

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2444

By Committee on Children and Families

1-12

1 AN ACT concerning schools and school districts; relating to seclusion and
2 restraint of pupils.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. Sections 1 through 5, and amendments thereto, shall be
6 known and may be cited as the freedom from unsafe restraint and
7 seclusion act.

8 Sec. 2. As used in this statute, the following terms shall have the
9 meanings specified herein:

10 (a) "Altercation" means a fight involving a student. Any student
11 possessing a weapon qualifies as an altercation.

12 (b) "Children with disabilities" has the meaning specified in K.S.A.
13 72-962, and amendments thereto.

14 (c) "Imminent risk of harm" means an immediate and impending
15 threat of a person causing substantial physical injury to self or others.
16 Violent action that destroys substantial property may fall within this
17 standard only if the property destruction also poses an immediate and
18 impending threat of causing substantial physical injury to self or others.

19 (d) "Individualized education plan" and "IEP" have the meaning
20 specified in K.S.A. 72-962, and amendments thereto.

21 (e) "Mechanical restraint" means any device or object used to limit a
22 person's movement, except that a protective or stabilizing device either
23 ordered by a person appropriately licensed to issue the order for the device
24 or required by law shall not be considered to be a mechanical restraint.
25 This term does not include any device used by a law enforcement officer,
26 campus police officer, or school security officer in carrying out law
27 enforcement duties.

28 (f) "Physical restraint" means bodily force used to substantially limit
29 a person's movement, except that consensual, solicited, or unintentional
30 contact and contact to provide comfort, assistance, or instruction shall not
31 be deemed to be physical restraint.

32 (g) "School employees" means teachers, paraprofessionals, providers
33 of related services, administrators, and support staff.

34 (h) "Seclusion room" means a room or other confined area in which
35 a child with a disability is placed in isolation from other persons for a
36 limited time from which the student is prevented from having egress.

1 Sec. 3. (a) No child with a disability shall be subjected to
2 unreasonable, unsafe, or unwarranted use of physical restraint or seclusion
3 rooms. A child shall never be physically restrained or placed in a seclusion
4 room for purposes of discipline or punishment, or for the convenience of
5 staff. A child ~~with a disability~~ shall not be subjected to any form of
6 mechanical restraint.

7 (b) Any child with a disability shall be placed in a seclusion room or
8 physically restrained only if the behavior of the student presents an
9 imminent risk of harm. However, if the child is involved in an altercation
10 then physical restraint may still be used even if the imminent risk of harm
11 standard is not met.

12 (c) A child with a disability shall not be placed in a seclusion room if
13 the child is known to have any medical condition that a licensed health
14 care provider has indicated, in a written statement that is provided to the
15 school and that is on file with the school, precludes this action.

16 (d) A child with a disability shall not be physically restrained or
17 placed in a seclusion room except by a school employee who has had
18 training in the appropriate use of these techniques. Such training shall be
19 from training programs approved by the Kansas state department of
20 education to ensure that school employees are trained in the proper and
21 safe use of seclusion rooms. This training requirement shall not apply if
22 the child is involved in an altercation.

23 (e) While a child with a disability is in a seclusion room, the school
24 employee who is supervising the student shall be able to see and hear the
25 student at all times.

26 (f) No more than one child at a time who has a disability shall be
27 placed in a seclusion room.

28 (g) Any seclusion room equipped with a locking door shall ensure
29 that the lock automatically disengages when the teacher or attendant
30 viewing the child walks away from the seclusion room or in cases of
31 emergency, such as fire or severe weather.

32 (h) If a school has a seclusion room, it will be a safe place with
33 proportional and similar characteristics as other rooms where students
34 frequent. It shall be free of any condition that could be a danger to the
35 student, well ventilated and sufficiently lighted.

36 Sec. 4. (a) When any child with a disability is placed in a seclusion
37 room or is subjected to physical restraint, the school employee who used
38 the seclusion room or physical restraint, or an employee who witnessed its
39 use, shall document the use of the seclusion room or the physical restraint.
40 This documentation shall be completed no later than the school day
41 following the day on which the seclusion room or physical restraint is
42 used. A copy of the documentation will be provided to the parent of the
43 child when the documentation is completed. When there is a question as to

1 whom is authorized to receive such documentation, the school shall notify
2 the same individual or individuals as if it was an individualized education
3 plan matter.

4 (b) Each public school shall submit information and data on the use
5 of seclusion and restraint as required by the Kansas state department of
6 education. At a minimum, the department shall collect sufficient
7 information and data to ensure the patrons, policymakers and the public
8 can gain a clear picture of the depth and breadth of the use of seclusion
9 and restraint in Kansas schools. The purpose of the information and data
10 collected is to provide detailed information so that policymakers can
11 identify trends and opportunities in order to help reduce the use of
12 seclusion and restraint in public schools.

13 (c) The Kansas state department of education shall compile the
14 reports from the schools and provide the results to the public, the governor
15 and the committee's on education in the senate and the house of
16 representatives by January 20, ~~2013~~ **2014**, and annually thereafter, **and**
17 **publish the school policy, as set forth in this act, to ensure uniformity**
18 **and compliance with this act. A copy of the school policy shall be**
19 **issued to each public school.** In issuing these reports, the Kansas state
20 department of education will ensure that as much information and data as
21 possible is provided on the use of seclusion and restraint in order to allow
22 patrons, policymakers and the public to be able to compare the data on the
23 use and incidences between school districts and individual schools. In
24 compiling the aggregate data, individual student confidentiality shall be
25 reasonably protected.

26 Sec. 5. The state board of education shall promulgate rules and
27 regulations as necessary to implement the provisions of this act.

28 Sec. 6. This act shall take effect and be in force from and after its
29 publication in the statute book.

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