



# Senate

General Assembly

**File No. 760**

January Session, 2007

Substitute Senate Bill No. 977

*Senate, May 7, 2007*

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

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

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 Section 46a-150 of the general statutes is repealed and the  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

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

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

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

12 (3) "Person at risk" means (A) a child requiring special education

13 described in subparagraph (A) of subdivision (5) of section 10-76a,  
14 who is receiving special education by a local or regional board of  
15 education, or a child being evaluated for eligibility for special  
16 education pursuant to section 10-76d and awaiting a determination, or  
17 (B) a person receiving care, education or supervision in an institution  
18 or facility [(A)] (i) operated by, licensed or authorized to operate by or  
19 operating pursuant to a contract with the Departments of Public  
20 Health, Mental Retardation, Children and Families, Mental Health and  
21 Addiction Services or a regional education service center established  
22 under section 10-66a, or [(B)] (ii) operating under contract with a local  
23 or regional board of education pursuant to subsection (d) of section 10-  
24 76d. The term does not include [(i)] a person in the custody of the  
25 Commissioner of Correction, or [(ii)] a resident or patient of a nursing  
26 home subject to federal regulations concerning restraint of residents or  
27 patients.

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

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

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

46 (7) "Seclusion" means the confinement of a person in a room,  
47 whether alone or with staff supervision, in a manner that prevents the  
48 person from leaving, except that in the case of seclusion at Long Lane  
49 School, the term does not include the placing of a single child or youth  
50 in a secure room for the purpose of sleeping.

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

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

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

66 Each local or regional board of education, institution or facility that  
67 provides direct care, education or supervision of persons at risk shall  
68 (1) record each instance of the use of physical restraint or seclusion on  
69 a person at risk and the nature of the emergency that necessitated its  
70 use, and (2) include such information in an annual compilation on its  
71 use of such restraint and seclusion. The commissioner of the state  
72 agency that has jurisdiction or supervisory control over [the] each  
73 institution or facility shall review the annual compilation prior to  
74 renewing a license for or a contract with such institution or facility.  
75 The State Board of Education may review the annual compilation of  
76 each local and regional board of education, institution and facility that  
77 provides special education for children and may produce an annual  
78 summary report identifying the frequency of use of physical restraint

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

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

93 (a) The State Board of Education shall provide for the development  
94 and supervision of the educational programs and services for children  
95 requiring special education and may regulate curriculum, conditions  
96 of instruction, including the use of physical restraint and seclusion  
97 pursuant to chapter 814e, physical facilities and equipment, class  
98 composition and size, admission of students, and the requirements  
99 respecting necessary special services and instruction to be provided by  
100 local and regional boards of education. The State Board of Education  
101 shall adopt regulations, in accordance with the provisions of chapter  
102 54, concerning the use of physical restraint and seclusion pursuant to  
103 chapter 814e. The educational aspects of all programs and instructional  
104 facilities in any day or residential child-caring agency or school which  
105 provides training for children requiring special education and which  
106 receives funding from the state under the provisions of sections 10-76a  
107 to 10-76g, inclusive, shall be subject to the approval and supervision of  
108 the commissioner in accordance with regulations adopted by the State  
109 Board of Education concerning requirements for such programs and  
110 accommodations.

111 Sec. 5. Subdivision (8) of subsection (a) of section 10-76d of the

112 general statutes is repealed and the following is substituted in lieu  
113 thereof (*Effective October 1, 2007*):

114 (8) (A) Each local and regional board of education shall notify the  
115 parent or guardian of a child who requires or who may require special  
116 education, a pupil if such pupil is an emancipated minor or eighteen  
117 years of age or older who requires or who may require special  
118 education or a surrogate parent appointed pursuant to section 10-94g,  
119 in writing, at least five school days before such board proposes to, or  
120 refuses to, initiate or change the child's or pupil's identification,  
121 evaluation or educational placement or the provision of a free  
122 appropriate public education to the child or pupil. Such parent,  
123 guardian, pupil or surrogate parent shall be given at least five school  
124 days' prior notice of any planning and placement team meeting  
125 conducted for such child or pupil and shall have the right to be present  
126 at and participate in and to have advisors of such person's own  
127 choosing and at such person's own expense to be present at and to  
128 participate in all portions of such meeting at which an educational  
129 program for such child or pupil is developed, reviewed or revised.  
130 Immediately upon the formal identification of any child as a child  
131 requiring special education and at each planning and placement team  
132 meeting for such child, the responsible local or regional board of  
133 education shall inform the parent or guardian of such child or  
134 surrogate parent or, in the case of a pupil who is an emancipated  
135 minor or eighteen years of age or older, the pupil of the laws relating  
136 to special education and the rights of such parent, guardian, surrogate  
137 parent or pupil under such laws and the regulations adopted by the  
138 State Board of Education relating to special education. If such parent,  
139 guardian, surrogate parent or pupil does not attend a planning and  
140 placement team meeting, the responsible local or regional board of  
141 education shall mail such information to such person. Each board shall  
142 have in effect at the beginning of each school year an educational  
143 program for each child who has been identified as eligible for special  
144 education and shall provide such educational program to the parent of  
145 each such child.



