to say (in section 118.315 (3) (c) (2) was that both oral and written instructions must be given to the student.

The Fifth question posed by Ms. Lief is whether the Joint Commission on Accreditation and Healthcare organizations certified individual, schools, school districts, or employees. Although the Join Commission on Accreditation and Healthcare Organizations generally deals only with health care organizations, we believe certification of individual schools and school districts, but not individual employees

should be obtained if mechanical restraints are to be utilized. WCA has no problem with Ms. Lief's idea to conform to the proposed language of the Joint Commission on Accreditation and Healthcare Organizations involving the issue of certifying schools.

The Sixth question posed by Ms. Lief involves the issue of who must approve an approved treatment program. An approved treatment plan as described in Section 118.315 (1) (i) must be approved by the pupil's treating psychologist or psychiatrist before it can be used.

The Seventh question posed by Ms. Lief is whether it is acceptable to use the term technique instead of the term prone containment (as found 118.315 (4) (f)) because the latter term is not defined in the statutes? WCA has no objection to using the term technique rather than the term prone containment.

WCA's Requested Changes to LRB's Version of 118.315.

WCA has three requested changes to this LRB draft. Overall the draft from LRB was quite good however a few problems do exist. The problems that still exist in the LRB draft include: the definition of the term emergency, the definition of the term seclusion, and Section 118.315 (3) (2).

WCA objections to LRB's definition of the term Emergency.

LRB states that an Emergency means "a situation in which it is necessary to control a pupil's unpredictable or spontaneous behavior that poses a clear and present danger of physical harm to the pupil or to others and that cannot be immediately prevented by a less restrictive technique than the one temporarily applied by a trained school employee."ⁱⁱⁱ

WCA does object to LRB's definition of Emergency. It is our opinion that the phrase "after less intrusive interventions have failed or been deemed inappropriate"^{iv} is essential to this piece of legislation. Therefore the WCA would insist on using its own definition of the term emergency in this piece of legislation as follows: an "emergency situation" "is when it is necessary to control unpredictable, spontaneous behavior which poses a clear and present danger of serious physical harm to the student or others which cannot be immediately prevented by a response less restrictive than the temporary application of a technique (by a trained staff member) used to contain behavior."^v The purpose of this piece of the legislation is to make sure that seclusion and restraint is used as a last resort in public elementary schools. To get rid of the phrase "after less intrusive interventions have failed or been deemed inappropriate"^{vi} is crucial language that informs teachers and staff that seclusion and restraint can only be used as a last resort.

By when?

WCA's Objections to LRB's definition of Seclusion

In the LRB draft, seclusion is defined as "a behavioral control technique that involves a locked box, locked closet, or locked room that is designated solely to seclude a pupil. "Seclusion" does not include a behavioral management technique that is part of an approved treatment program and that may involve the separation of the pupil from his or her class in an unlocked setting to calm the pupil."^{vii}

In this bill LRB combines the term Seclusion with the term Time-Out. WCA objects to this mixing of the two terms unless a sentence is added to the current bill stating that a Time-Out is not the same thing as Seclusion.

Time out is not used in the bill. No need to define.

WCA Objections to Section 118.315 (3) (2)

WCA does have a problem with Section 118.315 (3) (2) which states that “the teacher shall view a student placed in seclusion at all times and provide the student placed in the seclusion room with a list (either orally given or written) which instructs the student on the requirements that he or she must satisfy in order to be returned to the leaving environment.”^{viii}

As mentioned previously, there was an error in WCA’s original draft in section 118.315 (3) (c) (2). This error involved the issue of whether or not the instructions (given to the student) had to be given either orally or written. What the author of the draft meant to say was that both oral and written instructions must be given to the student. WCA will gladly accept LRB’s definition of the requirements for the use of seclusion as defined in this bill, however we request amending “either orally given or written to orally given and written in section 118.315 (3)(c)(2). This change would allow WCA to correct its error in its original draft of this legislation.

Additional terms WCA wishes to add to 118.315 (1)

WCA wishes to add three additional terms to proposed statute 118.315. The terms are communicative device, hearing impaired, and deaf. These terms can be placed at the end of the definition section and should be entitled 118.315 (J), 118.315(K), and 118.315 (L).

WCA definition of a Communicative Device

WCA defines a communicative device as any device necessary for a non-verbal or severely disabled child to communicate with the outside world (including communication with one’s peer, teachers, parents etc. A communication device can

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include but is not limited to a slate, piece of paper and a pen, communication board, or other adaptive technology that helps a nonverbal or severely disabled child communicate.

Rationale for permitting communicative devices into the seclusion room

Communication devices cannot be taken away from a child when the child is placed in a seclusion room. Often times such devices are the child's main means of explaining themselves to others in case of a problem or an emergency. To remove these devices before a child enters a seclusion room would put a no-verbal or severely disabled child at a great risk of danger and or harm.

WCA definition of the term hearing impaired person.

The second term WCA wishes to add to 118.315 is the term hearing impaired.

