



General Assembly

January Session, 2015

Raised Bill No. 927

LCO No. 3927



Referred to Committee on COMMITTEE ON CHILDREN

Introduced by:
(KID)

AN ACT CONCERNING SECLUSION AND RESTRAINT IN SCHOOLS.

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

1 Section 1. (NEW) (*Effective July 1, 2015*) (a) For purposes of this
2 section:

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

6 (2) "Physical restraint" means any mechanical or personal restriction
7 that immobilizes or reduces the free movement of a student's arms,
8 legs or head. The term does not include: (A) Briefly holding a student
9 in order to calm or comfort the student; (B) restraint involving the
10 minimum contact necessary to safely escort a student from one area to
11 another; (C) medical devices, including, but not limited to, supports
12 prescribed by a health care provider to achieve proper body position
13 or balance; (D) helmets or other protective gear used to protect a
14 person from injuries due to a fall; or (E) helmets, mitts and similar
15 devices used to prevent self injury when the device is part of a

16 documented treatment plan or individualized education program
17 pursuant to section 10-76d of the general statutes, as amended by this
18 act, and is the least restrictive means available to prevent such self-
19 injury;

20 (3) "Prone physical restraint" means any physical restraint that
21 immobilizes or reduces the free movement of a student's arms, legs or
22 head while the student is in the prone position;

23 (4) "School employee" means (A) a teacher, substitute teacher,
24 school administrator, school superintendent, guidance counselor,
25 psychologist, social worker, nurse, physician, school paraprofessional
26 or coach employed by a local or regional board of education or
27 working in a public elementary, middle or high school; or (B) any
28 other individual who, in the performance of his or her duties, has
29 regular contact with students and who provides services to or on
30 behalf of students enrolled in a public elementary, middle or high
31 school, pursuant to a contract with the local or regional board of
32 education; and

33 (5) "Seclusion" means the involuntary confinement of a student in a
34 room, whether alone or with supervision, in a manner that prevents
35 the student from leaving.

36 (b) No school employee shall use a physical restraint on a student
37 except as an emergency intervention to prevent immediate or
38 imminent injury to the student or to others, provided the restraint is
39 not used for discipline or convenience and is not used as a substitute
40 for a less restrictive alternative life-threatening physical restraint on a
41 student.

42 (c) No school employee shall use a prone physical restraint or a life-
43 threatening physical restraint on a student. This section shall not be
44 construed as limiting any defense to criminal prosecution for the use of
45 deadly physical force that may be available under sections 53a-18 to
46 53a-22, inclusive of the general statutes.

47 (d) No school employee shall place a student in seclusion except as
48 an emergency intervention to prevent immediate or imminent injury to
49 the student or to others, provided the seclusion is not used for
50 discipline or convenience and is not used as a substitute for a less
51 restrictive alternative.

52 (e) Any instance of physical restraint or seclusion of a student
53 otherwise permissible under subsections (b) and (d) of this section
54 shall not exceed the lesser of fifteen minutes or one minute per age of
55 the student.

56 (f) No school employee shall use a physical restraint on a student or
57 place a student in seclusion unless such school employee has received
58 in-service training on the proper means for performing such physical
59 restraint or seclusion pursuant to section 10-220a of the general
60 statutes, as amended by this act.

61 (g) Each local or regional board of education shall notify a parent or
62 guardian of a child who is placed in physical restraint or seclusion not
63 later than twenty-four hours after the child was placed in physical
64 restraint or seclusion and shall make a reasonable effort to provide
65 such notification immediately after such physical restraint or seclusion.

66 Sec. 2. Section 10-220a of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective July 1, 2015*):

68 (a) Each local or regional board of education shall provide an in-
69 service training program for its teachers, administrators and pupil
70 personnel who hold the initial educator, provisional educator or
71 professional educator certificate. Such program shall provide such
72 teachers, administrators and pupil personnel with information on (1)
73 the nature and the relationship of drugs, as defined in subdivision (17)
74 of section 21a-240, and alcohol to health and personality development,
75 and procedures for discouraging their abuse, (2) health and mental
76 health risk reduction education which includes, but need not be
77 limited to, the prevention of risk-taking behavior by children and the