The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Education, Dept.	GF - Cost	25,000	See Below

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 08 \$	FY 09 \$
Local and Regional School Districts	STATE MANDATE - Cost	Minimal	Minimal

**Explanation**

This bill results in a cost to the State Department of Education due to additional reporting requirements placed upon them along with the requirement of developing regulations concerning the restraint and seclusion of special education students. The estimated cost is approximately \$25,000 in FY 08 due to the required regulations but significantly less in the subsequent years. Additionally the bill mandates that local and regional school districts report to parents on each incident of a child being restrained or secluded which could result in a minimal cost to the district depending on the method used to report such incidents.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 977*****AN ACT CONCERNING RESTRAINTS AND SECLUSION IN PUBLIC SCHOOLS.*****SUMMARY:**

This bill regulates the use of physical restraints and seclusion on students receiving special education services, or for whom eligibility determinations are pending. It gives the State Board of Education (SBE) this authority as part of its existing mandate to regulate special education curriculum and instruction conditions. And it requires the SBE to adopt governing regulations.

Current law regulates the use of these techniques on people receiving direct care and education services from regional educational service centers; the departments of Children and Families, Mental Health and Addiction Services, Mental Retardation, Public Health; and entities they license or supervise. It excludes nursing homes and Department of Correction facilities.

The bill requires local and regional boards of education to tell parents, guardians, and others standing in the place of parents about (1) the laws and regulations governing the use of physical restraints and seclusion and (2) related student and parental rights at the first planning and placement team meeting (PPT) involving the student's individual educational program (IEP). It also requires boards of education to give them copies of the educational program at the beginning of each school year.

The bill creates reporting procedures. Some are discretionary and others are mandatory.

EFFECTIVE DATE: October 1, 2007

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## PHYSICAL RESTRAINTS AND SECLUSION

### *Physical Restraints*

With some exceptions, the law defines “physical restraints” as any mechanical or personal restriction that immobilizes or reduces the free movement of a person’s arms, legs, or head. The bill excludes helmets, mitts, and similar devices used to prevent special education students from hurting themselves if their use is documented in their IEPs.

### *Seclusion*

With some exceptions, the law defines “seclusion” as the confinement of a person in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving. The law permits involuntary seclusion when it is used (1) in accordance with a student’s IEP or (2) in an emergency to prevent immediate or imminent injury to the person or others, so long as it is the least restrictive alternative.

## REPORTING REQUIREMENTS

### *Local and Regional School Boards*

Current law requires institutions and facilities to report injuries caused by the use of restraints and seclusion (other than in nursing homes and DOC facilities) to the state agency that supervises or has jurisdiction over them. Agencies, in turn, must review the reports when considering contract and license renewals. The bill extends these requirements to local and regional school boards and the State Department of Education. It allows the boards to report these incidents to the SBE.

The bill also requires local and regional school boards, institutions, and facilities to notify a special education student’s parent or guardian of each incident in which their child was placed in seclusion. The boards must also keep records and compile annual reports of each instance and the nature of the underlying emergency that necessitated their use.

### *State Board of Education*

The bill requires the SBE to notify the child advocate and director of the Office of Protection and Advocacy for Persons with Disabilities when it receives a report involving a serious injury. The law authorizes these agencies to conduct investigations and issue written reports.

The bill also authorizes the SBE to review schools', facilities', and institutions', annual reports on the use of physical restraints and seclusion. It may issue yearly summaries indicating how often these techniques were used on special education students.

## **BACKGROUND**

### ***Special Education Law***

State and federal laws require local and regional boards of education to identify students who need, or may be eligible for, special education services and to provide free, appropriate services in the least restrictive environment. They must hold PPTs to develop IEPs for each eligible child. They must also hold PPTs whenever they propose to modify or terminate a student's IEP.

Students, parents, guardians, and surrogate parents and their chosen representatives may attend and participate in each of these meetings and challenge the appropriateness of the recommended services.

## **COMMITTEE ACTION**

Select Committee on Children

Joint Favorable Change of Reference  
 Yea 10 Nay 0 (03/06/2007)

Education Committee

Joint Favorable Change of Reference  
 Yea 30 Nay 1 (03/26/2007)

Appropriations Committee

Joint Favorable Substitute

Yea 50 Nay 0 (04/17/2007)