

**HOUSE BILL No. 2534**

By Committee on Children and Seniors

1-26

1 AN ACT concerning schools; relating to restraint and seclusion of  
2 students; amending K.S.A. 2015 Supp. 72-89d02, 72-89d03, 72-89d04,  
3 72-89d05, 72-89d06 and 72-89d08 and repealing the existing sections.

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

6 Section 1. K.S.A. 2015 Supp. 72-89d02 is hereby amended to read as  
7 follows: 72-89d02. As used in K.S.A. 2015 Supp. 72-89d01 through 72-  
8 89d07, and amendments thereto:

9 (a) *"Chemical restraint" means the use of medication to control a*  
10 *student's violent physical behavior or restrict a student's freedom of*  
11 *movement.*

12 (b) "Department" means the state department of education.

13 ~~(b)~~ (c) "Emergency safety intervention" means the use of seclusion or  
14 physical restraint.

15 ~~(e)~~ (d) *"Incident" means each occurrence of the use of an emergency*  
16 *safety intervention.*

17 (e) *"Mechanical restraint" means any device or object used to limit a*  
18 *student's movement.*

19 (f) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3) a  
20 person acting as a parent as defined in K.S.A. 72-1046(d)(2), and  
21 amendments thereto; (4) a legal guardian; (5) an education advocate for a  
22 student with an exceptionality; (6) a foster parent, unless the student is a  
23 child with an exceptionality; or (7) a student who has reached the age of  
24 majority or is an emancipated minor.

25 ~~(d)~~ (g) "Physical restraint" means bodily force used to substantially  
26 limit a student's movement, except that consensual, solicited or  
27 unintentional contact and contact to provide comfort, assistance or  
28 instruction shall not be deemed to be physical restraint.

29 ~~(e)~~ (h) "School" means any learning environment, including any  
30 nonprofit institutional day or residential school or accredited nonpublic  
31 school, that receives public funding or which is subject to the regulatory  
32 authority of the state board of education.

33 ~~(f)~~ (i) "Seclusion" means placement of a student in a location where  
34 all the following conditions are met:

- 35 (1) The student is placed in an enclosed area by school personnel;  
36 (2) the student is purposefully isolated from adults and peers; and

1 (3) the student is prevented from leaving, or the student reasonably  
2 believes that such student will be prevented from leaving, the enclosed  
3 area.

4 Sec. 2. K.S.A. 2015 Supp. 72-89d03 is hereby amended to read as  
5 follows: 72-89d03. (a) Emergency safety interventions shall be used only  
6 when a student presents a reasonable and immediate danger of physical  
7 harm to such student or others with the present ability to effect such  
8 physical harm. Less restrictive alternatives to emergency safety  
9 interventions, such as positive behavior interventions support, shall be  
10 deemed inappropriate or ineffective under the circumstances by the school  
11 employee witnessing the student's behavior prior to the use of any  
12 emergency safety interventions. The use of *an* emergency safety  
13 ~~interventions~~ *intervention* shall cease as soon as the immediate danger of  
14 physical harm ceases to exist. Violent action that is destructive of property  
15 may necessitate the use of an emergency safety intervention. Use of an  
16 emergency safety intervention for purposes of discipline, punishment or  
17 for the convenience of a school employee shall not meet the standard of  
18 immediate danger of physical harm.

19 (b) A student shall not be subjected to ~~seclusion~~ *an emergency safety*  
20 *intervention* if the student is known to have a medical condition that could  
21 put the student in mental or physical danger as a result of ~~seclusion~~ *the*  
22 *emergency safety intervention*. The existence of such medical condition  
23 must be indicated in a written statement from the student's licensed health  
24 care provider, a copy of which shall be provided to the school and placed  
25 in the student's file. *Such written statement shall include an explanation of*  
26 *the student's diagnosis, a list of any reasons why an emergency safety*  
27 *intervention would put the student in mental or physical danger and any*  
28 *suggested alternatives to the use of emergency safety interventions.*  
29 *Notwithstanding the provisions of this subsection, a student may be*  
30 *subjected to an emergency safety intervention, if not subjecting the student*  
31 *to an emergency safety intervention would result in significant physical*  
32 *harm to the student or others.*

33 (c) When a student is placed in seclusion, a school employee shall be  
34 able to see and hear the student at all times.

