



General Assembly

**Amendment**

January Session, 2015

LCO No. 8304



Offered by:  
SEN. BARTOLOMEO, 13<sup>th</sup> Dist.

To: Subst. Senate Bill No. 927

File No. 72

Cal. No. 96

**"AN ACT CONCERNING SECLUSION AND RESTRAINT IN SCHOOLS."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

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

5 (1) "Life-threatening physical restraint" means any physical restraint  
6 or hold of a person that (A) restricts the flow of air into a person's  
7 lungs, whether by chest compression or any other means, or (B)  
8 immobilizes or reduces the free movement of a person's arms, legs or  
9 head while the person is in the prone position;

10 (2) "Psychopharmacologic agent" means any medication that affects  
11 the central nervous system, influencing thinking, emotion or behavior;

12 (3) "Physical restraint" means any mechanical or personal restriction  
13 that immobilizes or reduces the free movement of a person's arms, legs

14 or head. The term does not include: (A) Briefly holding a person in  
15 order to calm or comfort the person; (B) restraint involving the  
16 minimum contact necessary to safely escort a person from one area to  
17 another; (C) medical devices, including, but not limited to, supports  
18 prescribed by a health care provider to achieve proper body position  
19 or balance; (D) helmets or other protective gear used to protect a  
20 person from injuries due to a fall; or (E) helmets, mitts and similar  
21 devices used to prevent self-injury when the device is (i) part of a  
22 documented treatment plan or individualized education program  
23 pursuant to section 10-76d of the general statutes, as amended by this  
24 act, or (ii) prescribed or recommended by a medical professional, as  
25 defined in section 38a-976 of the general statutes, and is the least  
26 restrictive means available to prevent such self-injury;

27 (4) "School employee" shall have the same meaning as provided in  
28 subsection (b) of section 10-221o of the general statutes;

29 (5) "Seclusion" means the involuntary confinement of a student in a  
30 room, whether alone or with supervision, in a manner that prevents  
31 the student from leaving; and

32 (6) "Student" means a child (A) enrolled in grades kindergarten to  
33 twelve, inclusive, in a public school under the jurisdiction of a local or  
34 regional board of education, (B) receiving special education and  
35 related services in an institution or facility operating under contract  
36 with a local or regional board of education pursuant to subsection (d)  
37 of section 10-76d of the general statutes, (C) enrolled in a program or  
38 school administered by a regional education service center established  
39 pursuant to section 10-66a of the general statutes, or (D) receiving  
40 special education and related services from an approved private  
41 special education program, but shall not include any child receiving  
42 educational services from (i) Unified School District #2, established  
43 pursuant to section 17a-37 of the general statutes, or (ii) the  
44 Department of Mental Health and Addiction Services.

45 (b) No school employee shall use a physical restraint on a student

46 except as an emergency intervention to prevent immediate or  
47 imminent injury to the student or to others, provided the restraint is  
48 not used for discipline or convenience and is not used as a substitute  
49 for a less restrictive alternative.

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

55 (d) No school employee shall place a student in seclusion except as  
56 an emergency intervention to prevent immediate or imminent injury to  
57 the student or to others, provided the seclusion is not used for  
58 discipline or convenience and is not used as a substitute for a less  
59 restrictive alternative. No student shall be placed in seclusion unless  
60 (A) such student is monitored by a school employee during the period  
61 of such student's seclusion pursuant to subsection (m) of this section,  
62 and (B) the area in which such student is secluded is equipped with a  
63 window or other fixture allowing such student a clear line of sight  
64 beyond the area of seclusion.

65 (e) No school employee may use a psychopharmacologic agent on a  
66 student without that student's consent except (1) as an emergency  
67 intervention to prevent immediate or imminent injury to the student or  
68 to others, or (2) as an integral part of the student's established medical  
69 or behavioral support or educational plan, as developed consistent  
70 with section 17a-543 of the general statutes or, if no such plan has been  
71 developed, as part of a licensed practitioner's initial orders. The use of  
72 psychopharmacologic agents, alone or in combination, may be used  
73 only in doses that are therapeutically appropriate and not as a  
74 substitute for other appropriate treatment.

75 (f) If any instance of physical restraint or seclusion of a student  
76 otherwise permissible under subsection (b) or (d) of this section  
77 exceeds fifteen minutes, (1) an administrator, as defined in section 10-

78 144e of the general statutes, or such administrator's designee, (2) a  
79 school health or mental health personnel, as defined in subsection (a)  
80 of section 10-212b of the general statutes, or (3) a board certified  
81 behavioral analyst, who has received training in the use of physical  
82 restraint and seclusion pursuant to subsection (o) of this section, shall  
83 determine whether continued physical restraint or seclusion is  
84 necessary to prevent immediate or imminent injury to the student or to  
85 others. Upon a determination that such continued physical restraint or  
86 seclusion is necessary, such individual shall make a new determination  
87 every thirty minutes thereafter regarding whether such physical  
88 restraint or seclusion is necessary to prevent immediate or imminent  
89 injury to the student or to others.

