

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0358.01 Richard Sweetman x4333

HOUSE BILL 17-1276

HOUSE SPONSORSHIP

Lontine,

SENATE SPONSORSHIP

Fields and Gardner,

House Committees

Education

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING THE USE OF CERTAIN RESTRAINTS UPON**
102 **PUBLIC SCHOOL STUDENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

With certain exceptions, the bill prohibits the use of a chemical, mechanical, or prone restraint upon a public school student. Each school district and the state charter school institute are required to report annually each documented use of restraint to the department of education.

The bill requires the state board of education to promulgate rules on or before November 1, 2017, establishing a process by which a student

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

or a parent or legal guardian of a student may formally complain about the use of restraint or seclusion by any employee or volunteer of any school, charter school, or institute charter school.

The bill requires each school district and the state charter school institute to include in its conduct and discipline code information concerning the school district's or institute's policies for the use of restraint and seclusion on students, including information concerning the process for filing a complaint regarding the use of restraint or seclusion.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 26-20-111 as
3 follows:

4 **26-20-111. Use of restraints in public schools - certain**
5 **restraints prohibited.** (1) EXCEPT AS PROVIDED OTHERWISE IN THIS
6 SECTION, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE
7 20, THE USE OF A CHEMICAL, MECHANICAL, OR PRONE RESTRAINT UPON A
8 STUDENT OF A SCHOOL OF A SCHOOL DISTRICT, CHARTER SCHOOL OF A
9 SCHOOL DISTRICT, OR INSTITUTE CHARTER SCHOOL IS PROHIBITED WHEN
10 THE STUDENT IS ON THE PROPERTY OF ANY AGENCY OR IS PARTICIPATING
11 IN AN OFF-CAMPUS, SCHOOL-SPONSORED ACTIVITY OR EVENT.

12 (2) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS
13 SECTION DOES NOT APPLY TO A SITUATION IN WHICH A STUDENT OF A
14 SCHOOL OF A SCHOOL DISTRICT, CHARTER SCHOOL OF A SCHOOL DISTRICT,
15 OR INSTITUTE CHARTER SCHOOL IS OPENLY DISPLAYING A DEADLY
16 WEAPON, AS DEFINED IN SECTION 18-1-901 (3)(e).

17 (3) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS
18 SECTION DOES NOT APPLY TO THE USE OF MECHANICAL OR PRONE
19 RESTRAINTS BY AN ARMED SECURITY OFFICER WORKING IN A SCHOOL OF
20 A SCHOOL DISTRICT, CHARTER SCHOOL OF A SCHOOL DISTRICT, OR
21 INSTITUTE CHARTER SCHOOL WHEN THE OFFICER:

1 (a) HAS RECEIVED DOCUMENTED TRAINING IN DEFENSIVE TACTICS
2 UTILIZING HANDCUFFING PROCEDURES;

3 (b) HAS RECEIVED DOCUMENTED TRAINING IN RESTRAINT TACTICS
4 UTILIZING PRONE HOLDS; AND

5 (c) HAS MADE A REFERRAL TO A LAW ENFORCEMENT AGENCY.

6 **SECTION 2.** In Colorado Revised Statutes, 26-20-102, **amend**
7 the introductory portion, (1)(a)(II), (1)(a)(III), and (6)(c); and **add**
8 (1)(a)(VI), (5.3), and (5.5) as follows:

9 **26-20-102. Definitions.** As used in this ~~article~~ ARTICLE 20, unless
10 the context otherwise requires:

11 (1) (a) "Agency" means:

12 (II) Any county, city and county, municipality, ~~school district~~, or
13 other political subdivision of the state or any department, division,
14 section, unit, office, or agency of such county, city and county,
15 municipality, ~~school district~~, or other political subdivision of the state;

16 (III) Any public or private entity that has entered into a contract
17 for services with an entity described in ~~subparagraph (I) or (II) of this~~
18 ~~paragraph (a)~~ SUBSECTION (1)(a)(I), (1)(a)(II), OR (1)(a)(VI) OF THIS
19 SECTION;

20 (VI) ANY SCHOOL DISTRICT, INCLUDING ANY SCHOOL OR CHARTER
21 SCHOOL OF A SCHOOL DISTRICT, AND THE STATE CHARTER SCHOOL
22 INSTITUTE ESTABLISHED IN SECTION 22-30.5-503, INCLUDING ANY
23 INSTITUTE CHARTER SCHOOL.

24 (5.3) "PRONE POSITION" MEANS A FACE-DOWN POSITION.

25 (5.5) "PRONE RESTRAINT" MEANS A RESTRAINT IN WHICH THE
26 INDIVIDUAL WHO IS BEING RESTRAINED IS SECURED IN A PRONE POSITION.