WCA defines the term hearing impaired person- as a person who has a hearing loss that, with or without amplification can understand speech in some settings.^{ix}

WCA's definition of the term deaf.

The third term WCA wishes to add to 118.315 is the term deaf. WCA defines the term person who is deaf as a individual who has significant hearing loss and who, with or without amplification cannot understand speech.^x

WCA's additional proposed sections to 118.315.

The two sections WCA plans on adding to this legislating involves the reporting of seclusion and restraint by teachers; and the use of seclusion and restraint on children who are deaf or hearing impaired;. The first section should be placed at the end of the current document and it should be titled Reporting. As for the second section it should be entitled requirements for restraining a hearing impaired or deaf child.

Overall the first LRB draft of 118.315 is close to our intent. Hopefully, with a few minor changes in the areas mentioned above along with the addition of three new terms we will be able to pass a piece of legislation that everyone can be proud of.

Sincerely,

Nicole Vander Meulen
Legal Intern

ⁱ Drafter's Note 1 from LRB Comment Letter. July 17, 2003

ⁱⁱ Proposed Statute 118.315 (1)(h)

ⁱⁱⁱ Proposed Statute 118.315 (1)(D)

^{iv} Modification of Title 13 a Chapter 04 11 of Maryland's Proposed Regulation on Restraint and Seclusion.

^v Modification of Title 13 A Chapter 04 11 of Maryland's Proposed Regulation on Restraint and Seclusion.

^{vi} Modification of Title 13 a Chapter 04 11 of Maryland's Proposed Regulation on Restraint and Seclusion.

^{vii} Proposed Statute 118.315 (1)(i)

^{viii} Proposed Statute 118.315 (3)(2)

^{ix} Reducing the Use of Seclusion and Restraint Part Three Lessons From the Deaf and Hard of Hearing Communities pg. 4 . Produced by the National Association of State Mental Health Program Directors (NASMPHD) Medical Directors Council.. December 2002. www.nasmhpd.org

^x Reducing the Use of Seclusion and Restraint Part Three Lessons From the Deaf and Hard of Hearing Communities pg. 4 . Produced by the National Association of State Mental Health Program Directors (NASMPHD) Medical Directors Council.. December 2002. www.nasmhpd.org

^{xi} Massachusetts 603 CMR Physical Restraint Statute §46.03(2)



2003 BILL

RMR

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To editing
9/5

SOON

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Analysis by the Legislative Reference Bureau

This bill limits and conditions the use of seclusion (a behavioral control technique that secludes a pupil in a locked area) and physical or mechanical restraints (the use of a person or a device to control the behavior of a pupil).

Under the bill, a school employee may use physical restraint only in an emergency and may use a mechanical restraint only if the school at which he or she works is certified as having met the requirements of the Joint Commission on Accreditation of Healthcare Organizations. A school employee may use seclusion only if an emergency exists, the pupil's individualized special education program permits seclusion under the circumstances, or the pupil's parent or guardian consents in writing to the use of seclusion. The bill requires that the area used for seclusion be free of objects with which the pupil could self-inflict bodily harm, that it provide a view of the pupil at all times, and that it be equipped with adequate ventilation and lighting. The school employee using seclusion must also provide the pupil with an explanation of the behavior that led to the seclusion and a list of requirements to be met before the pupil will be released to his or her class. The school employee must monitor the pupil frequently and may not use seclusion for more than 30 minutes at a time, unless an emergency exists.

The bill also prohibits the use of certain kinds of restraint and seclusion, including a seclusion or restraint that is likely to cause physical harm to the pupil; that denies the pupil adequate water, physical comfort, or access to a bathroom; or

BILL

that uses unreasonable and unnecessary force. Finally, the bill requires all school employees who interact with pupils to receive training on the proper use of seclusion and restraint.

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

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12 by an individualized education program team under s. 115.78 as part of the pupil’s
13 individualized education program for a pupil whose behavior is self-injurious or
14 assaultive; causes property damage or other severe, pervasive behavioral problems;
15 significantly interferes with the implementation of the pupil’s individualized
16 education program; or for which the behavioral or instructional approaches specified
17 in the individualized education program are ineffective.

18 (b) “Child” has the meaning in s. 115.76 (3).

19 (c) “Child with a disability” has the meaning in s. 115.76 (5).

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→ (cm) "Deaf pupil" is a pupil who has a significant hearing loss and who, with or without amplification, cannot understand
 1 (d) "Emergency" means a situation in which it is necessary to control a pupil's ^{speech}

2 unpredictable or spontaneous behavior that poses a clear and present danger of
 3 serious physical harm to the pupil or to others and that cannot be immediately
 4 prevented by a less restrictive technique than the one temporarily applied by a
 5 trained school employee.

→ (dm) "Hearing-impaired pupil" is a pupil who has a hearing loss and
 6 (e) "Mechanical restraint" means a device that restricts a pupil's freedom of ^{who, with or}

7 movement or normal access to a portion of his or her body and that the pupil cannot
 8 easily remove. The term "mechanical device" does not include a protective or
 9 stabilizing device that is prescribed by a health care professional for a child with a
 10 disability in accordance with the child's individualized education program.