90 (g) In the event that physical restraint or seclusion is used on a  
91 student four or more times within twenty school days:

92 (1) An administrator, one or more of such student's teachers, a  
93 parent or guardian of such student and, if any, a mental health  
94 professional, as defined in section 10-76t of the general statutes, shall  
95 convene for the purpose of (A) conducting or revising a behavioral  
96 assessment of the student, (B) creating or revising any applicable  
97 behavioral intervention plan, and (C) determining whether such  
98 student may require special education pursuant to section 10-76ff of  
99 the general statutes; or

100 (2) If such student is a child requiring special education, as  
101 described in subparagraph (A) of subdivision (5) of section 10-76a of  
102 the general statutes, or a child being evaluated for eligibility for special  
103 education pursuant to section 10-76d of the general statutes, as  
104 amended by this act, and awaiting a determination, such student's  
105 planning and placement team shall convene for the purpose of (A)  
106 conducting or revising a behavioral assessment of the student, and (B)  
107 creating or revising any applicable behavioral intervention plan,  
108 including, but not limited to, such student's individualized education  
109 plan.

110 (h) Each local or regional board of education shall notify a parent or  
111 guardian of a student who is placed in physical restraint or seclusion  
112 not later than twenty-four hours after the student was placed in  
113 physical restraint or seclusion and shall make a reasonable effort to  
114 provide such notification immediately after such physical restraint or  
115 seclusion is initiated.

116 (i) No school employee shall use a physical restraint on a student or  
117 place a student in seclusion unless such school employee has received  
118 training on the proper means for performing such physical restraint or  
119 seclusion pursuant to subsection (o) of this section.

120 (j) (1) On and after July 1, 2016, each local or regional board of  
121 education, and each institution or facility operating under contract  
122 with a local or regional board of education pursuant to subsection (d)  
123 of section 10-76d of the general statutes that provides special education  
124 for children, including any approved private special education  
125 program, shall (A) record each instance of the use of physical restraint  
126 or seclusion on a student, (B) specify whether the use of seclusion was  
127 in accordance with an individualized education program, (C) specify  
128 the nature of the emergency that necessitated the use of such physical  
129 restraint or seclusion, and (D) include such information in an annual  
130 compilation on its use of such restraint and seclusion on students. Each  
131 local or regional board of education and such institutions or facilities  
132 operating under contract with a local or regional board of education  
133 pursuant to subsection (d) of section 10-76d of the general statutes that  
134 provides special education for children, including any approved  
135 private special education program shall provide such annual  
136 compilation to the Department of Education for the purposes of the  
137 pilot program established pursuant to subdivision (2) of this  
138 subsection to examine incidents of physical restraint and seclusion in  
139 schools and to the State Board of Education for the purposes of  
140 subsection (k) of this section. Local or regional boards of education and  
141 such institutions and facilities that provide special education for  
142 children shall not be required to report instances of in-school

143 suspensions, as defined in subsection (c) of section 10-233a of the  
144 general statutes.

145 (2) The Department of Education shall establish a pilot program for  
146 the school year commencing July 1, 2015. Such pilot program shall be  
147 implemented in various districts, including, but not limited to, an  
148 alliance district, a regional school district and a regional education  
149 service center. Under the pilot program, the Department of Education  
150 shall examine incidents of physical restraint and seclusion in schools  
151 and shall compile and analyze data regarding such incidents to enable  
152 the department to better understand and respond to incidents of  
153 physical restraint and seclusion on students in the state.

154 (k) The State Board of Education shall review the annual  
155 compilation of each local or regional board of education, and each  
156 institution or facility operating under contract with a local or regional  
157 board of education pursuant to subsection (d) of section 10-76d of the  
158 general statutes that provides special education for children, including  
159 any approved private special education program, and shall produce an  
160 annual summary report specifying (1) the frequency of use of physical  
161 restraint or seclusion on students, (2) whether any student subjected to  
162 such restraint or seclusion was a special education student, and (3) if  
163 any such student was a special education student, whether the use of  
164 such seclusion was in accordance with an individualized education  
165 program or whether the use of such seclusion was an emergency  
166 intervention to prevent immediate or imminent injury to the student or  
167 to others. Such report shall be submitted not later than January 15,  
168 2017, and annually thereafter, to the joint standing committees of the  
169 General Assembly having cognizance of matters relating to children  
170 and education for inclusion in the annual report card prepared  
171 pursuant to section 2-53m of the general statutes.

