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**SENATE, No. 1163**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED FEBRUARY 8, 2016

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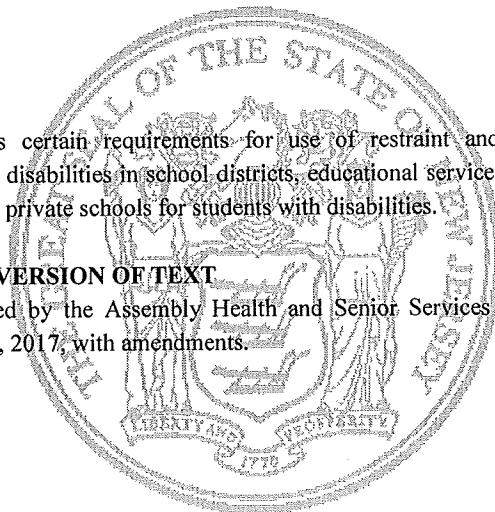
**Senators O'Toole and A.R.Bucco**

**SYNOPSIS**

Establishes certain requirements for use of restraint and seclusion on students with disabilities in school districts, educational services commissions, and approved private schools for students with disabilities.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Health and Senior Services Committee on December 18, 2017, with amendments.



(Sponsorship Updated As Of: 1/9/2018)

1 AN ACT concerning the use of physical restraint and seclusion  
 2 techniques on students with disabilities and supplementing  
 3 chapter 46 of Title 18A of the New Jersey Statutes.

4  
 5 **BE IT ENACTED** by the Senate and General Assembly of the State  
 6 of New Jersey:

7  
 8 1. As used in this act:

9 <sup>2</sup>“Physical restraint” means the use of a personal restriction that  
 10 immobilizes or reduces the ability of a student to move all or a  
 11 portion of his or her body.<sup>2</sup>

12 “Seclusion technique” means the involuntary confinement of a  
 13 student alone in a room or area from which the student is physically  
 14 prevented from leaving, but does not include a timeout.

15 “Timeout” means a behavior management technique that  
 16 involves the monitored separation of a student in a non-locked  
 17 setting, and is implemented for the purpose of calming.

18  
 19 2. <sup>1</sup>a.<sup>1</sup> A school district <sup>2</sup>, an educational services  
 20 commission,<sup>2</sup> or an approved private school for students with  
 21 disabilities that utilizes physical restraint on students with  
 22 disabilities shall ensure that:

23 <sup>1</sup>**[a.]** <sup>1</sup>(1) physical restraint is used only in an emergency in  
 24 which the student is exhibiting behavior that places the student or  
 25 others in immediate physical danger;

26 <sup>2</sup>(2)<sup>1</sup> a student is not restrained in the prone position, unless the  
 27 student’s primary care physician authorizes <sup>2</sup>, in writing,<sup>2</sup> the use of  
 28 this restraint technique;

29 <sup>1</sup>**[b.]** <sup>3</sup>(3)<sup>1</sup> staff members who are involved in the restraint of a  
 30 student receive training in safe techniques for physical restraint  
 31 <sup>2</sup>from an entity determined by the board of education to be qualified  
 32 to provide such training,<sup>2</sup> and that the training is updated at least  
 33 annually; <sup>1</sup>**[and**

34 **c.]** <sup>4</sup>(4)<sup>1</sup> the parent or guardian of a student is immediately  
 35 notified when physical restraint is used on that student, which  
 36 notification may be by telephone or electronic communication. A  
 37 full written report of the incident of physical restraint shall be  
 38 provided to the parent or guardian within <sup>1</sup>**[24]** <sup>48</sup>48<sup>1</sup> hours of the  
 39 occurrence of the incident <sup>1</sup>;

40 <sup>5</sup>(5) each incident in which a physical restraint is used is  
 41 carefully and continuously visually monitored to ensure <sup>2</sup>**[the**  
 42 appropriateness of its use and] **that it was used in accordance with**  
 43 established procedures set forth in a board policy developed in

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Senate SED committee amendments adopted May 23, 2016.

<sup>2</sup>Assembly AHE committee amendments adopted December 18, 2017.