11 (f) "Physical restraint" means a restriction imposed by a person that
 12 immobilizes or reduces the ability of a pupil to move his or her arms, legs, or head
 13 freely. "Physical restraint" does not include briefly holding a pupil to calm or comfort
 14 the pupil, holding a pupil's hand or arm to escort the pupil safely from one area to
 15 another, or breaking up a fight.

16 (g) "Pupil" includes a child with a disability.

*without amplification,
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17 (h) "School employee" means a person who serves as volunteer for or is
 18 employed by or under contract with a school district, charter school, private school
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 21 locked closet, or locked room that is designated solely to seclude a pupil. "Seclusion"
 22 does not include a behavioral management technique that is part of ~~an approved~~
 23 treatment program and that may involve the separation of the pupil from his or her
 24 class in an unlocked setting to calm the pupil.

*Approved by the pupil's treating psychologist
 or psychiatrist*

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1 (2) USE OF RESTRAINTS. (a) A school employee may use physical restraint on a
2 pupil only in an emergency.

3 (b) A school employee may use mechanical restraint on a pupil only if the school
4 at which he or she works is certified as having met the requirements of the Joint
5 Commission on Accreditation of Healthcare Organizations.

6 (3) USE OF SECLUSION. (a) A school employee may use seclusion on a pupil only
7 if at least one of the following is true:

- 8 1. An emergency exists *and other less intrusive interventions have failed or been deemed inappropriate*
- 9 2. The pupil's individualized education program under s. 115.787 permits the
10 use of seclusion under the circumstances.
- 11 3. The pupil's parent or guardian has consented in writing to the use of
12 seclusion.

13 (b) A school employee may use seclusion on a pupil only if the area used for
14 seclusion is free of objects and fixtures with which a pupil could self-inflict bodily
15 harm, gives the school employee an adequate view of the pupil at all times, and is
16 equipped with adequate lighting and ventilation.

17 (c) A school employee who uses seclusion on a pupil shall do all of the following:

- 18 1. View the pupil during the entire time the pupil is in seclusion.
- 19 2. Provide the pupil with an explanation of the behavior that resulted in the
20 pupil's seclusion and an oral *and* ~~or~~ written list that instructs the pupil on the
21 requirements that he or she must satisfy to be returned to the class or to instruction.
- 22 3. Reassess the pupil every 15 minutes while he or she is in seclusion.
- 23 4. Ensure that the pupil is placed in seclusion for no more than 30 minutes at
24 a time, unless an emergency exists.

BILL

1 (4) PROHIBITED TYPES OF RESTRAINT AND SECLUSION. No school employee may use
2 any of the following seclusions or restraints:

3 (a) One designed or likely to cause physical pain to the pupil.

4 (b) One that releases noxious, toxic, or otherwise unpleasant substances near
5 the pupil's eyes or face.

6 (c) One that denies the pupil adequate water, physical comfort, or access to a
7 bathroom.

8 (d) One that subjects the pupil to ridicule, humiliation, or excessive emotional
9 trauma.

10 (e) One performed by an untrained school employee.

11 (f) One that immobilizes both the pupil's hands and feet, except a technique
12 designed as an emergency measure.

13 (g) One that precludes adequate supervision of the pupil.

14 (h) One that deprives the pupil of the use of one or more of his or her senses.

15 (i) One that uses unreasonable and unnecessary force under the circumstances.

16 (5) TRAINING IN SECLUSION AND RESTRAINT. (a) All school employees who interact
17 with pupils shall receive training on the restraint and seclusion policy governing
18 their school or institution; the use of interventions that may eliminate the need for
19 restraint and seclusion; and the types of restraints and related safety considerations,
20 including information about the increased risk of injury to a pupil when a restraint
21 is used.

22 (b) A school employee may not use a restraint on a pupil unless the employee
23 has received training by recognized crisis intervention experts on how to administer

(j) One that deprives a ^{non-verbal or} severely disabled child of
a device necessary for communication with
others.

(k) One that deprives a deaf or hearing-impaired pupil
of the free use of his or her hands.

BILL

1 the restraint in accordance with known medical or psychological limitations or in
2 accordance with that pupil's behavioral intervention plan.

INS 6-3
3

(END)

O-Note

(6) B

Reporting on seclusion and restraint.

Rules for teachers reporting seclusion and restraint.

No. 1 (a) A person who ~~after the use of~~ any seclusion or restraint technique ~~the teacher who performed~~

shall prepare a written report that ~~the technique must write~~ a report about the incident. ~~The contents of the report shall~~

include: all of the following:

1. ~~The~~ ^{his or her} name and job titles ~~of the staff who administered the restraint~~ and ^{the name and job title of any} observers ^{or seclusion;} the date of the restraint and the beginning and ending time of the restraint ^{or seclusion}.