172 (l) Any use of physical restraint or seclusion on a student shall be  
173 documented in the student's educational record. The documentation  
174 shall include (1) the nature of the emergency and what other steps,  
175 including attempts at verbal deescalation, were taken to prevent the

176 emergency from arising if there were indications that such an  
177 emergency was likely to arise, and (2) a detailed description of the  
178 nature of the restraint or seclusion, the duration of such restraint or  
179 seclusion and the effect of such restraint or seclusion on the student's  
180 established educational plan.

181 (m) Any student who is physically restrained shall be continually  
182 monitored by a school employee. Any student who is involuntarily  
183 placed in seclusion shall be frequently monitored by a school  
184 employee. Each student so restrained or in seclusion shall be regularly  
185 evaluated by a school employee for indications of physical distress.  
186 The school employee conducting the evaluation shall enter each  
187 evaluation in the student's educational record. For purposes of this  
188 subsection, "monitor" means (1) direct observation, or (2) observation  
189 by way of video monitoring within physical proximity sufficient to  
190 provide aid as may be needed.

191 (n) If the use of such restraint or seclusion results in physical injury  
192 to the student, the local or regional board of education, and each  
193 institution or facility operating under contract with a local or regional  
194 board of education pursuant to subsection (d) of section 10-76d of the  
195 general statutes that provides special education for children, including  
196 any approved private special education program, shall report the  
197 incident to the State Board of Education, which shall include such  
198 incident in the report required pursuant to subsection (k) of this  
199 section. The State Board of Education shall report any incidence of  
200 serious injury or death to the director of the Office of Protection and  
201 Advocacy for Persons with Disabilities and, if appropriate, to the Child  
202 Advocate of the Office of Child Advocate.

203 (o) (1) Each local or regional school district shall provide training to  
204 school professionals, paraprofessional staff members and  
205 administrators regarding physical restraint and seclusion of students.  
206 Such training shall be phased in over a period of three years beginning  
207 with the school year commencing July 1, 2015, and shall include, but  
208 not be limited to:

209 (A) An overview of the relevant laws and regulations regarding the  
210 use of physical restraint and seclusion on students. Such overview  
211 shall be provided by the Department of Education to all school  
212 professionals, paraprofessional staff members and administrators on  
213 or after July 1, 2015, and annually thereafter, in a manner and form as  
214 prescribed by the Commissioner of Education;

215 (B) The creation of a plan by which each local or regional board of  
216 education shall provide school professionals, paraprofessional staff  
217 members and administrators with training and professional  
218 development regarding the prevention of incidents requiring physical  
219 restraint or seclusion of students. Such plan shall be implemented not  
220 later than July 1, 2017, and shall include a provision to require the  
221 training of all school professionals, paraprofessional staff members  
222 and administrators in the prevention of such incidents not later than  
223 July 1, 2019. The Department of Education may, within available  
224 appropriations, provide ongoing monitoring and support to local or  
225 regional boards of education regarding the formulation and  
226 implementation of the plan; and

227 (C) The creation of a plan by which each local or regional board of  
228 education shall provide school professionals, paraprofessional staff  
229 members and administrators with training and professional  
230 development regarding the proper means of physically restraining or  
231 secluding a student, including, but not limited to, (i) various types of  
232 physical restraint and seclusion; (ii) the differences between life-  
233 threatening physical restraint and other varying levels of physical  
234 restraint; (iii) the differences between permissible physical restraint  
235 and pain compliance techniques; and (iv) monitoring methods to  
236 prevent harm to a student who is physically restrained or in seclusion.  
237 Such plan shall be implemented not later than July 1, 2017, and shall  
238 include a provision to require the training of all school professionals,  
239 paraprofessional staff members and administrators in the proper  
240 means of physically restraining or secluding a student not later than  
241 July 1, 2019 and periodically thereafter as prescribed by the



242 Commissioner of Education;

243 (2) Not later than July 1, 2015, and each school year thereafter, each  
244 local or regional board of education shall require each school in the  
245 district to identify a crisis intervention team consisting of school  
246 professionals, paraprofessional staff members and administrators who  
247 have been trained in the use of physical restraint and seclusion  
248 pursuant to subparagraph (C) of subdivision (1) of this subsection or  
249 chapter 814e of the general statutes. Such teams shall respond to any  
250 incident in which the use of physical restraint or seclusion may be  
251 necessary as an emergency intervention to prevent immediate or  
252 imminent injury to a student or to others. Each member of the crisis  
253 intervention team shall be recertified in the use of physical restraint  
254 and seclusion pursuant to subparagraph (C) of subdivision (1) of this  
255 subsection or chapter 814e of the general statutes on an annual basis.

