

Introduced by

Senators Heckaman, Hogan

Representatives Boschee, Hanson, Rohr, Schneider

1 A BILL for an Act to create and enact a new section to chapter 15.1-19 of the North Dakota
2 Century Code, relating to the adoption of a restraint and seclusion policy by school districts, the
3 prohibition of seclusion, the collection of data, and the reporting of incidents of restraint and
4 seclusion; and to provide an appropriation.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 15.1-19 of the North Dakota Century Code is created
7 and enacted as follows:

8 **School districts - Restraint and seclusion policy - Reports.**

9 **1. As used in this section:**

- 10 a. "Chemical restraint" means medication that is not a standard treatment for an
11 individual's medical or psychological condition which is used to control the
12 behavior or restrict the movement of an individual.
- 13 b. "Mechanical restraint" means the use of any device or equipment to restrict the
14 movement of an individual.
- 15 c. "Physical escort" means the temporary touching or holding of the hand, wrist,
16 arm, shoulder, or back for the purpose of directing an individual to walk to a
17 designated location.
- 18 d. "Physical restraint" means the use of the body of an individual to restrict or
19 immobilize another individual from moving the individual's torso, arms, legs, or
20 head. The term does not include a temporary touching or holding of the hand,
21 wrist, arm, shoulder, or back for the purpose of directing or escorting an individual
22 to walk to a designated location.
- 23 e. "Restraint" means a chemical restraint, mechanical restraint, physical restraint, or
24 any combination of chemical, mechanical, or physical restraints.

- 1 f. "Seclusion" means the involuntary confinement of an individual alone in a room
2 or area from which the individual is physically prevented from leaving. The term
3 does not include a time out.
- 4 g. "Time out" means the monitored separation of an individual in an unlocked
5 setting implemented for the purpose of calming the individual.
- 6 2. Before July 1, 2020, each school district shall adopt a policy regarding the use of
7 restraint and seclusion methods by school district personnel.
- 8 a. A school district policy must be in writing and insure:
- 9 (1) Any use of physical restraint or seclusion does not occur, except when there
10 is a threat of imminent danger of serious physical harm to a student, school
11 personnel, or others; and
- 12 (2) Any use of physical restraint or seclusion that occurs due to a threat of
13 imminent danger of serious physical harm, occurs in a manner that protects
14 the safety of all individuals present.
- 15 b. A school district policy must include the definitions of seclusion, physical restraint,
16 chemical restraint, and mechanical restraint as defined in this section, or as
17 defined in the United States department of education office for civil rights.
- 18 c. A school district policy must:
- 19 (1) Prohibit seclusion in schools;
- 20 (2) Prohibit the use of restraint methods known to be life threatening, including
21 use of physical restraint in a manner that restricts an individual's breathing
22 or harms the individual;
- 23 (3) Prohibit the use of prone or supine restraints;
- 24 (4) Prohibit the use of mechanical or chemical restraints;
- 25 (5) Prohibit the use of physical restraints used for punishment, noncompliance,
26 or discipline;
- 27 (6) Prohibit physical restraint or physical escort known to be contraindicated
28 based on an individual's disability, health care needs, or medical or
29 psychiatric condition;
- 30 (7) Require school district personnel to be certified and trained at least annually
31 in the safe and effective use of physical restraints and effective alternatives

- 1 to physical restraint, such as comprehensive positive behavioral
2 interventions and supports to prevent and reduce instances of dangerous
3 behaviors that may lead to the use of restraint;
4 (8) Require parents be notified no later than the end of the school day following
5 each instance of restraint used on their student;
6 (9) Require each incidence of physical restraint or seclusion be documented in
7 writing and collection of data for:
8 (a) Preventing future need for the use of restraint; and
9 (b) Creating a record for consideration when developing plans to address
10 the needs of students and staff training;
11 (10) Require data collected be reported to the superintendent of public
12 instruction. The superintendent shall make the data available to the public;
13 (11) Require each district to file a copy of the policy with the superintendent of
14 public instruction, which shall be publicly available; and
15 (12) Require each school district to report every incident of restraint and
16 seclusion to the United States department of education office for civil rights.

17 **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the foundation
18 aid stabilization fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or
19 so much of the sum as may be necessary, to the department of public instruction for the
20 purpose of training school district personnel on the district restraint and seclusion policy,
21 including training on the prohibition of seclusion, the prevention of physical restraint, and the
22 safe use of physical restraints, for the biennium beginning July 1, 2019, and ending June 30,
23 2021.