78 relationship of such behavior to substance abuse, pregnancy, sexually
79 transmitted diseases, including HIV-infection and AIDS, as defined in
80 section 19a-581, violence, teen dating violence, domestic violence, child
81 abuse and youth suicide, (3) the growth and development of
82 exceptional children, including handicapped and gifted and talented
83 children and children who may require special education, including,
84 but not limited to, children with attention-deficit hyperactivity
85 disorder or learning disabilities, and methods for identifying, planning
86 for and working effectively with special needs children in a regular
87 classroom, including, but not limited to, implementation of student
88 individualized education programs, (4) school violence prevention []
89 and conflict resolution, including restraint, seclusion and other
90 deescalation techniques, the prevention of and response to youth
91 suicide and the identification and prevention of and response to
92 bullying, as defined in subsection (a) of section 10-222d, except that
93 those boards of education that implement any evidence-based model
94 approach that is approved by the Department of Education and is
95 consistent with subsection (d) of section 10-145a, sections 10-222d, 10-
96 222g and 10-222h, subsection (g) of section 10-233c and sections 1 and 3
97 of public act 08-160, shall not be required to provide in-service training
98 on the identification and prevention of and response to bullying, (5)
99 cardiopulmonary resuscitation and other emergency life saving
100 procedures, (6) computer and other information technology as applied
101 to student learning and classroom instruction, communications and
102 data management, (7) the teaching of the language arts, reading and
103 reading readiness for teachers in grades kindergarten to three,
104 inclusive, (8) second language acquisition in districts required to
105 provide a program of bilingual education pursuant to section 10-17f,
106 (9) the requirements and obligations of a mandated reporter, and (10)
107 the teacher evaluation and support program adopted pursuant to
108 subsection (b) of section 10-151b. Each local and regional board of
109 education may allow any paraprofessional or noncertified employee to
110 participate, on a voluntary basis, in any in-service training program
111 provided pursuant to this section. The State Board of Education,

112 within available appropriations and utilizing available materials, shall
113 assist and encourage local and regional boards of education to include:
114 (A) Holocaust and genocide education and awareness; (B) the
115 historical events surrounding the Great Famine in Ireland; (C) African-
116 American history; (D) Puerto Rican history; (E) Native American
117 history; (F) personal financial management; (G) domestic violence and
118 teen dating violence; (H) mental health first aid training; and (I) topics
119 approved by the state board upon the request of local or regional
120 boards of education as part of in-service training programs pursuant to
121 this subsection.

122 (b) Not later than a date prescribed by the commissioner, each local
123 and regional board of education shall establish a professional
124 development and evaluation committee consisting of certified
125 employees, and such other school personnel as the board deems
126 appropriate, including representatives selected by the exclusive
127 bargaining representative for such employees chosen pursuant to
128 subsection (b) of section 10-153. The duties of such committees shall
129 include, but not be limited to, participation in the development or
130 adoption of a teacher evaluation and support program for the district,
131 pursuant to section 10-151b, and the development, evaluation and
132 annual updating of a comprehensive local professional development
133 plan for certified employees of the district. Such plan shall: (1) Be
134 directly related to the educational goals prepared by the local or
135 regional board of education pursuant to subsection (b) of section 10-
136 220, (2) on and after July 1, 2011, be developed with full consideration
137 of the priorities and needs related to student outcomes as determined
138 by the State Board of Education, and (3) provide for the ongoing and
139 systematic assessment and improvement of both teacher evaluation
140 and professional development of the professional staff members of
141 each such board, including personnel management and evaluation
142 training or experience for administrators, shall be related to regular
143 and special student needs and may include provisions concerning
144 career incentives and parent involvement. The State Board of

145 Education shall develop guidelines to assist local and regional boards
146 of education in determining the objectives of the plans and in
147 coordinating staff development activities with student needs and
148 school programs.

149 (c) The Department of Education, in cooperation with one or more
150 regional educational service centers, is authorized to provide institutes
151 annually for Connecticut educators. Such institutes shall serve as
152 model programs of professional development and shall be taught by
153 exemplary Connecticut teachers and administrators and by other
154 qualified individuals as selected by the Department of Education. The
155 Department of Education shall charge fees for attending such institutes
156 provided such fees shall be based on the actual cost of such institutes.