35 (d) All seclusion rooms equipped with a locking door shall be  
36 designed to ensure that the lock automatically disengages when the school  
37 employee viewing the student walks away from the seclusion room, or in  
38 cases of emergency, such as fire or severe weather.

39 (e) A seclusion room shall be a safe place with proportional and  
40 similar characteristics as other rooms where students frequent. Such room  
41 shall be free of any condition that could be a danger to the student, and  
42 shall be well-ventilated and sufficiently lighted.

43 (f) *The following shall be prohibited:*

1       (1) *Prone, or face-down, physical restraint; supine, or face-up*  
2 *physical restraint; physical restraint that obstructs the airway of a*  
3 *student; or any physical restraint that impacts a student's primary mode of*  
4 *communication;*

5       (2) *chemical restraint, except as prescribed treatments for a student's*  
6 *medical or psychiatric condition by a person appropriately licensed to*  
7 *issue such treatments; and*

8       (3) *mechanical restraint, except those protective or stabilizing*  
9 *devices either ordered by a person appropriately licensed to issue the*  
10 *order for the device or required by law, any device used by a certified law*  
11 *enforcement officer in carrying out law enforcement duties, seatbelts and*  
12 *any other safety equipment when used to secure students during*  
13 *transportation.*

14       (g) *Schools shall train school personnel on the use of emergency*  
15 *safety interventions consistent with nationally recognized programs. Such*  
16 *training shall address prevention techniques, de-escalation techniques and*  
17 *positive behavioral intervention strategies. Such training shall be*  
18 *designed to meet the needs of personnel as appropriate to the personnel's*  
19 *duties and potential need to use emergency safety interventions. Schools*  
20 *shall maintain written or electronic documentation on training provided*  
21 *and lists of participants in each training for inspection by the Kansas state*  
22 *board of education.*

23       Sec. 3. K.S.A. 2015 Supp. 72-89d04 is hereby amended to read as  
24 follows: 72-89d04. (a) (1) *When a student is subjected to an emergency*  
25 *safety intervention, the school shall notify the parent, ~~or if a parent cannot~~*  
26 *~~be notified, then shall notify an emergency contact person for such student,~~*  
27 *the same day the emergency safety intervention was used. ~~If the school is~~*  
28 *~~unable to contact the parent, the school shall attempt to contact the parent~~*  
29 *~~using at least two methods of contact. The same-day notification~~*  
30 *~~requirement of this subsection shall be deemed satisfied if the school~~*  
31 *~~attempts at least two methods of contact. A parent may designate a~~*  
32 *~~preferred method of contact to receive the same-day notification required~~*  
33 *~~by this subsection. A parent may agree, in writing, to receive only one~~*  
34 *~~same-day notification from the school for multiple incidents occurring on~~*  
35 *~~the same day. Written documentation of the use of an emergency safety~~*  
36 *~~interventions used intervention shall be completed and provided to the~~*  
37 *~~parent no later than the school day following the day on which the~~*  
38 *~~emergency safety intervention was used. Such written documentation shall~~*  
39 *~~include: (A) The events leading up to the incident; (B) student behaviors~~*  
40 *~~that necessitated the emergency safety intervention; (C) steps taken to~~*  
41 *~~transition the student back into the educational setting; (D) the date and~~*  
42 *~~time the incident occurred, the type of emergency safety intervention used,~~*  
43 *~~the duration of the emergency safety intervention and the school personnel~~*

1 *who used or supervised the emergency safety intervention; (E) space or an*  
2 *additional form for parents to provide feedback or comments to the school*  
3 *regarding the incident; (F) a statement that invites and strongly*  
4 *encourages parents to schedule a meeting to discuss the incident and how*  
5 *to prevent future use of emergency safety interventions; and (G) email and*  
6 *phone information for the parent to contact the school to schedule the*  
7 *emergency safety intervention meeting. Schools may group incidents*  
8 *together when documenting the items in subparagraphs (A), (B) and (C) if*  
9 *the triggering issue necessitating the emergency safety interventions is the*  
10 *same.*