256 (p) Each local or regional board of education shall develop policies  
257 and procedures that establish monitoring and internal reporting of the  
258 use of physical restraint and seclusion on students and shall make such  
259 policies and procedures available on such local or regional board of  
260 education's Internet web site and in such local or regional board of  
261 education's procedures manual.

262 (q) Nothing in this section shall be construed as limiting the justified  
263 use of physical force by a local, state or federal law enforcement official  
264 while in the performance of such official's duties.

265 (r) The State Board of Education shall adopt or revise regulations, in  
266 accordance with the provisions of chapter 54 of the general statutes,  
267 concerning the use of physical restraint and seclusion pursuant to this  
268 section. Not later than sixty days after the adoption or revision of such  
269 regulations, each local or regional board of education shall update any  
270 applicable policies and procedures regarding the physical restraint and  
271 seclusion of students and shall make such updated policies and  
272 procedures available in a manner consistent with the provisions of  
273 subsection (p) of this section.

274 Sec. 2. Section 46a-150 of the general statutes is repealed and the  
275 following is substituted in lieu thereof (*Effective July 1, 2015*):

276 For purposes of this section and sections 46a-151 to 46a-154,  
277 inclusive, as amended by this act:

278 (1) ["Provider of care, education or supervision of a person at risk"]  
279 "Provider of care or supervision of a person at risk" and "provider"  
280 mean a person who provides direct care [, education] or supervision of  
281 a person at risk.

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

287 (3) "Person at risk" means [(A) a child requiring special education  
288 described in subparagraph (A) of subdivision (5) of section 10-76a,  
289 who is receiving special education by a local or regional board of  
290 education, or a child being evaluated for eligibility for special  
291 education pursuant to section 10-76d and awaiting a determination, or  
292 (B)] a person receiving care [, education] or supervision in an  
293 institution or facility [(i) operated by, licensed or authorized to  
294 operate by or operating pursuant to a contract with the Departments of  
295 Public Health, Developmental Services, Children and Families, or  
296 Mental Health and Addiction Services, [or a regional education service  
297 center established under section 10-66a, or (ii) operating under contract  
298 with a local or regional board of education pursuant to subsection (d)  
299 of section 10-76d.] The term does not include a person in the custody of  
300 the Commissioner of Correction, or a resident or patient of a nursing  
301 home subject to federal regulations concerning restraint of residents or  
302 patients.

303 (4) "Life-threatening physical restraint" means any physical restraint  
304 or hold of a person that restricts the flow of air into a person's lungs,

305 whether by chest compression or any other means.

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

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

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

326 Sec. 3. Section 46a-151 of the general statutes is repealed and the  
327 following is substituted in lieu thereof (*Effective July 1, 2015*):

328 No provider of care [, education] or supervision of a person at risk  
329 and no assistant provider may use a life-threatening physical restraint  
330 on a person at risk. This section shall not be construed as limiting any  
331 defense to criminal prosecution for the use of deadly physical force  
332 that may be available under sections 53a-18 to 53a-22, inclusive.

333 Sec. 4. Section 46a-152 of the general statutes is repealed and the  
334 following is substituted in lieu thereof (*Effective July 1, 2015*):

335 (a) No provider or assistant may use involuntary physical restraint  
336 on a person at risk except (1) as an emergency intervention to prevent  
337 immediate or imminent injury to the person at risk or to others,  
338 provided the restraint is not used for discipline or convenience and is  
339 not used as a substitute for a less restrictive alternative, (2) as  
340 necessary and appropriate, as determined on an individual basis by  
341 the person's treatment team and consistent with sections 17a-540 to  
342 17a-550, inclusive, for the transportation of a person under the  
343 jurisdiction of the Whiting Forensic Division of the Department of  
344 Mental Health and Addiction Services.

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

355 (c) No provider or assistant may use a psychopharmacologic agent  
356 on a person at risk without that person's consent except (1) as an  
357 emergency intervention to prevent immediate or imminent injury to  
358 the person or to others, or (2) as an integral part of the person's  
359 established medical or behavioral support [or educational] plan, as  
360 developed consistent with section 17a-543 or, if no such plan has been  
361 developed, as part of a licensed practitioner's initial orders. The use of  
362 psychopharmacologic agents, alone or in combination, may be used  
363 only in doses that are therapeutically appropriate and not as a  
364 substitute for other appropriate treatment.

