



House of Representatives

General Assembly

File No. 390

February Session, 2012

Substitute House Bill No. 5347

House of Representatives, April 12, 2012

The Committee on Education reported through REP. FLEISCHMANN of the 18th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE REPORTING OF CHILDREN PLACED IN SECLUSION.

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

1 Section 1. Section 46a-153 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2012*):

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

13 (b) Each local and regional board of education, institution and
14 facility that provides special education for a child shall (1) record each
15 instance of the use of physical restraint or seclusion on a child, (2)
16 specify whether the use of physical restraint or seclusion was in
17 accordance with an individualized education program or was an
18 emergency, including the nature of the emergency that necessitated its
19 use, and (3) include such information in an annual compilation on its
20 use of such restraint and seclusion on children.

21 (c) The State Board of Education [may] shall review the annual
22 compilation of each local and regional board of education, institution
23 and facility that provides special education for children and [may]
24 shall produce an annual summary report identifying the frequency of
25 use of physical restraint or seclusion on such children and specifying
26 whether the use of such physical restraint or seclusion was in
27 accordance with an individualized education program or was an
28 emergency. Such report shall be submitted on an annual basis not later
29 than October first of each year to the select committee of the General
30 Assembly having cognizance of matters relating to children for
31 inclusion in the annual report card prepared pursuant to section 2-
32 53m.

33 (d) If the use of such restraint or seclusion results in physical injury
34 to the person, [(A)] (1) the local or regional board of education,
35 institution or facility that provides special education for a child [may]
36 shall report the incident to the State Board of Education, which shall
37 include such incident in the report required pursuant to subsection (c)
38 of this section, and [(B)] (2) the institution or facility shall report the
39 incident to the commissioner of the state agency that has jurisdiction or
40 supervisory control over the institution or facility. The State Board of
41 Education and the commissioner receiving a report of such an incident
42 shall report any incidence of serious injury or death to the director of
43 the Office of Protection and Advocacy for Persons with Disabilities
44 and, if appropriate, to the Child Advocate of the Office of Child
45 Advocate.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
Various Municipalities	STATE MANDATE - Cost	Less than \$1,000	Less than \$1,000

Explanation

The bill will result in a minimal cost of less than \$1,000 to various municipalities, associated with additional administrative reporting requirements including, the cost of tracking and compiling information related to the seclusion and restraint of children, which must be sent to the State Department of Education (SDE). The cost is only anticipated to impact municipalities that have a high number of such instances; some municipalities will have no or very few instances to report on, and this will not result in any additional cost.

It is not anticipated that the bill will result in an additional cost to SDE, as they must review the information submitted by the various municipalities and produce a summary report of the information provided. SDE currently has the staff available with expertise in this area to perform the task.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of reported incidents.

OLR Bill Analysis**sHB 5347*****AN ACT CONCERNING THE REPORTING OF CHILDREN PLACED IN SECLUSION.*****SUMMARY:**

This bill requires local school boards and other entities providing special education to children, when recording instances when seclusion or restraints are used on a child, to indicate whether these actions are in accordance with the child's individualized education program (IEP).

The bill also requires, rather than allows, the State Board of Education (SBE) to review this information and summarize it, including whether such actions result in physical injuries to the children. The SBE must provide these summaries annually to the Children's Committee for inclusion in the children's report card.

EFFECTIVE DATE: July 1, 2012

USE OF RESTRAINTS AND SECLUSION WITH CHILDREN RECEIVING SPECIAL EDUCATION SERVICES***Local Compilation of Data***

By law, each local or regional school board, institution, and facility that provides special education to a child must record (1) each instance when physical restraint or seclusion is used on a child and (2) the nature of the emergency that necessitated the action and include the information in an annual compilation for the state. Under the bill, these entities must also specify whether the use of the restraint or seclusion was in accordance with a child's IEP. The entities are also required, rather than given the option, to report to the SBE any instance in which the use of a restraint or seclusion results in the child's physical injury.

SBE to Issue Summary Report

The bill requires, rather than allows, the SBE to review these compilations and provide annual summaries identifying the frequency with which restraints and seclusion were used. And it requires the board to include in the summary (1) the information about the IEPs and (2) instances in which the use of restraints or seclusion resulted in the child's physical injury.

The SBE must submit the summary report by each October 1 to the Children's Committee for inclusion in the General Assembly's annual report card on children's well-being.

BACKGROUND

Use of Seclusion or Restraints on Children

By law, special education children generally may not be involuntarily placed in seclusion except (1) as an emergency intervention to prevent immediate or imminent injury to the child or others or (2) their IEP provides for such. The special education providers listed above must notify the child's parents or guardians of each incident in which a child is placed in seclusion or a physical restraint is used (CGS § 46a-152 (b)).

Children's Report Card

The Select Committee on Children is required by law to maintain an annual report card on the progress of state policies and programs promoting child well-being.

COMMITTEE ACTION

Select Committee on Children

Joint Favorable Substitute Change of Reference
 Yea 8 Nay 0 (03/08/2012)

Education Committee

Joint Favorable

Yea 31 Nay 0 (03/23/2012)