2. A description of the activity in which the restrained ^{or secluded} student ^{pupil} was engaged in immediately preceding the use of physical restraint; the behavior that prompted the restraint ^{or seclusion}; the efforts made to deescalate the situation; alternatives to restraint ^{or seclusion} that were attempted; and the justification for initiating ~~physical~~ restraint ^{or seclusion}.

3. ~~A~~ ^{If the incident involved restraint,} description of the administration of the restraint including the holds used and reasons such holds were necessary; the ^{pupil's} student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student ^{pupil and} and/or staff if any, during the restraint and any medical care provided.

4. For ^{an} extended restraints, the ~~written~~ report shall describe the alternatives to extended restraint that were attempted, the outcome of those efforts and the justification for administering the extended restraint.

Reporting requirements for individual schools in regards to seclusion and restraint.

(b) Every ⁶ ~~six~~ months ^{each district} ~~any~~ school ^{who uses or has used} ~~who uses or has used~~ any seclusion and restraint techniques ^{shall file any report prepared under par. (a) with the department.} ~~shall send all their information regarding the use of seclusion and restraint including the type of restraint and or seclusion used, when such techniques were used, and the length of time such restraints or seclusion techniques were used to the Department of Public Instruction (hereafter DPI). DPI then must keep yearly totals of which schools are using seclusion and restraint techniques.~~

and insert 6-3

Requirements for Restraining hearing impaired or deaf students.

When restraining a child who is deaf or hearing impaired special care must be taken before restraints must be used. The hands of a hearing impaired or deaf child must never be restrained behind their back or in such a fashion that freedom of movement is not possible.

Rationale for Requirements for Restraining Hearing impaired or deaf students.

The reason for this is that hearing impaired and deaf children often communicate using sign language. If their hands are bound these children will not be able to explain to anyone that they are being strangled or injured due to the type of restraint used. Therefore if restraints must be used on hearing impaired or deaf children they must be done in such a way that the child's hands are not bound or restrained.

Date

MSL:kj

Rep. Miller:

This redraft incorporates all but the
following proposed changes to LRB-2828¹:

1. I did not include the term "time out"
in the definitions because the term is only
used to define what a "seclusion" is not.

We create definitions ~~only~~ as "short hand"
for important terms that appear more than
once in ~~the~~ ^{the substantive portions of} a
bill and that don't have ~~an~~ a
commonly understood meaning. ~~Therefore, it~~

~~isn't legally sufficient to~~ state

~~that a seclusion is not as because~~

2. For the same reason, I did not ~~use~~
define the term ^{device} communicative device because
it is only used ~~so~~ once in the draft.

~~3. I did not require DPI to~~
~~generate a separate record of the~~

9 In addition, please note that ^{it} it is not clear by whom the less intrusive interventions (for a pupil placed in seclusion) must have been deemed inappropriate. Similarly, ^{it} it is not clear what ^{an} an "extended" restraint is.

9 I would be happy to speak with either you or ~~the~~ a member of the Coalition for Advocacy concerning this drafter's note or further revisions.

MJL



2003 BILL

See changes

- 1 **AN ACT to amend** 118.164 (3) (b) and 118.31 (3) (intro.); and **to create** 118.315
2 of the statutes; **relating to:** the use of seclusion and restraints in schools.

Analysis by the Legislative Reference Bureau

This bill limits and conditions the use of seclusion (a behavioral control technique that secludes a pupil in a locked area) and physical or mechanical restraints (the use of a person or a device to control the behavior of a pupil).

Under the bill, a school employee may use physical restraint only in an emergency and may use a mechanical restraint only if the school at which he or she works is certified as having met the requirements of the Joint Commission on Accreditation of Healthcare Organizations. A school employee may use seclusion only if an emergency exists, the pupil's individualized special education program permits seclusion under the circumstances, or the pupil's parent or guardian consents in writing to the use of seclusion. The bill requires that the area used for seclusion be free of objects with which the pupil could self-inflict bodily harm, that it provide a view of the pupil at all times, and that it be equipped with adequate ventilation and lighting. The school employee using seclusion must also provide the pupil with an explanation of the behavior that led to the seclusion and a list of requirements to be met before the pupil will be released to his or her class. The school employee must monitor the pupil frequently and may not use seclusion for more than 30 minutes at a time, unless an emergency exists.

The bill also prohibits the use of certain kinds of restraint and seclusion, including a seclusion or restraint that is likely to cause physical harm to the pupil; that denies the pupil adequate water, physical comfort, or access to a bathroom; or

BILL

and to prepare rep. written reports about their use of seclusion and restraint

that uses unreasonable and unnecessary force. Finally, the bill requires all school employees who interact with pupils to receive training on the proper use of seclusion and restraint.

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:

1 **SECTION 1.** 118.164 (3) (b) of the statutes is amended to read:

2 118.164 (3) (b) This subsection does not prohibit the teacher who removed the
3 pupil from the class or the school board, school district administrator, school
4 principal or their designees from disciplining the pupil, subject to s. 118.315.

