



General Assembly

Amendment

January Session, 2015

LCO No. 8270



Offered by:
SEN. BARTOLOMEO, 13th 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 employees regarding physical restraint and seclusion of
205 students. Such training shall be phased in over a period of three years
206 beginning with the school year commencing July 1, 2015, and shall
207 include, but not be limited to:

208 (A) An overview of the relevant laws and regulations regarding the

209 use of physical restraint and seclusion on students. Such overview
210 shall be provided by the Department of Education to all school
211 employees on or after July 1, 2015, and annually thereafter, in a
212 manner and form as prescribed by the Commissioner of Education;

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

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

239 (2) Not later than July 1, 2015, and each school year thereafter, each
240 local or regional board of education shall require each school in the
241 district to identify a crisis intervention team consisting of school

242 professionals, paraprofessional staff members and administrators who
243 have been trained in the use of physical restraint and seclusion
244 pursuant to subparagraph (C) of subdivision (1) of this subsection or
245 chapter 814e of the general statutes. Such teams shall respond to any
246 incident in which the use of physical restraint or seclusion may be
247 necessary as an emergency intervention to prevent immediate or
248 imminent injury to a student or to others. Each member of the crisis
249 intervention team shall be recertified in the use of physical restraint
250 and seclusion pursuant to subparagraph (C) of subdivision (1) of this
251 subsection or chapter 814e of the general statutes on an annual basis.

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

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

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

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

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

273 inclusive, as amended by this act:

274 (1) ["Provider of care, education or supervision of a person at risk"]
275 "Provider of care or supervision of a person at risk" and "provider"
276 mean a person who provides direct care [, education] or supervision of
277 a person at risk.

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

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

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

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

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

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

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

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

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

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

331 (a) No provider or assistant may use involuntary physical restraint
332 on a person at risk except (1) as an emergency intervention to prevent
333 immediate or imminent injury to the person at risk or to others,
334 provided the restraint is not used for discipline or convenience and is

335 not used as a substitute for a less restrictive alternative, (2) as
336 necessary and appropriate, as determined on an individual basis by
337 the person's treatment team and consistent with sections 17a-540 to
338 17a-550, inclusive, for the transportation of a person under the
339 jurisdiction of the Whiting Forensic Division of the Department of
340 Mental Health and Addiction Services.

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

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

361 (d) Any use of physical restraint or seclusion on a person at risk
362 shall be documented in the person's medical [or educational] record.
363 The documentation shall include (1) in the case of emergency use, the
364 nature of the emergency and what other steps, including attempts at
365 verbal deescalation, were taken to prevent the emergency from arising
366 if there were indications that such an emergency was likely to arise,
367 and (2) a detailed description of the nature of the restraint or seclusion,

368 its duration and its effect on the person's established medical or
369 behavioral support [or educational] plan.

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

380 (f) Nothing in this section shall be construed as limiting any rights a
381 person may have under sections 17a-540 to 17a-550, inclusive, section
382 17a-566 or section 54-56d.

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

388 (h) (1) Nothing in this section shall be construed as prohibiting the
389 use of mechanical physical restraint in transporting any person (A)
390 who is receiving services from the Department of Mental Health and
391 Addiction Services pursuant to sections 17a-513 to 17a-517, inclusive,
392 17a-566 to 17a-567, inclusive, 17a-582 to 17a-603, inclusive, or 54-56d,
393 or (B) who is committed to the department by a court of competent
394 jurisdiction and has a pending criminal charge for which bail or a bond
395 has not been posted, from a department facility to another location
396 and, if applicable, back to such facility. Any such use of mechanical
397 physical restraint shall be determined on an individualized basis by
398 the head of the facility, or by a designee of the head of the facility, to be
399 necessary and appropriate to protect the public safety.

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

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

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

423 [(b) Each local and regional board of education, institution and
424 facility that provides special education for a child shall (1) record each
425 instance of the use of physical restraint or seclusion on a child, (2)
426 specify whether the use of seclusion was in accordance with an
427 individualized education program or whether the use of physical
428 restraint or seclusion was an emergency, including the nature of the
429 emergency that necessitated its use, and (3) include such information
430 in an annual compilation on its use of such restraint and seclusion on
431 children. Under this section, local and regional boards of education,
432 institutions and facilities that provide special education for children

433 shall not be required to report instances of in-school suspensions, as
434 defined in subsection (c) of section 10-233a.