365 (d) Any use of physical restraint or seclusion on a person at risk  
366 shall be documented in the person's medical [or educational] record.  
367 The documentation shall include (1) in the case of emergency use, the

368 nature of the emergency and what other steps, including attempts at  
369 verbal deescalation, were taken to prevent the emergency from arising  
370 if there were indications that such an emergency was likely to arise,  
371 and (2) a detailed description of the nature of the restraint or seclusion,  
372 its duration and its effect on the person's established medical or  
373 behavioral support [or educational] plan.

374 (e) Any person at risk who is physically restrained shall be  
375 continually monitored by a provider or assistant. Any person at risk  
376 who is involuntarily placed in seclusion shall be frequently monitored  
377 by a provider or assistant. Each person so restrained or in seclusion  
378 shall be regularly evaluated by a provider or assistant for indications  
379 of physical distress. The provider or assistant conducting the  
380 evaluation shall enter each evaluation in the person's medical [or  
381 educational] record. For purposes of this subsection, "monitor" means  
382 (1) direct observation, or (2) observation by way of video monitoring  
383 within physical proximity sufficient to provide aid as may be needed.

384 (f) Nothing in this section shall be construed as limiting any rights a  
385 person may have under sections 17a-540 to 17a-550, inclusive, section  
386 17a-566 or section 54-56d.

387 (g) Nothing in this section shall be construed as limiting the justified  
388 use of physical force by a local, state or federal law enforcement official  
389 or an employee of the Board of Pardons and Paroles or the Department  
390 of Correction responsible for the supervision of persons released on  
391 parole while in the performance of such official's or employee's duties.

392 (h) (1) Nothing in this section shall be construed as prohibiting the  
393 use of mechanical physical restraint in transporting any person (A)  
394 who is receiving services from the Department of Mental Health and  
395 Addiction Services pursuant to sections 17a-513 to 17a-517, inclusive,  
396 17a-566 to 17a-567, inclusive, 17a-582 to 17a-603, inclusive, or 54-56d,  
397 or (B) who is committed to the department by a court of competent  
398 jurisdiction and has a pending criminal charge for which bail or a bond  
399 has not been posted, from a department facility to another location

400 and, if applicable, back to such facility. Any such use of mechanical  
401 physical restraint shall be determined on an individualized basis by  
402 the head of the facility, or by a designee of the head of the facility, to be  
403 necessary and appropriate to protect the public safety.

404 (2) Any use of mechanical physical restraint under this subsection  
405 shall be documented in the medical record of the person who is  
406 transported. Such documentation shall include, but not be limited to,  
407 (A) the reason for the use of such restraint, including the risk of flight,  
408 the risk to public safety and the person's clinical condition, and (B) a  
409 detailed description of the nature of such restraint and its duration. If  
410 the use of any such restraint results in serious physical injury or death  
411 to such person, the head of the facility shall report such injury or death  
412 to the Commissioner of Mental Health and Addiction Services. The  
413 commissioner, upon receiving any such report, shall inform the  
414 director of the Office of Protection and Advocacy for Persons with  
415 Disabilities of such injury or death.

416 Sec. 5. Section 46a-153 of the general statutes is repealed and the  
417 following is substituted in lieu thereof (*Effective July 1, 2015*):

418 (a) Each institution or facility that provides direct care [, education]  
419 or supervision of persons at risk shall (1) record each instance of the  
420 use of physical restraint or seclusion on a person at risk and the nature  
421 of the emergency that necessitated its use, and (2) include such  
422 information in an annual compilation on its use of such restraint and  
423 seclusion. The commissioner of the state agency that has jurisdiction or  
424 supervisory control over each institution or facility shall review the  
425 annual compilation prior to renewing a license for or a contract with  
426 such institution or facility.

427 [(b) Each local and regional board of education, institution and  
428 facility that provides special education for a child shall (1) record each  
429 instance of the use of physical restraint or seclusion on a child, (2)  
430 specify whether the use of seclusion was in accordance with an  
431 individualized education program or whether the use of physical

432 restraint or seclusion was an emergency, including the nature of the  
433 emergency that necessitated its use, and (3) include such information  
434 in an annual compilation on its use of such restraint and seclusion on  
435 children. Under this section, local and regional boards of education,  
436 institutions and facilities that provide special education for children  
437 shall not be required to report instances of in-school suspensions, as  
438 defined in subsection (c) of section 10-233a.