5 **SECTION 2.** 118.31 (3) (intro.) of the statutes is amended to read:

6 118.31 (3) (intro.) ~~Subsection~~ Subject to s. 118.315, sub. (2) does not prohibit
7 an official, employee or agent of a school board from:

8 **SECTION 3.** 118.315 of the statutes is created to read:

9 **118.315 Use of physical restraint and seclusion. (1) DEFINITIONS.** In this
10 section:

11 (a) "Behavioral intervention plan" means a written document that is developed
12 by an individualized education program team under s. 115.78 as part of the pupil's
13 individualized education program for a pupil whose behavior is self-injurious or
14 assaultive; causes property damage or other severe, pervasive behavioral problems;
15 significantly interferes with the implementation of the pupil's individualized
16 education program; or for which the behavioral or instructional approaches specified
17 in the individualized education program are ineffective.

18 (b) "Child" has the meaning in s. 115.76 (3).

19 (c) "Child with a disability" has the meaning in s. 115.76 (5).

BILL

1 (cm) “Deaf pupil” is a pupil who has a significant hearing loss and who, with
2 or without amplification, cannot understand speech.

3 (d) “Emergency” means a situation in which it is necessary to control a pupil’s
4 unpredictable or spontaneous behavior that poses a clear and present danger of
5 serious physical harm to the pupil or to others and that cannot be immediately
6 prevented by a less restrictive technique than the one temporarily applied by a
7 trained school employee.

8 (dm) “Hearing-impaired pupil” is a pupil who has a hearing loss and who, with
9 or without amplification, can understand speech in some settings.

10 (e) “Mechanical restraint” means a device that restricts a pupil’s freedom of
11 movement or normal access to a portion of his or her body and that the pupil cannot
12 easily remove. The term “mechanical device” does not include a protective or
13 stabilizing device that is prescribed by a health care professional for a child with a
14 disability in accordance with the child’s individualized education program.

15 (f) “Physical restraint” means a restriction imposed by a person that
16 immobilizes or reduces the ability of a pupil to move his or her arms, legs, or head
17 freely. “Physical restraint” does not include briefly holding a pupil to calm or comfort
18 the pupil, holding a pupil’s hand or arm to escort the pupil safely from one area to
19 another, or breaking up a fight.

20 (g) “Pupil” includes a child with a disability.

21 (h) “School employee” means a person who serves as volunteer for or is
22 employed by or under contract with a school district, charter school, private school
23 under s. 119.23 or children with disabilities education board.

24 (i) “Seclusion” means a behavioral control technique that involves a locked box,
25 locked closet, or locked room that is designated solely to seclude a pupil. “Seclusion”

BILL

1 does not include a behavioral management technique that is part of a treatment
2 program approved by the pupil's treating psychologist or psychiatrist and that may
3 involve the separation of the pupil from his or her class in an unlocked setting to calm
4 the pupil.

5 (2) USE OF RESTRAINTS. (a) A school employee may use physical restraint on a
6 pupil only in an emergency.

7 (b) A school employee may use mechanical restraint on a pupil only if the school
8 at which he or she works is certified as having met the requirements of the Joint
9 Commission on Accreditation of Healthcare Organizations.

10 (3) USE OF SECLUSION. (a) A school employee may use seclusion on a pupil only
11 if at least one of the following is true:

12 1. An emergency exists and other less intrusive interventions have failed or
13 been deemed inappropriate.

14 2. The pupil's individualized education program under s. 115.787 permits the
15 use of seclusion under the circumstances.

16 3. The pupil's parent or guardian has consented in writing to the use of
17 seclusion.

18 (b) A school employee may use seclusion on a pupil only if the area used for
19 seclusion is free of objects and fixtures with which a pupil could self-inflict bodily
20 harm, gives the school employee an adequate view of the pupil at all times, and is
21 equipped with adequate lighting and ventilation.

22 (c) A school employee who uses seclusion on a pupil shall do all of the following:

23 1. View the pupil during the entire time the pupil is in seclusion.

BILL

1 2. Provide the pupil with an explanation of the behavior that resulted in the
2 pupil's seclusion and an oral and written list that instructs the pupil on the
3 requirements that he or she must satisfy to be returned to the class or to instruction.

4 3. Reassess the pupil every 15 minutes while he or she is in seclusion.

5 4. Ensure that the pupil is placed in seclusion for no more than 30 minutes at
6 a time, unless an emergency exists.

7 (4) PROHIBITED TYPES OF RESTRAINT AND SECLUSION. No school employee may use
8 any of the following seclusions or restraints:

9 (a) One designed or likely to cause physical pain to the pupil.

10 (b) One that releases noxious, toxic, or otherwise unpleasant substances near
11 the pupil's eyes or face.

12 (c) One that denies the pupil adequate water, physical comfort, or access to a
13 bathroom.

14 (d) One that subjects the pupil to ridicule, humiliation, or excessive emotional
15 trauma.

16 (e) One performed by an untrained school employee.