157 (d) The Department of Education may fund, within available
158 appropriations, in cooperation with one or more regional educational
159 service centers: (1) A cooperating teacher program to train Connecticut
160 public school teachers, certified teachers at private special education
161 facilities approved by the Commissioner of Education, certified
162 teachers at nonpublic schools approved by the commissioner and
163 certified teachers at other facilities designated by the commissioner,
164 who participate in the supervision, training and evaluation of student
165 teachers, provided such certified teachers at nonpublic schools pay for
166 the cost of participation in such cooperating teacher program and
167 provided further that enrollment in such program shall first be made
168 available to public school teachers; and (2) institutes to provide
169 professional development for Connecticut public school educators and
170 cooperating teachers, including institutes to provide professional
171 development for Connecticut public school educators offered in
172 cooperation with the Connecticut Humanities Council. Funds available
173 under this subsection shall be paid directly to school districts for the
174 provision of substitute teachers when cooperating teachers are
175 released from regular classroom responsibilities and for the provision
176 of professional development activities for cooperating and student
177 teachers, except that such funds shall not be paid to nonpublic schools

178 for such professional development activities. The cooperating teacher
179 program shall operate in accordance with regulations adopted by the
180 State Board of Education in accordance with chapter 54, except in cases
181 of placement in other countries pursuant to written cooperative
182 agreements between Connecticut institutions of higher education and
183 institutions of higher education in other countries. A Connecticut
184 institution may enter such an agreement only if the State Board of
185 Education and the Board of Regents for Higher Education have jointly
186 approved the institution's teacher preparation program to enter into
187 such agreements. Student teachers shall be placed with trained
188 cooperating teachers. Cooperating teachers who are Connecticut
189 public school teachers shall be selected by local and regional boards of
190 education. Cooperating teachers at such private special education
191 facilities, nonpublic schools and other designated facilities shall be
192 selected by the authority responsible for the operation of such facilities.
193 If a board of education is unable to identify a sufficient number of
194 individuals to serve in such positions, the commissioner may select
195 qualified persons who are not employed by the board of education to
196 serve in such positions. Such regulations shall require primary
197 consideration of teachers' classroom experience and recognized success
198 as educators. The provisions of sections 10-153a to 10-153n, inclusive,
199 shall not be applicable to the selection, placement and compensation of
200 persons participating in the cooperating teacher program pursuant to
201 the provisions of this section and to the hours and duties of such
202 persons. The State Board of Education shall protect and save harmless,
203 in accordance with the provisions of section 10-235, any cooperating
204 teacher while serving in such capacity.

205 Sec. 3. Section 10-76b of the general statutes is repealed and the
206 following is substituted in lieu thereof (*Effective July 1, 2015*):

207 (a) The State Board of Education shall provide for the development
208 and supervision of the educational programs and services for children
209 requiring special education and may regulate curriculum, conditions
210 of instruction, including the use of physical restraint and seclusion

211 pursuant to chapter 814e and section 1 of this act, physical facilities
212 and equipment, class composition and size, admission of students, and
213 the requirements respecting necessary special services and instruction
214 to be provided by local and regional boards of education. The State
215 Board of Education shall adopt regulations, in accordance with the
216 provisions of chapter 54, concerning the use of physical restraint and
217 seclusion pursuant to chapter 814e and section 1 of this act. The
218 educational aspects of all programs and instructional facilities in any
219 day or residential child-caring agency or school which provides
220 training for children requiring special education and which receives
221 funding from the state under the provisions of sections 10-76a to 10-
222 76g, inclusive, shall be subject to the approval and supervision of the
223 commissioner in accordance with regulations adopted by the State
224 Board of Education concerning requirements for such programs and
225 accommodations.

226 (b) The commissioner shall designate by regulation, subject to the
227 approval of the State Board of Education, the procedures which shall
228 be used to identify exceptional children.

229 (c) Said board shall be the agency for cooperation and consultation
230 with federal agencies, other state agencies and private bodies on
231 matters of public school education of children requiring special
232 education, provided the full responsibilities for other aspects of the
233 care of such children shall be reserved to such other agencies.

234 Sec. 4. Section 10-76d of the general statutes is repealed and the
235 following is substituted in lieu thereof (*Effective July 1, 2015*):

236 (a) (1) In accordance with the regulations and procedures
237 established by the Commissioner of Education and approved by the
238 State Board of Education, each local or regional board of education
239 shall provide the professional services requisite to identification of
240 children requiring special education, identify each such child within its
241 jurisdiction, determine the eligibility of such children for special

242 education pursuant to sections 10-76a to 10-76h, inclusive, prescribe
243 appropriate educational programs for eligible children, maintain a
244 record thereof and make such reports as the commissioner may
245 require. No child may be required to obtain a prescription for a
246 substance covered by the Controlled Substances Act, 21 USC 801 et
247 seq., as amended from time to time, as a condition of attending school,
248 receiving an evaluation under section 10-76ff or receiving services
249 pursuant to sections 10-76a to 10-76h, inclusive, or the Individuals with
250 Disabilities Education Act, 20 USC 1400 et seq., as amended from time
251 to time.