439 (c) The State Board of Education shall review the annual  
440 compilation of each local and regional board of education, institution  
441 and facility that provides special education for children and shall  
442 produce an annual summary report identifying the frequency of use of  
443 physical restraint or seclusion on such children and specifying whether  
444 the use of such seclusion was in accordance with an individualized  
445 education program or whether the use of such physical restraint or  
446 such seclusion was an emergency. Such report shall be submitted on  
447 an annual basis not later than February 15, 2013, and December  
448 fifteenth of each year thereafter to the joint standing committee of the  
449 General Assembly having cognizance of matters relating to children  
450 for inclusion in the annual report card prepared pursuant to section 2-  
451 53m.]

452 [(d)] (b) If the use of such restraint or seclusion results in physical  
453 injury to the person, [(1) the local or regional board of education,  
454 institution or facility that provides special education for a child shall  
455 report the incident to the State Board of Education, which shall include  
456 such incident in the report required pursuant to subsection (c) of this  
457 section, and (2)] the institution or facility shall report the incident to  
458 the commissioner of the state agency that has jurisdiction or  
459 supervisory control over the institution or facility. The [State Board of  
460 Education and the] commissioner receiving a report of such an  
461 incident shall report any incidence of serious injury or death to the  
462 director of the Office of Protection and Advocacy for Persons with  
463 Disabilities and, if appropriate, to the Child Advocate of the Office of  
464 Child Advocate.

465 Sec. 6. Section 46a-154 of the general statutes is repealed and the  
466 following is substituted in lieu thereof (*Effective July 1, 2015*):

467 (a) Each institution or facility that provides direct care [, education]  
468 or supervision of a person at risk shall develop policies and procedures  
469 that (1) establish monitoring and internal reporting of the use of  
470 physical restraint and seclusion on persons at risk, and (2) require  
471 training of all providers and assistant providers of care [, education] or  
472 supervision of persons at risk in the use of physical restraint and  
473 seclusion on persons at risk. Such training shall include, but not be  
474 limited to: Verbal defusing or deescalation; prevention strategies; types  
475 of physical restraint; the differences between life-threatening physical  
476 restraint and other varying levels of physical restraint; the differences  
477 between permissible physical restraint and pain compliance  
478 techniques; monitoring to prevent harm to a person physically  
479 restrained or in seclusion and recording and reporting procedures on  
480 the use of restraints and seclusion.

481 (b) Each institution or facility required to develop policies and  
482 procedures under subsection (a) of this section shall make such  
483 policies and procedures available upon request to the commissioner of  
484 the state agency that has jurisdiction or supervisory control over the  
485 institution or facility.

486 Sec. 7. Section 10-76b of the general statutes is repealed and the  
487 following is substituted in lieu thereof (*Effective July 1, 2015*):

488 (a) The State Board of Education shall provide for the development  
489 and supervision of the educational programs and services for children  
490 requiring special education and may regulate curriculum, conditions  
491 of instruction, including the use of physical restraint and seclusion  
492 pursuant to [chapter 814e] section 1 of this act, physical facilities and  
493 equipment, class composition and size, admission of students, and the  
494 requirements respecting necessary special services and instruction to  
495 be provided by local and regional boards of education. [The State  
496 Board of Education shall adopt regulations, in accordance with the



497 provisions of chapter 54, concerning the use of physical restraint and  
498 seclusion pursuant to chapter 814e.] The educational aspects of all  
499 programs and instructional facilities in any day or residential child-  
500 caring agency or school which provides training for children requiring  
501 special education and which receives funding from the state under the  
502 provisions of sections 10-76a to 10-76g, inclusive, shall be subject to the  
503 approval and supervision of the commissioner in accordance with  
504 regulations adopted by the State Board of Education concerning  
505 requirements for such programs and accommodations.

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

509 (c) Said board shall be the agency for cooperation and consultation  
510 with federal agencies, other state agencies and private bodies on  
511 matters of public school education of children requiring special  
512 education, provided the full responsibilities for other aspects of the  
513 care of such children shall be reserved to such other agencies.

514 Sec. 8. Subsection (a) of section 10-76d of the general statutes is  
515 repealed and the following is substituted in lieu thereof (*Effective July*  
516 *1, 2015*):

517 (a) (1) In accordance with the regulations and procedures  
518 established by the Commissioner of Education and approved by the  
519 State Board of Education, each local or regional board of education  
520 shall provide the professional services requisite to identification of  
521 children requiring special education, identify each such child within its  
522 jurisdiction, determine the eligibility of such children for special  
523 education pursuant to sections 10-76a to 10-76h, inclusive, prescribe  
524 appropriate educational programs for eligible children, maintain a  
525 record thereof and make such reports as the commissioner may  
526 require. No child may be required to obtain a prescription for a  
527 substance covered by the Controlled Substances Act, 21 USC 801 et  
528 seq., as amended from time to time, as a condition of attending school,

529 receiving an evaluation under section 10-76ff or receiving services  
530 pursuant to sections 10-76a to 10-76h, inclusive, or the Individuals with  
531 Disabilities Education Act, 20 USC 1400 et seq., as amended from time  
532 to time.