17 (f) One that immobilizes both the pupil's hands and feet, except a technique
18 designed as an emergency measure.

19 (g) One that precludes adequate supervision of the pupil.

20 (h) One that deprives the pupil of the use of one or more of his or her senses.

21 (i) One that uses unreasonable and unnecessary force under the circumstances.

22 (j) One that deprives a nonverbal or severely disabled child of a device
23 necessary for communication with others.

24 (k) One that deprives a deaf or hearing-impaired pupil of the free use of his or
25 her hands.

BILL

Each

1 (5) TRAINING IN SECLUSION AND RESTRAINT. (a) ~~All~~ school employees^s who interact
 2 with pupils shall receive training on the restraint and seclusion policy governing
 3 ~~their~~ ^{his or her} school ~~and~~ the use of interventions that may eliminate the need for
 4 restraint and seclusion; and the types of restraints and related safety considerations,
 5 including information about the increased risk of injury to a pupil when a restraint
 6 is used.

7 (b) A school employee may not use a restraint on a pupil unless the employee
 8 has received training by recognized crisis intervention experts on how to administer
 9 the restraint in accordance with known medical or psychological limitations or in
 10 accordance with that pupil's behavioral intervention plan.

11 (6) REPORTING ON SECLUSION AND RESTRAINT. (a) A person who uses any seclusion
 12 or restraint shall prepare a written report about the incident that includes all of the
 13 following:

14 1. His or her name and job title and the name and job title of any observer; the
 15 date of the restraint or seclusion; and the beginning and ending time of the restraint
 16 or seclusion.

17 2. A description of the activity in which the restrained or secluded pupil was
 18 engaged ~~in~~ immediately preceding the use of physical restraint; the behavior that
 19 prompted the restraint or seclusion; the efforts made to de-escalate the situation;
 20 alternatives to restraint or seclusion that were attempted; and the justification for
 21 initiating restraint or seclusion.

22 3. If the incident involved restraint, a description of the administration of the
 23 restraint including the holds used and reasons such holds were necessary; the pupil's
 24 behavior and reactions during the restraint; how the restraint ended; ~~and~~

BILL

① documentation of injury to the pupil and staff, if any, during the restraint, and any
2 medical care provided.

3 4. For an extended restraint, the alternatives to extended restraint that were
④ attempted, the outcome of those efforts, and the justification for administering the
5 extended restraint.

6 (b) Every 6 months each school district shall file any report prepared under par.
7 (a) with the department.

8 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2828/2dn
MJL:kjf:rs

September 10, 2003

Rep. Miller:

This redraft incorporates all but the following proposed changes to LRB-2828/1:

1. I did not include the term "time out" in the definitions because the term is only used to define what a "seclusion" is not. We create definitions as "short hand" for important terms that appear more than once in the substantive portions of a bill and that don't have a commonly understood meaning.
2. For the same reason, I did not define the term communicative device because it is only used once in the draft.

In addition, please note that it is not clear by whom the less intrusive interventions (for a pupil placed in seclusion) must have been deemed inappropriate. Similarly, it is not clear what an "extended" restraint is.

I would be happy to speak with either you or a member of the Coalition for Advocacy concerning this drafter's note or further revisions.

Madelon J. Lief
Senior Legislative Attorney
Phone: (608) 267-7380

October 7, 2003

Memo

TO: Representative Mark Miller, Madelon Lief

From Nicole Vander Meulen, Legal Intern

RE: LRB 2828/2

I am providing you with WCA's comments related to the latest version of LRB 2828/2.

Issue One the Decision not to define the word time-out in 2828/2

In the original draft WCA defined a time-out as "a behavioral management technique that is part of an approved treatment program and may involve the separation of the student from the class in a non-locked setting for the purpose of claming. Time-Out is not seclusion."ⁱ

LRB has chosen not to add the word time-out in the definition section because it does not appear in this legislation more than once. Although WCA prefers to keep the term time-out we do find the change in 118.315 (1)(i) appropriate in this situation. The desire to not define the word time-out is acceptable to WCA.

Issue 2. LRB's decision not to define the term communicative devices.

WCA defines a communicative device as "any device necessary for a nonverbal or severely disabled child to communicate with the outside world (including communication with one's peers, teachers, parents etc. A communication device can include but is not limited to a slate, piece of paper and a pen; communication board or other adaptive technology that helps a nonverbal or severely disabled child communicate."ⁱⁱ

LRB definition in section 4 (j) states that "no school employee may use any of the following restraints or seclusion that deprives a nonverbal or severely disabled child of a device necessary for communication for others."(Cite) WCA has no problem with the definition of the term in Section (4)(J). Additionally WCA has no conflict with LRB's decision to not define the term communicative device in the definition of term's section.

The extended restraint issue

Ms. Lief expressed confusion over what an extended restraint is. An extended restraint is any restraint left on for more than 30 minutes except in emergency situations. Furthermore an extended restraint occurs when such restraint is used after the child calmed down and managed to control the behavior which was responsible for the use of the restraint. WCA's requests that you add the definition of extended restraint to the definitions section.