252 (2) Any local or regional board of education, through the planning
253 and placement team established in accordance with regulations
254 adopted by the State Board of Education under this section, may
255 determine a child's Medicaid enrollment status. In determining
256 Medicaid enrollment status, the planning and placement team shall:
257 (A) Inquire of the parents or guardians of each such child whether the
258 child is enrolled in or may be eligible for Medicaid; and (B) if the child
259 may be eligible for Medicaid, request that the parent or guardian of the
260 child apply for Medicaid. For the purpose of determining Medicaid
261 rates for Medicaid eligible special education and related services based
262 on a representative cost sampling method, the board of education shall
263 make available documentation of the provision and costs of Medicaid
264 eligible special education and related services for any students
265 receiving such services, regardless of an individual student's Medicaid
266 enrollment status, to the Commissioner of Social Services or to the
267 commissioner's authorized agent at such time and in such manner as
268 prescribed. For the purpose of determining Medicaid rates for
269 Medicaid eligible special education and related services based on an
270 actual cost method, the local or regional board of education shall
271 submit documentation of the costs and utilization of Medicaid eligible
272 special education and related services for all students receiving such
273 services to the Commissioner of Social Services or to the
274 commissioner's authorized agent at such time and in such manner as

275 prescribed. The commissioner or such agent may use information
276 received from local or regional boards of education for the purposes of
277 (i) ascertaining students' Medicaid eligibility status, (ii) submitting
278 Medicaid claims, (iii) complying with state and federal audit
279 requirements and (iv) determining Medicaid rates for Medicaid
280 eligible special education and related services. No child shall be denied
281 special education and related services in the event the parent or
282 guardian refuses to apply for Medicaid.

283 (3) Beginning with the fiscal year ending June 30, 2004, the
284 Commissioner of Social Services shall make grant payments to local or
285 regional boards of education in amounts representing fifty per cent of
286 the federal portion of Medicaid claims processed for Medicaid eligible
287 special education and related services provided to Medicaid eligible
288 students in the school district. Beginning with the fiscal year ending
289 June 30, 2009, the commissioner shall exclude any enhanced federal
290 medical assistance percentages in calculating the federal portion of
291 such Medicaid claims processed. Such grant payments shall be made
292 on at least a quarterly basis and may represent estimates of amounts
293 due to local or regional boards of education. Any grant payments
294 made on an estimated basis, including payments made by the
295 Department of Education for the fiscal years prior to the fiscal year
296 ending June 30, 2000, shall be subsequently reconciled to grant
297 amounts due based upon filed and accepted Medicaid claims and
298 Medicaid rates. If, upon review, it is determined that a grant payment
299 or portion of a grant payment was made for ineligible or disallowed
300 Medicaid claims, the local or regional board of education shall
301 reimburse the Department of Social Services for any grant payment
302 amount received based upon ineligible or disallowed Medicaid claims.

303 (4) Pursuant to federal law, the Commissioner of Social Services, as
304 the state's Medicaid agent, shall determine rates for Medicaid eligible
305 special education and related services pursuant to subdivision (2) of
306 this subsection. The Commissioner of Social Services may request and
307 the Commissioner of Education and towns and regional school

308 districts shall provide information as may be necessary to set such
309 rates.

310 (5) Based on school district special education and related services
311 expenditures, the state's Medicaid agent shall report and certify to the
312 federal Medicaid authority the state match required by federal law to
313 obtain Medicaid reimbursement of eligible special education and
314 related services costs.

315 (6) Payments received pursuant to this section shall be paid to the
316 local or regional board of education which has incurred such costs in
317 addition to the funds appropriated by the town to such board for the
318 current fiscal year.

319 (7) The planning and placement team shall, in accordance with the
320 provisions of the Individuals With Disabilities Education Act, 20 USC
321 1400, et seq., as amended from time to time, develop and update
322 annually a statement of transition service needs for each child
323 requiring special education.

324 (8) (A) Each local and regional board of education responsible for
325 providing special education and related services to a child or pupil
326 shall notify the parent or guardian of a child who requires or who may
327 require special education, a pupil if such pupil is an emancipated
328 minor or eighteen years of age or older who requires or who may
329 require special education or a surrogate parent appointed pursuant to
330 section 10-94g, in writing, at least five school days before such board
331 proposes to, or refuses to, initiate or change the child's or pupil's
332 identification, evaluation or educational placement or the provision of
333 a free appropriate public education to the child or pupil.