533 (2) Any local or regional board of education, through the planning  
534 and placement team established in accordance with regulations  
535 adopted by the State Board of Education under this section, may  
536 determine a child's Medicaid enrollment status. In determining  
537 Medicaid enrollment status, the planning and placement team shall:  
538 (A) Inquire of the parents or guardians of each such child whether the  
539 child is enrolled in or may be eligible for Medicaid; and (B) if the child  
540 may be eligible for Medicaid, request that the parent or guardian of the  
541 child apply for Medicaid. For the purpose of determining Medicaid  
542 rates for Medicaid eligible special education and related services based  
543 on a representative cost sampling method, the board of education shall  
544 make available documentation of the provision and costs of Medicaid  
545 eligible special education and related services for any students  
546 receiving such services, regardless of an individual student's Medicaid  
547 enrollment status, to the Commissioner of Social Services or to the  
548 commissioner's authorized agent at such time and in such manner as  
549 prescribed. For the purpose of determining Medicaid rates for  
550 Medicaid eligible special education and related services based on an  
551 actual cost method, the local or regional board of education shall  
552 submit documentation of the costs and utilization of Medicaid eligible  
553 special education and related services for all students receiving such  
554 services to the Commissioner of Social Services or to the  
555 commissioner's authorized agent at such time and in such manner as  
556 prescribed. The commissioner or such agent may use information  
557 received from local or regional boards of education for the purposes of  
558 (i) ascertaining students' Medicaid eligibility status, (ii) submitting  
559 Medicaid claims, (iii) complying with state and federal audit  
560 requirements, and (iv) determining Medicaid rates for Medicaid  
561 eligible special education and related services. No child shall be denied  
562 special education and related services in the event the parent or

563 guardian refuses to apply for Medicaid.

564 (3) Beginning with the fiscal year ending June 30, 2004, the  
565 Commissioner of Social Services shall make grant payments to local or  
566 regional boards of education in amounts representing fifty per cent of  
567 the federal portion of Medicaid claims processed for Medicaid eligible  
568 special education and related services provided to Medicaid eligible  
569 students in the school district. Beginning with the fiscal year ending  
570 June 30, 2009, the commissioner shall exclude any enhanced federal  
571 medical assistance percentages in calculating the federal portion of  
572 such Medicaid claims processed. Such grant payments shall be made  
573 on at least a quarterly basis and may represent estimates of amounts  
574 due to local or regional boards of education. Any grant payments  
575 made on an estimated basis, including payments made by the  
576 Department of Education for the fiscal years prior to the fiscal year  
577 ending June 30, 2000, shall be subsequently reconciled to grant  
578 amounts due based upon filed and accepted Medicaid claims and  
579 Medicaid rates. If, upon review, it is determined that a grant payment  
580 or portion of a grant payment was made for ineligible or disallowed  
581 Medicaid claims, the local or regional board of education shall  
582 reimburse the Department of Social Services for any grant payment  
583 amount received based upon ineligible or disallowed Medicaid claims.

584 (4) Pursuant to federal law, the Commissioner of Social Services, as  
585 the state's Medicaid agent, shall determine rates for Medicaid eligible  
586 special education and related services pursuant to subdivision (2) of  
587 this subsection. The Commissioner of Social Services may request and  
588 the Commissioner of Education and towns and regional school  
589 districts shall provide information as may be necessary to set such  
590 rates.

591 (5) Based on school district special education and related services  
592 expenditures, the state's Medicaid agent shall report and certify to the  
593 federal Medicaid authority the state match required by federal law to  
594 obtain Medicaid reimbursement of eligible special education and  
595 related services costs.

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

600 (7) The planning and placement team shall, in accordance with the  
601 provisions of the Individuals With Disabilities Education Act, 20 USC  
602 1400, et seq., as amended from time to time, develop and update  
603 annually a statement of transition service needs for each child  
604 requiring special education.

605 (8) (A) Each local and regional board of education responsible for  
606 providing special education and related services to a child or pupil  
607 shall notify the parent or guardian of a child who requires or who may  
608 require special education, a pupil if such pupil is an emancipated  
609 minor or eighteen years of age or older who requires or who may  
610 require special education or a surrogate parent appointed pursuant to  
611 section 10-94g, in writing, at least five school days before such board  
612 proposes to, or refuses to, initiate or change the child's or pupil's  
613 identification, evaluation or educational placement or the provision of  
614 a free appropriate public education to the child or pupil.