ⁱ Modification of Section 595 HCFA Restraint and Seclusion for Children's Psychiatric Treatment Facilities with Amendments.

ⁱⁱ Reducing the use of Seclusion and Restraint Part Three *Lessons from the Deaf and Hard of Hearing Communities*. Pg. 4. Produced by the National Association of State Mental Health Program Directors (NASMPHD) Medical Directors Counsel. December 2002. www.nasmphd.org



2003 BILL

Editors: Changes are on last page

RMR

SOON

D-N

To ed. 10/23

Regen

1 AN ACT to amend 118.164 (3) (b) and 118.31 (3) (intro.); and to create 118.315
2 of the statutes; relating to: the use of seclusion and restraints in schools.

Analysis by the Legislative Reference Bureau

This bill limits and conditions the use of seclusion (a behavioral control technique that secludes a pupil in a locked area) and physical or mechanical restraints (the use of a person or a device to control the behavior of a pupil).

Under the bill, a school employee may use physical restraint only in an emergency and may use a mechanical restraint only if the school at which he or she works is certified as having met the requirements of the Joint Commission on Accreditation of Healthcare Organizations. A school employee may use seclusion only if an emergency exists, the pupil's individualized special education program permits seclusion under the circumstances, or the pupil's parent or guardian consents in writing to the use of seclusion. The bill requires that the area used for seclusion be free of objects with which the pupil could self-inflict bodily harm, that it provide a view of the pupil at all times, and that it be equipped with adequate ventilation and lighting. The school employee using seclusion must also provide the pupil with an explanation of the behavior that led to the seclusion and a list of requirements to be met before the pupil will be released to his or her class. The school employee must monitor the pupil frequently and may not use seclusion for more than 30 minutes at a time, unless an emergency exists.

The bill also prohibits the use of certain kinds of restraint and seclusion, including a seclusion or restraint that is likely to cause physical harm to the pupil; that denies the pupil adequate water, physical comfort, or access to a bathroom; or

BILL

that uses unreasonable and unnecessary force. Finally, the bill requires all school employees who interact with pupils to receive training on the proper use of seclusion and restraint and to prepare and file with the Department of Public Instruction written reports about their use of seclusion and restraint.

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:

1 SECTION 1. 118.164[✓] (3) (b) of the statutes is amended to read:

2 118.164 (3) (b) This subsection does not prohibit the teacher who removed the
3 pupil from the class or the school board, school district administrator, school
4 principal or their designees from disciplining the pupil, subject to s. 118.315.

5 SECTION 2. 118.31[✓] (3) (intro.) of the statutes is amended to read:

6 118.31 (3) (intro.) ~~Subsection~~ Subject to s. 118.315, sub. (2) does not prohibit
7 an official, employee or agent of a school board from:

8 SECTION 3. 118.315[✓] of the statutes is created to read:

9 **118.315 Use of physical restraint and seclusion. (1) DEFINITIONS.** In this
10 section:

11 (a) “Behavioral intervention plan” means a written document that is developed
12 by an individualized education program team under s. 115.78 as part of the pupil’s
13 individualized education program for a pupil whose behavior is self-injurious or
14 assaultive; causes property damage or other severe, pervasive behavioral problems;
15 significantly interferes with the implementation of the pupil’s individualized
16 education program; or for which the behavioral or instructional approaches specified
17 in the individualized education program are ineffective.

18 (b) “Child” has the meaning in s. 115.76 (3).

19 (c) “Child with a disability” has the meaning in s. 115.76 (5).

BILL

1 (cm) “Deaf pupil” is a pupil who has a significant hearing loss and who, with
2 or without amplification, cannot understand speech.

3 (d) “Emergency” means a situation in which it is necessary to control a pupil’s
4 unpredictable or spontaneous behavior that poses a clear and present danger of
5 serious physical harm to the pupil or to others and that cannot be immediately
6 prevented by a less restrictive technique than the one temporarily applied by a
7 trained school employee.

8 (dm) “Hearing-impaired pupil” is a pupil who has a hearing loss and who, with
9 or without amplification, can understand speech in some settings.

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11 movement or normal access to a portion of his or her body and that the pupil cannot
12 easily remove. The term “mechanical device” does not include a protective or
13 stabilizing device that is prescribed by a health care professional for a child with a
14 disability in accordance with the child’s individualized education program.

15 (f) “Physical restraint” means a restriction imposed by a person that
16 immobilizes or reduces the ability of a pupil to move his or her arms, legs, or head
17 freely. “Physical restraint” does not include briefly holding a pupil to calm or comfort
18 the pupil, holding a pupil’s hand or arm to escort the pupil safely from one area to
19 another, or breaking up a fight.

20 (g) “Pupil” includes a child with a disability.

21 (h) “School employee” means a person who serves as volunteer for or is
22 employed by or under contract with a school district, charter school, private school
23 under s. 119.23 or children with disabilities education board.