334 (B) Upon request by a parent, guardian, pupil or surrogate parent,
335 the responsible local or regional board of education shall provide such
336 parent, guardian, pupil or surrogate parent an opportunity to meet
337 with a member of the planning and placement team designated by
338 such board prior to the referral planning and placement team meeting

339 at which the assessments and evaluations of the child or pupil who
340 requires or may require special education is presented to such parent,
341 guardian, pupil or surrogate parent for the first time. Such meeting
342 shall be for the sole purpose of discussing the planning and placement
343 team process and any concerns such parent, guardian, pupil or
344 surrogate parent has regarding the child or pupil who requires or may
345 require special education.

346 (C) Such parent, guardian, pupil or surrogate parent shall be given
347 at least five school days' prior notice of any planning and placement
348 team meeting conducted for such child or pupil and shall have the
349 right to be present at and participate in and to have advisors of such
350 person's own choosing and at such person's own expense to be present
351 at and to participate in all portions of such meeting at which an
352 educational program for such child or pupil is developed, reviewed or
353 revised.

354 (D) Immediately upon the formal identification of any child as a
355 child requiring special education and at each planning and placement
356 team meeting for such child, the responsible local or regional board of
357 education shall inform the parent or guardian of such child or
358 surrogate parent or, in the case of a pupil who is an emancipated
359 minor or eighteen years of age or older, the pupil of (i) the laws
360 relating to special education, (ii) the rights of such parent, guardian,
361 surrogate parent or pupil under such laws and the regulations adopted
362 by the State Board of Education relating to special education, including
363 the right of a parent, guardian or surrogate parent to withhold from
364 enrolling such child in kindergarten, in accordance with the provisions
365 of section 10-184, and (iii) any relevant information and resources
366 relating to individualized education programs created by the
367 Department of Education. If such parent, guardian, surrogate parent or
368 pupil does not attend a planning and placement team meeting, the
369 responsible local or regional board of education shall mail such
370 information to such person.

371 (E) Each local and regional board of education shall have in effect at
372 the beginning of each school year an educational program for each
373 child or pupil who has been identified as eligible for special education.

374 (F) At each initial planning and placement team meeting for a child
375 or pupil, the responsible local or regional board of education shall
376 inform the parent, guardian, surrogate parent or pupil of the laws
377 relating to physical restraint and seclusion pursuant to chapter 814e
378 and section 1 of this act and the rights of such parent, guardian,
379 surrogate parent or pupil under such laws and the regulations adopted
380 by the State Board of Education relating to physical restraint and
381 seclusion.

382 (G) Upon request by a parent, guardian, pupil or surrogate parent,
383 the responsible local or regional board of education shall provide the
384 results of the assessments and evaluations used in the determination of
385 eligibility for special education for a child or pupil to such parent,
386 guardian, surrogate parent or pupil at least three school days before
387 the referral planning and placement team meeting at which such
388 results of the assessments and evaluations will be discussed for the
389 first time.

390 (9) Notwithstanding any provision of the general statutes, for
391 purposes of Medicaid reimbursement, when recommended by the
392 planning and placement team and specified on the individualized
393 education program, a service eligible for reimbursement under the
394 Medicaid program shall be deemed to be authorized by a practitioner
395 of the healing arts under 42 CFR 440.130, provided such service is
396 recommended by an appropriately licensed or certified individual and
397 is within the individual's scope of practice. Certain items of durable
398 medical equipment, recommended pursuant to the provisions of this
399 subdivision, may be subject to prior authorization requirements
400 established by the Commissioner of Social Services. Diagnostic and
401 evaluation services eligible for reimbursement under the Medicaid
402 program and recommended by the planning and placement team shall

403 also be deemed to be authorized by a practitioner of the healing arts
404 under 42 CFR 440.130 provided such services are recommended by an
405 appropriately licensed or certified individual and are within the
406 individual's scope of practice.

407 (10) The Commissioner of Social Services shall implement the
408 policies and procedures necessary for the purposes of this subsection
409 while in the process of adopting such policies and procedures in
410 regulation form, provided notice of intent to adopt the regulations is
411 published in the Connecticut Law Journal within twenty days of
412 implementing the policies and procedures. Such policies and
413 procedures shall be valid until the time final regulations are effective.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	New section
Sec. 2	<i>July 1, 2015</i>	10-220a
Sec. 3	<i>July 1, 2015</i>	10-76b
Sec. 4	<i>July 1, 2015</i>	10-76d

Statement of Purpose:

To protect students by preventing the use of physical restraint or seclusion for anything other than emergency situations and to include the topics of restraint, seclusion and other deescalation techniques as a part of in-service training for teachers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]