615 (B) Upon request by a parent, guardian, pupil or surrogate parent,  
616 the responsible local or regional board of education shall provide such  
617 parent, guardian, pupil or surrogate parent an opportunity to meet  
618 with a member of the planning and placement team designated by  
619 such board prior to the referral planning and placement team meeting  
620 at which the assessments and evaluations of the child or pupil who  
621 requires or may require special education is presented to such parent,  
622 guardian, pupil or surrogate parent for the first time. Such meeting  
623 shall be for the sole purpose of discussing the planning and placement  
624 team process and any concerns such parent, guardian, pupil or  
625 surrogate parent has regarding the child or pupil who requires or may  
626 require special education.

627 (C) Such parent, guardian, pupil or surrogate parent shall be given

628 at least five school days' prior notice of any planning and placement  
629 team meeting conducted for such child or pupil and shall have the  
630 right to be present at and participate in and to have advisors of such  
631 person's own choosing and at such person's own expense to be present  
632 at and to participate in all portions of such meeting at which an  
633 educational program for such child or pupil is developed, reviewed or  
634 revised.

635 (D) Immediately upon the formal identification of any child as a  
636 child requiring special education and at each planning and placement  
637 team meeting for such child, the responsible local or regional board of  
638 education shall inform the parent or guardian of such child or  
639 surrogate parent or, in the case of a pupil who is an emancipated  
640 minor or eighteen years of age or older, the pupil of (i) the laws  
641 relating to special education, (ii) the rights of such parent, guardian,  
642 surrogate parent or pupil under such laws and the regulations adopted  
643 by the State Board of Education relating to special education, including  
644 the right of a parent, guardian or surrogate parent to withhold from  
645 enrolling such child in kindergarten, in accordance with the provisions  
646 of section 10-184, and (iii) any relevant information and resources  
647 relating to individualized education programs created by the  
648 Department of Education. If such parent, guardian, surrogate parent or  
649 pupil does not attend a planning and placement team meeting, the  
650 responsible local or regional board of education shall mail such  
651 information to such person.

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

655 (F) At each initial planning and placement team meeting for a child  
656 or pupil, the responsible local or regional board of education shall  
657 inform the parent, guardian, surrogate parent or pupil of the laws  
658 relating to physical restraint and seclusion pursuant to [chapter 814e]  
659 section 1 of this act and the rights of such parent, guardian, surrogate  
660 parent or pupil under such laws and the regulations adopted by the

661 State Board of Education relating to physical restraint and seclusion.

662 (G) Upon request by a parent, guardian, pupil or surrogate parent,  
663 the responsible local or regional board of education shall provide the  
664 results of the assessments and evaluations used in the determination of  
665 eligibility for special education for a child or pupil to such parent,  
666 guardian, surrogate parent or pupil at least three school days before  
667 the referral planning and placement team meeting at which such  
668 results of the assessments and evaluations will be discussed for the  
669 first time.

670 (9) Notwithstanding any provision of the general statutes, for  
671 purposes of Medicaid reimbursement, when recommended by the  
672 planning and placement team and specified on the individualized  
673 education program, a service eligible for reimbursement under the  
674 Medicaid program shall be deemed to be authorized by a practitioner  
675 of the healing arts under 42 CFR 440.130, provided such service is  
676 recommended by an appropriately licensed or certified individual and  
677 is within the individual's scope of practice. Certain items of durable  
678 medical equipment, recommended pursuant to the provisions of this  
679 subdivision, may be subject to prior authorization requirements  
680 established by the Commissioner of Social Services. Diagnostic and  
681 evaluation services eligible for reimbursement under the Medicaid  
682 program and recommended by the planning and placement team shall  
683 also be deemed to be authorized by a practitioner of the healing arts  
684 under 42 CFR 440.130 provided such services are recommended by an  
685 appropriately licensed or certified individual and are within the  
686 individual's scope of practice.

687 (10) The Commissioner of Social Services shall implement the  
688 policies and procedures necessary for the purposes of this subsection  
689 while in the process of adopting such policies and procedures in  
690 regulation form, provided notice of intent to adopt the regulations is  
691 published in the Connecticut Law Journal within twenty days of  
692 implementing the policies and procedures. Such policies and  
693 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>	46a-150
Sec. 3	<i>July 1, 2015</i>	46a-151
Sec. 4	<i>July 1, 2015</i>	46a-152
Sec. 5	<i>July 1, 2015</i>	46a-153
Sec. 6	<i>July 1, 2015</i>	46a-154
Sec. 7	<i>July 1, 2015</i>	10-76b
Sec. 8	<i>July 1, 2015</i>	10-76d(a)