11 (2) The parent shall be provided the following information after the  
12 first incident in which an emergency safety intervention is used during the  
13 school year, and may be provided such information after each subsequent  
14 incident that occurs during the school year: ~~(1)~~ (A) A copy of the standards  
15 of when emergency safety interventions can be used; ~~(2)~~ (B) a flyer on the  
16 parent's rights; ~~(3)~~ (C) information on the parent's right to file a complaint  
17 through the local dispute resolution process and the complaint process of  
18 the state board of education; and ~~(4)~~ (D) information that will assist the  
19 parent in navigating the complaint process, including contact information  
20 for the parent training and information center and protection and advocacy  
21 system. Upon the first occurrence of an incident involving the use of  
22 emergency safety interventions, the parent shall be provided the foregoing  
23 information in printed form, ~~and~~ *or, upon the parent's written request, by*  
24 *email.* Upon the occurrence of a second or subsequent incident, *the parent*  
25 *shall be provided with a full and direct website address containing such*  
26 *information.*

27 (b) *If a school is aware that a law enforcement officer or school*  
28 *resource officer has used seclusion, physical restraint or mechanical*  
29 *restraint on a student, the school shall notify the parent the same day*  
30 *using the parent's preferred method of contact. For purposes of this*  
31 *subsection, mechanical restraint includes, but is not limited to, the use of*  
32 *handcuffs.*

33 (c) If a parent believes emergency safety interventions have been  
34 used in violation of this act, rules and regulations adopted pursuant thereto  
35 or policies of the school district, then within 30 days from being informed  
36 of the use of emergency safety intervention, such parent may file a  
37 complaint through the local dispute resolution process. A parent may file a  
38 complaint under the state board of education complaint process within 30  
39 days from the date a final decision is issued pursuant to the local dispute  
40 resolution process.

41 ~~(e)~~ (d) The department shall compile reports from schools on the use  
42 of emergency safety interventions and provide the results based on  
43 aggregate data on the department website, and to the governor and the

1 committees on education in the senate and the house of representatives by  
 2 January 20, 2016, and annually thereafter. The department's reported  
 3 results shall include, but shall not be limited to, the following information:

4 (1) The number of incidents in which emergency safety interventions  
 5 were used on students who have an individualized education program;

6 (2) the number of incidents in which emergency safety interventions  
 7 were used on students who have a section 504 plan;

8 (3) the number of incidents in which emergency safety interventions  
 9 were used on students who do not have an individualized education  
 10 program or a section 504 plan;

11 (4) the total number of incidents in which emergency safety  
 12 interventions were used on students;

13 (5) the total number of students with behavior intervention plans  
 14 subjected to an emergency safety intervention;

15 (6) the number of students physically restrained;

16 (7) the number of students placed in seclusion;

17 (8) the maximum and median number of minutes a student was  
 18 placed in seclusion;

19 (9) the maximum number of incidents in which emergency safety  
 20 interventions were used on a student;

21 (10) the information reported under subsection ~~(e)~~ (d)(1) through ~~(e)~~  
 22 (d)(3) reported by school to the extent possible;

23 (11) the information reported under subsections ~~(e)~~ (d)(1) through ~~(e)~~  
 24 (d)(9) aggregated by age ~~and~~, ethnicity, *gender and eligibility for free and*  
 25 *reduced lunch* of the students on a statewide basis; and

26 (12) such other information as the department deems necessary to  
 27 report.

28 Sec. 4. K.S.A. 2015 Supp. 72-89d05 is hereby amended to read as  
 29 follows: 72-89d05. (a) ~~If there is a third incident involving the use of~~  
 30 ~~emergency safety interventions within a school year on~~ *After each*  
 31 *incident, a parent may request a meeting with the school to discuss and*  
 32 *debrief the incident. A parent may request such meeting verbally, in*  
 33 *writing or by electronic means. A school shall hold a meeting requested*  
 34 *under this subsection within 10 school days of the parent's request. The*  
 35 *focus of any meeting convened under this subsection shall be to discuss*  
 36 *proactive ways to prevent the need for emergency safety interventions and*  
 37 *to reduce incidents in the future.*