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

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

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

463 (a) Each institution or facility that provides direct care [, education]
464 or supervision of a person at risk shall develop policies and procedures

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

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

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

484 (a) The State Board of Education shall provide for the development
485 and supervision of the educational programs and services for children
486 requiring special education and may regulate curriculum, conditions
487 of instruction, including the use of physical restraint and seclusion
488 pursuant to [chapter 814e] section 1 of this act, physical facilities and
489 equipment, class composition and size, admission of students, and the
490 requirements respecting necessary special services and instruction to
491 be provided by local and regional boards of education. [The State
492 Board of Education shall adopt regulations, in accordance with the
493 provisions of chapter 54, concerning the use of physical restraint and
494 seclusion pursuant to chapter 814e.] The educational aspects of all
495 programs and instructional facilities in any day or residential child-
496 caring agency or school which provides training for children requiring
497 special education and which receives funding from the state under the

498 provisions of sections 10-76a to 10-76g, inclusive, shall be subject to the
499 approval and supervision of the commissioner in accordance with
500 regulations adopted by the State Board of Education concerning
501 requirements for such programs and accommodations.

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

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

510 Sec. 8. Subsection (a) of section 10-76d of the general statutes is
511 repealed and the following is substituted in lieu thereof (*Effective July*
512 *1, 2015*):

513 (a) (1) In accordance with the regulations and procedures
514 established by the Commissioner of Education and approved by the
515 State Board of Education, each local or regional board of education
516 shall provide the professional services requisite to identification of
517 children requiring special education, identify each such child within its
518 jurisdiction, determine the eligibility of such children for special
519 education pursuant to sections 10-76a to 10-76h, inclusive, prescribe
520 appropriate educational programs for eligible children, maintain a
521 record thereof and make such reports as the commissioner may
522 require. No child may be required to obtain a prescription for a
523 substance covered by the Controlled Substances Act, 21 USC 801 et
524 seq., as amended from time to time, as a condition of attending school,
525 receiving an evaluation under section 10-76ff or receiving services
526 pursuant to sections 10-76a to 10-76h, inclusive, or the Individuals with
527 Disabilities Education Act, 20 USC 1400 et seq., as amended from time
528 to time.

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

560 (3) Beginning with the fiscal year ending June 30, 2004, the
561 Commissioner of Social Services shall make grant payments to local or
562 regional boards of education in amounts representing fifty per cent of

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

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

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

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

596 (7) The planning and placement team shall, in accordance with the
597 provisions of the Individuals With Disabilities Education Act, 20 USC
598 1400, et seq., as amended from time to time, develop and update
599 annually a statement of transition service needs for each child
600 requiring special education.

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

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

623 (C) Such parent, guardian, pupil or surrogate parent shall be given
624 at least five school days' prior notice of any planning and placement
625 team meeting conducted for such child or pupil and shall have the
626 right to be present at and participate in and to have advisors of such
627 person's own choosing and at such person's own expense to be present
628 at and to participate in all portions of such meeting at which an

629 educational program for such child or pupil is developed, reviewed or
630 revised.

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

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

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

658 (G) Upon request by a parent, guardian, pupil or surrogate parent,
659 the responsible local or regional board of education shall provide the
660 results of the assessments and evaluations used in the determination of

661 eligibility for special education for a child or pupil to such parent,
662 guardian, surrogate parent or pupil at least three school days before
663 the referral planning and placement team meeting at which such
664 results of the assessments and evaluations will be discussed for the
665 first time.

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

683 (10) The Commissioner of Social Services shall implement the
684 policies and procedures necessary for the purposes of this subsection
685 while in the process of adopting such policies and procedures in
686 regulation form, provided notice of intent to adopt the regulations is
687 published in the Connecticut Law Journal within twenty days of
688 implementing the policies and procedures. Such policies and
689 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)