24 (i) “Seclusion” means a behavioral control technique that involves a locked box,
25 locked closet, or locked room that is designated solely to seclude a pupil. “Seclusion”

BILL

1 does not include a behavioral management technique that is part of a treatment
2 program approved by the pupil's treating psychologist or psychiatrist and that may
3 involve the separation of the pupil from his or her class in an unlocked setting to calm
4 the pupil.

5 (2) USE OF RESTRAINTS. (a) A school employee may use physical restraint on a
6 pupil only in an emergency.

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8 at which he or she works is certified as having met the requirements of the Joint
9 Commission on Accreditation of Healthcare Organizations.

10 (3) USE OF SECLUSION. (a) A school employee may use seclusion on a pupil only
11 if at least one of the following is true:

12 1. An emergency exists and other less intrusive interventions have failed or
13 been deemed inappropriate.

14 2. The pupil's individualized education program under s. 115.787 permits the
15 use of seclusion under the circumstances.

16 3. The pupil's parent or guardian has consented in writing to the use of
17 seclusion.

18 (b) A school employee may use seclusion on a pupil only if the area used for
19 seclusion is free of objects and fixtures with which a pupil could self-inflict bodily
20 harm, gives the school employee an adequate view of the pupil at all times, and is
21 equipped with adequate lighting and ventilation.

22 (c) A school employee who uses seclusion on a pupil shall do all of the following:

23 1. View the pupil during the entire time the pupil is in seclusion.

BILL

1 2. Provide the pupil with an explanation of the behavior that resulted in the
2 pupil's seclusion and an oral and written list that instructs the pupil on the
3 requirements that he or she must satisfy to be returned to the class or to instruction.

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6 a time, unless an emergency exists.

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8 any of the following seclusions or restraints:

9 (a) One designed or likely to cause physical pain to the pupil.

10 (b) One that releases noxious, toxic, or otherwise unpleasant substances near
11 the pupil's eyes or face.

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13 bathroom.

14 (d) One that subjects the pupil to ridicule, humiliation, or excessive emotional
15 trauma.

16 (e) One performed by an untrained school employee.

17 (f) One that immobilizes both the pupil's hands and feet, except a technique
18 designed as an emergency measure.

19 (g) One that precludes adequate supervision of the pupil.

20 (h) One that deprives the pupil of the use of one or more of his or her senses.

21 (i) One that uses unreasonable and unnecessary force under the circumstances.

22 (j) One that deprives a nonverbal or severely disabled child of a device
23 necessary for communication with others.

24 (k) One that deprives a deaf or hearing-impaired pupil of the free use of his or
25 her hands.

BILL

1 (5) TRAINING IN SECLUSION AND RESTRAINT. (a) Each school employee who
2 interacts with pupils shall receive training on the restraint and seclusion policy
3 governing his or her school; the use of interventions that may eliminate the need for
4 restraint and seclusion; and the types of restraints and related safety considerations,
5 including information about the increased risk of injury to a pupil when a restraint
6 is used.

7 (b) A school employee may not use a restraint on a pupil unless the employee
8 has received training by recognized crisis intervention experts on how to administer
9 the restraint in accordance with known medical or psychological limitations or in
10 accordance with that pupil's behavioral intervention plan.

11 (6) REPORTING ON SECLUSION AND RESTRAINT. (a) A person who uses any seclusion
12 or restraint shall prepare a written report about the incident that includes all of the
13 following:

14 1. His or her name and job title and the name and job title of any observer; the
15 date of the restraint or seclusion; and the beginning and ending time of the restraint
16 or seclusion.

17 2. A description of the activity in which the restrained or secluded pupil was
18 engaged immediately preceding the use of physical restraint; the behavior that
19 prompted the restraint or seclusion; the efforts made to de-escalate the situation;
20 alternatives to restraint or seclusion that were attempted; and the justification for
21 initiating restraint or seclusion.

22 3. If the incident involved restraint, a description of the administration of the
23 restraint, including the holds used and reasons such holds were necessary; the
24 pupil's behavior and reactions during the restraint; how the restraint ended;

BILL

1 documentation of injury to the pupil and staff, if any, during the restraint; and any
2 medical care provided.

3

4. For ~~an extended~~^a restraint, the alternatives to ~~extended~~ restraint that were
4 attempted, the outcome of those efforts, and the justification for administering the
5 ~~extended~~ restraint.

5

6 (b) Every 6 months each school district shall file any report prepared under par.

7 (a) with the department.

8

(END)

D-Note

ULB-2828/3dn
MJL: kjf

(D-N) date

Rep. Miller:

to created S. 118.315(6)(a) 4.

This redraft makes ^(the) one change that the

Coalition for Advocacy requested.

MJL

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2828/3dn
MJL:kjf:ch

October 28, 2003

Representative Miller:

This redraft makes the one change to created s. 118.315 (6) (a) 4. that the Coalition for Advocacy requested.

Madelon J. Lief
Senior Legislative Attorney
Phone: (608) 267-7380