



**Substitute Senate Bill No. 977**

**Public Act No. 07-147**

**AN ACT CONCERNING RESTRAINTS AND SECLUSION IN PUBLIC SCHOOLS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 46a-150 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

For purposes of this section and sections 46a-151 to 46a-154, inclusive:

(1) "Provider of care, education or supervision of a person at risk" and "provider" mean a person who provides direct care, education or supervision of a person at risk.

(2) "Assistant provider of care, education or supervision of a person at risk" and "assistant" mean a person assigned to provide, or who may be called upon in an emergency to provide, assistance or security to a provider of care, education or supervision of a person at risk.

(3) "Person at risk" means (A) a child requiring special education described in subparagraph (A) of subdivision (5) of section 10-76a, who is receiving special education by a local or regional board of education, or a child being evaluated for eligibility for special education pursuant to section 10-76d and awaiting a determination, or

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(B) a person receiving care, education or supervision in an institution or facility [(A)] (i) operated by, licensed or authorized to operate by or operating pursuant to a contract with the Departments of Public Health, Mental Retardation, Children and Families, Mental Health and Addiction Services or a regional education service center established under section 10-66a, or [(B)] (ii) operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d. The term does not include [(i)] a person in the custody of the Commissioner of Correction, or [(ii)] a resident or patient of a nursing home subject to federal regulations concerning restraint of residents or patients.

(4) "Life-threatening physical restraint" means any physical restraint or hold of a person that restricts the flow of air into a person's lungs, whether by chest compression or any other means.

(5) "Physical restraint" means any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs or head. The term does not include: (A) Briefly holding a person in order to calm or comfort the person; (B) restraint involving the minimum contact necessary to safely escort a person from one area to another; (C) medical devices, including, but not limited to, supports prescribed by a health care provider to achieve proper body position or balance; (D) helmets or other protective gear used to protect a person from injuries due to a fall; or (E) helmets, mitts and similar devices used to prevent self injury when the device is part of a documented treatment plan or individualized education program pursuant to section 10-76d and is the least restrictive means available to prevent such self-injury.

(6) "Psychopharmacologic agent" means any medication that affects the central nervous system, influencing thinking, emotion or behavior.

(7) "Seclusion" means the confinement of a person in a room,

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whether alone or with staff supervision, in a manner that prevents the person from leaving, except that in the case of seclusion at Long Lane School, the term does not include the placing of a single child or youth in a secure room for the purpose of sleeping.

Sec. 2. Subsection (b) of section 46a-152 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(b) No provider or assistant may involuntarily place a person at risk in seclusion except (1) as an emergency intervention to prevent immediate or imminent injury to the person or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative, or (2) as specifically provided for in an [individual education plan] individualized education program developed pursuant to section 10-76d. Each local or regional board of education, institution or facility providing special education for a child shall notify the parent or guardian of each incident in which such child is placed in physical restraint or seclusion.

Sec. 3. Section 46a-153 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

Each local or regional board of education, institution or facility that provides direct care, education or supervision of persons at risk shall (1) record each instance of the use of physical restraint or seclusion on a person at risk and the nature of the emergency that necessitated its use, and (2) include such information in an annual compilation on its use of such restraint and seclusion. The commissioner of the state agency that has jurisdiction or supervisory control over [the] each institution or facility shall review the annual compilation prior to renewing a license for or a contract with such institution or facility. The State Board of Education may review the annual compilation of each local and regional board of education, institution and facility that

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provides special education for children and may produce an annual summary report identifying the frequency of use of physical restraint or seclusion on such children. If the use of such restraint or seclusion results in physical injury to the person, (A) the local or regional board of education, institution or facility that provides special education for a child may report the incident to the State Board of Education, and (B) the institution or facility shall report the incident to the commissioner of the state agency that has jurisdiction or supervisory control over the institution or facility. The State Board of Education and the commissioner receiving a report of such an incident shall report any incidence of serious injury or death to the director of the Office of Protection and Advocacy for Persons with Disabilities and, if appropriate, to the Child Advocate of the Office of Child Advocate.

Sec. 4. Subsection (a) of section 10-76b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) The State Board of Education shall provide for the development and supervision of the educational programs and services for children requiring special education and may regulate curriculum, conditions of instruction, including the use of physical restraint and seclusion pursuant to chapter 814e, physical facilities and equipment, class composition and size, admission of students, and the requirements respecting necessary special services and instruction to be provided by local and regional boards of education. The State Board of Education shall adopt regulations, in accordance with the provisions of chapter 54, concerning the use of physical restraint and seclusion pursuant to chapter 814e. The educational aspects of all programs and instructional facilities in any day or residential child-caring agency or school which provides training for children requiring special education and which receives funding from the state under the provisions of sections 10-76a to 10-76g, inclusive, shall be subject to the approval and supervision of

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the commissioner in accordance with regulations adopted by the State Board of Education concerning requirements for such programs and accommodations.

Sec. 5. Subdivision (8) of subsection (a) of section 10-76d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(8) (A) Each local and regional board of education shall notify the parent or guardian of a child who requires or who may require special education, a pupil if such pupil is an emancipated minor or eighteen years of age or older who requires or who may require special education or a surrogate parent appointed pursuant to section 10-94g, in writing, at least five school days before such board proposes to, or refuses to, initiate or change the child's or pupil's identification, evaluation or educational placement or the provision of a free appropriate public education to the child or pupil. Such parent, guardian, pupil or surrogate parent shall be given at least five school days' prior notice of any planning and placement team meeting conducted for such child or pupil and shall have the right to be present at and participate in and to have advisors of such person's own choosing and at such person's own expense to be present at and to participate in all portions of such meeting at which an educational program for such child or pupil is developed, reviewed or revised. Immediately upon the formal identification of any child as a child requiring special education and at each planning and placement team meeting for such child, the responsible local or regional board of education shall inform the parent or guardian of such child or surrogate parent or, in the case of a pupil who is an emancipated minor or eighteen years of age or older, the pupil of the laws relating to special education and the rights of such parent, guardian, surrogate parent or pupil under such laws and the regulations adopted by the State Board of Education relating to special education. If such parent,

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guardian, surrogate parent or pupil does not attend a planning and placement team meeting, the responsible local or regional board of education shall mail such information to such person. Each board shall have in effect at the beginning of each school year an educational program for each child who has been identified as eligible for special education.

(B) At each initial planning and placement team meeting for a child, the responsible local or regional board of education shall inform the parent, guardian, surrogate parent or pupil of the laws relating to physical restraint and seclusion pursuant to chapter 814e and the rights of such parent, guardian, surrogate parent or pupil under such laws and the regulations adopted by the State Board of Education relating to physical restraint and seclusion.

Approved June 19, 2007