1 conjunction with the entity that trains staff in safe techniques for  
2 physical restraint, in order to protect<sup>2</sup> the safety of the child<sup>2</sup> and  
3 others<sup>2</sup>; and

4 (6) each incident in which physical restraint is used is  
5 documented in writing in sufficient detail to enable the staff to  
6 <sup>2</sup>[understand the student's behavior over time and]<sup>2</sup> use this  
7 information to develop or improve the behavior intervention plan  
8 <sup>2</sup>at the next individualized education plan meeting<sup>2</sup>.

9 b. A school district<sup>2</sup>, an educational services commission,<sup>2</sup> and  
10 an approved private school for students with disabilities shall  
11 attempt to minimize the use of physical restraints through<sup>2</sup> [the  
12 development and implementation of individualized, comprehensive,  
13 positive behavior intervention plans<sup>1</sup>] inclusion of positive  
14 behavior supports in the student's behavior intervention plans  
15 developed by the individualized education plan team<sup>2</sup>.

16

17 3. 'a.'<sup>1</sup> A school district<sup>2</sup>, an educational services  
18 commission,<sup>2</sup> or an approved private school for students with  
19 disabilities that utilizes seclusion techniques on students with  
20 disabilities shall ensure that<sup>1</sup>:

21 (1)<sup>1</sup> a seclusion technique is used on a student with disabilities  
22 only<sup>2</sup> [with the prior written consent of the student's primary care  
23 physician<sup>1</sup> or]<sup>2</sup> in an emergency in which the student is exhibiting  
24 behavior that places the student or others in immediate physical  
25 danger;

26 (2) each incident in which a seclusion technique is used is  
27 carefully and continuously visually monitored to ensure<sup>2</sup> [the  
28 appropriateness of its use and] that it was used in accordance with  
29 established procedures set forth in a board policy developed in  
30 conjunction with the entity that trains staff in safe techniques for  
31 physical restraint, in order to protect<sup>2</sup> the safety of the child<sup>2</sup> and  
32 others<sup>2</sup>; and

33 (3) each incident in which a seclusion technique is used is  
34 documented in writing in sufficient detail to enable the staff to  
35 <sup>2</sup>[understand the student's behavior over time and]<sup>2</sup> use this  
36 information to develop or improve the behavior intervention plan  
37 <sup>2</sup>at the next individualized education plan meeting<sup>2</sup>.

38 b. A school district<sup>2</sup>, an educational services commission,<sup>2</sup> and  
39 an approved private school for students with disabilities shall  
40 attempt to minimize the use of seclusion techniques through<sup>2</sup> [the  
41 development and implementation of individualized, comprehensive,  
42 positive behavior intervention plans<sup>1</sup>] inclusion of positive  
43 behavior supports in the student's behavior intervention plans  
44 developed by the individualized education plan team<sup>2</sup>.

- 1       4. <sup>2</sup>[<sup>1</sup>a.]<sup>1</sup> The Department of Education shall annually collect  
2 data from school districts and approved private schools for students  
3 with disabilities on the number of times a physical restraint or a  
4 seclusion technique was utilized on a student <sup>1</sup>and the type and  
5 duration of the physical restraint or seclusion technique that was  
6 utilized.<sup>1</sup> and the number of students on which a physical restraint  
7 or a seclusion technique was utilized. The department shall publish  
8 the data annually on its website in a manner that protects student  
9 privacy. <sup>1</sup>The data published on the website shall be disaggregated  
10 by county and by the race, gender, and age of the student.
- 11       b. The department shall review the data annually and shall  
12 provide assistance to those school districts and approved private  
13 schools for students with disabilities for which the data indicate a  
14 high incidence of the use of physical restraint or seclusion  
15 techniques, on recommended methods for reducing the use of  
16 physical restraint or seclusion techniques.
- 17       c. <sup>2</sup>The department shall establish guidelines for school districts  
18 , educational services commissions,<sup>2</sup> and approved private schools  
19 for students with disabilities to ensure that a review process is in  
20 place to examine the use of physical restraints or seclusion  
21 techniques in emergency situations, and for the repeated use of  
22 these methods for an individual child, within the same classroom, or  
23 by a single individual. The review process shall include  
24 educational, clinical, and administrative personnel. Pursuant to the  
25 review process the <sup>2</sup>[school district or approved private school for  
26 students with disabilities] student's individualized education plan  
27 team<sup>2</sup> may, as deemed appropriate, determine to revise <sup>2</sup>[a] the<sup>2</sup>  
28 behavior intervention plan <sup>2</sup>[,] or<sup>2</sup> classroom supports, <sup>2</sup>[or] and a  
29 school district, educational services commission, or approved  
30 private school for students with disabilities may determine to  
31 revise<sup>2</sup> a staff member's professional development plan.<sup>1</sup>
- 32  
33       5. This act shall take effect immediately.