38 (1) *For a student who has an individualized education program or a*  
 39 *section 504 plan,* ~~then~~ *such student's individualized education program*  
 40 *team or section 504 plan team shall meet within 10 days after such third*  
 41 ~~incident~~ *to discuss the incident and consider the need to conduct a*  
 42 *functional behavioral analysis, develop a behavior intervention plan or*  
 43 *amend either if already in existence, unless the individualized education*

1 ~~program team or the section 504 plan team has agreed on a different~~  
 2 ~~process. For a student with a section 504 plan, such student's section 504~~  
 3 ~~plan team shall discuss and consider the need for an evaluation under the~~  
 4 ~~special education for exceptional children act, K.S.A. 72-961 et seq., and~~  
 5 ~~amendments thereto. For students who have an individualized education~~  
 6 ~~program and are placed in a private school by a parent, a meeting called~~  
 7 ~~under this subsection shall include the parent and the private school, who~~  
 8 ~~shall consider whether the parent should request an individualized~~  
 9 ~~education program team meeting. If the parent requests an individualized~~  
 10 ~~education program team meeting, the private school shall help facilitate~~  
 11 ~~such meeting.~~

12 (b) (2) ~~If there is a third incident involving the use of emergency~~  
 13 ~~safety interventions within a school year on a student who is not described~~  
 14 ~~in subsection (a), then a meeting between such student's parent and school~~  
 15 ~~employees shall be conducted within 10 days after such third incident to~~  
 16 ~~For a student who does not have an individualized education program or~~  
 17 ~~section 504 plan, the parent and school shall discuss the incident and~~  
 18 ~~consider the appropriateness of a referral for an evaluation under the~~  
 19 ~~special education for exceptional children act, K.S.A. 72-961 et seq., and~~  
 20 ~~amendments thereto, the need for a functional behavioral analysis or the~~  
 21 ~~need for a behavior intervention plan. Any meeting called pursuant to this~~  
 22 ~~subsection shall include the student's parent, a school administrator for the~~  
 23 ~~school where the student attends, one of the student's teachers, a school~~  
 24 ~~employee involved in the incident and such other school employees~~  
 25 ~~designated by the school administrator as appropriate for such meeting.~~

26 (e) (b) ~~The parent shall determine whether the student shall be invited~~  
 27 ~~to any meeting called pursuant to this section.~~

28 (d) (c) ~~The time for calling a meeting pursuant to this section shall be~~  
 29 ~~extended beyond the 10-day 10-school-day limit if the parent of the~~  
 30 ~~student is unable to attend within that time period.~~

31 (e) (d) ~~Nothing in this section shall be construed to prohibit the~~  
 32 ~~development and implementation of a functional behavioral analysis or a~~  
 33 ~~behavior intervention plan for any student if such student may benefit from~~  
 34 ~~such measures but has had less than three incidents involving emergency~~  
 35 ~~safety interventions within a school year.~~

36 Sec. 5. K.S.A. 2015 Supp. 72-89d06 is hereby amended to read as  
 37 follows: 72-89d06. The state board of education shall adopt rules and  
 38 regulations as necessary to implement the provisions of this act on or  
 39 before March 1, ~~2016~~ 2017. Such rules and regulations shall include, but  
 40 not be limited to, *the exact statutory language for the standards for the use*  
 41 ~~and~~ *reporting and other requirements* of emergency safety interventions as  
 42 provided in K.S.A. 2015 Supp. 72-89d02 through 72-89d05, and  
 43 amendments thereto.

1       Sec. 6. K.S.A. 2015 Supp. 72-89d08 is hereby amended to read as  
2 follows: 72-89d08. The provisions of K.S.A. 2015 Supp. ~~72-89d01~~  
3 ~~through 72-89d08~~ 72-89d07, and amendments thereto, shall expire on June  
4 30, 2018.

5       Sec. 7. K.S.A. 2015 Supp. 72-89d02, 72-89d03, 72-89d04, 72-89d05,  
6 72-89d06 and 72-89d08 are hereby repealed.

7       Sec. 8. This act shall take effect and be in force from and after its  
8 publication in the statute book.