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## New Law Protects Students with Disabilities

Requires long overdue regulations and limitations for the use of restraint and seclusion

Bill Number: S1163/A501

**Description:** Establishes certain requirements for use of restraint and seclusion on students with disabilities in school districts, educational services commissions, and approved private schools for students with disabilities.

Legislation sponsored by Senator Kristin Corrado (R-40), Senate President Stephen Sweeney (D-3), Assemblyman David Russo (R-40), Assemblyman John Burzichelli (D-3), and other legislators was signed into law by Governor Christie on January 15, 2018. Where there are currently no regulations that govern the use of restraint and seclusion in schools, this new law establishes protections for students and much-needed requirements for the use of restraint and seclusion.

### Have concerns and questions?

Restraint and seclusion are some of the most worrisome and potentially dangerous procedures used in school settings. These procedures raise many legitimate questions and concerns, and you have a right to answers. If you have concerns about this new law or the use of these procedures - for your child or in your school – you can call us to learn about this new law, current regulations regarding students' rights, and best practices in behavior support. [We welcome your questions and input.](#)

### What's next?

This new law charges the Department of Education to draft and promulgate regulations to codify specific requirements to carry out the legislation's intent. Your input could be valuable to the development of the regulations. When the DOE's draft is available for public comment, we will share this with the community.

### Thank Our Legislators

Does this bill make a difference to you? Thank the sponsors for making it happen!

- Senator Kristin M. Corrado (R-40)
- Senator Stephen M. Sweeney (D-3)
- Assemblyman David C. Russo (R-40)\*
- Assemblyman John J. Burzichelli (D-3)
- Assemblyman Andrew Zwicker (D-16)
- Assemblywoman Angela V. McKnight (D-31)
- Senator Kevin J. O'Toole (R-40)\*
- Senator Anthony R. Bucco (R-25)

\*Term ended

Autism New Jersey actively advocated for this law since the bill's introduction in February 2016. We recommended several amendments to strengthen the bill, provided testimony, and served as a resource for legislators and their staff. This law will directly benefit students with disabilities and their teachers by providing clear guidance on when restraint and seclusion should be and should not be used, how they should be monitored and documented, and how those who are responsible for implementation are to be trained.

"There is currently no state policy that regulates the use of restraint and seclusion for students with disabilities in public or private schools. This bill provides the guidance needed to ensure that schools that are using restraint and seclusion are doing so in a manner that is safe, warranted, transparent, and accountable," said Dr. Suzanne Buchanan, Autism New Jersey Executive Director.

The day-to-day reality in many schools is that some students with disabilities do engage in severe challenging behavior which can put themselves and others in imminent danger. There are effective methods and techniques to decrease or prevent severe challenging behavior (e.g., Applied Behavior Analysis, Positive Behavior Supports, de-escalation techniques), but when situations arise in which these methods and techniques are not effective, the judicious – and regulated – use of restraint and seclusion can aid in ensuring the safety of everyone involved.

This law will provide the necessary and overdue regulations and standards that schools need to keep everyone safe in emergent situations. With the proper monitoring, documentation, and analysis of data required under this law, we can examine the use of restraint and seclusion and work towards their reduction and elimination.

Governor Christie also signed into law S-3554, which will expand the current federal and state background check requirement for agencies that serve individuals with developmental disabilities and S-3555, which exempts certain motor vehicles that provide service to persons with developmental disabilities from motor vehicle registration fees.

[Read the full law>>](#)

### UNDERSTANDING THE NEW RESTRAINT LAW

BEFORE THE LAW AFTER THE LAW

Restraint and seclusion are legal and occur in many schools	●	●
Immediate parent notification via phone or email	●	●
Written report within 48 hours	●	●
Staff training and annual recertification	●	●
Written physician authorization for use of prone restraints	●	●
Careful and continuous visual monitoring of all incidents of restraint and seclusion	●	●
Schools required to have a review process for restraint and seclusion use	●	●

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