27 (6) "Restraint" means any method or device used to involuntarily

1 limit freedom of movement, including bodily physical force, mechanical
2 devices, or chemicals. "Restraint" includes chemical restraint, mechanical
3 restraint, and physical restraint. "Restraint" does not include:

4 (c) The holding of an individual for less than five minutes by a
5 staff person for protection of the individual or other persons; EXCEPT
6 THAT NOTHING IN THIS SUBSECTION (6)(c) MAY BE INTERPRETED TO
7 PERMIT THE HOLDING OF A PUBLIC SCHOOL STUDENT IN A PRONE POSITION,
8 EXCEPT AS DESCRIBED IN SECTION 26-20-111 (2) OR (3); or

9 **SECTION 3.** In Colorado Revised Statutes, 26-20-104, **amend**
10 (1)(d), (1)(e), (1)(f), (1)(g), (1)(h), and (2) as follows:

11 **26-20-104. Duties relating to use of restraint.**

12 (1) Notwithstanding the provisions of section 26-20-103, an agency that
13 uses restraint shall ensure that:

14 (d) EXCEPT AS DESCRIBED IN SECTION 26-20-111, a chemical
15 restraint shall be given only on the order of a physician or an advanced
16 practice nurse with prescriptive authority who has determined, either
17 while present during the course of the emergency justifying the use of the
18 chemical restraint or after telephone consultation with a registered nurse,
19 licensed physician assistant, or other authorized staff person who is
20 present at the time and site of the emergency and who has participated in
21 the evaluation of the individual, that such form of restraint is the least
22 restrictive, most appropriate alternative available. Nothing in this
23 subsection (1) shall modify the requirements of section 26-20-102 (2) or
24 26-20-103 (3).

25 (e) EXCEPT AS DESCRIBED IN SECTION 26-20-111, an order for a
26 chemical restraint, along with the reasons for its issuance, shall be
27 recorded in writing at the time of its issuance;

1 (f) EXCEPT AS DESCRIBED IN SECTION 26-20-111, an order for a
2 chemical restraint shall be signed at the time of its issuance by such
3 physician if present at the time of the emergency;

4 (g) EXCEPT AS DESCRIBED IN SECTION 26-20-111, an order for a
5 chemical restraint, if authorized by telephone, shall be transcribed and
6 signed at the time of its issuance by an individual with the authority to
7 accept telephone medication orders who is present at the time of the
8 emergency;

9 (h) EXCEPT AS DESCRIBED IN SECTION 26-20-111, staff trained in
10 the administration of medication shall make notations in the record of the
11 individual as to the effect of the chemical restraint and the individual's
12 response to the chemical restraint.

13 (2) EXCEPT AS DESCRIBED IN SECTION 26-20-111, for individuals
14 in mechanical restraints, agency staff shall provide relief periods, except
15 when the individual is sleeping, of at least ten minutes as often as every
16 two hours, so long as relief from the mechanical restraint is determined
17 to be safe. During such relief periods, the staff shall ensure proper
18 positioning of the individual and provide movement of limbs, as
19 necessary. In addition, during such relief periods, staff shall provide
20 assistance for use of appropriate toileting methods, as necessary. The
21 individual's dignity and safety shall be maintained during relief periods.
22 Staff shall note in the record of the individual being restrained the relief
23 periods granted.

24 **SECTION 4.** In Colorado Revised Statutes, 26-20-106, **add** (1.5)
25 as follows:

26 **26-20-106. Documentation requirements for restraint and**
27 **seclusion - adults and youth - reports.** (1.5) (a) IN ADDITION TO

1 SATISFYING THE DOCUMENTATION REQUIREMENT DESCRIBED IN
2 SUBSECTION (1) OF THIS SECTION, ON OR BEFORE JULY 1, 2018, AND ON OR
3 BEFORE JULY 1 OF EACH YEAR THEREAFTER:

4 (I) EACH SCHOOL DISTRICT OR, AS MAY BE APPLICABLE, EACH
5 BOARD OF COOPERATIVE SERVICES OPERATING PURSUANT TO ARTICLE 5 OF
6 TITLE 22, SHALL REPORT TO THE DEPARTMENT OF EDUCATION ANY
7 DOCUMENTATION BY ANY SCHOOL OR CHARTER SCHOOL OF THE SCHOOL
8 DISTRICT OR OF THE BOARD OF COOPERATIVE SERVICES CONCERNING ANY
9 USE OF RESTRAINT UPON ANY STUDENT OF THE SCHOOL DISTRICT OR
10 BOARD OF COOPERATIVE SERVICES DURING THE PRECEDING SCHOOL YEAR;
11 AND

12 (II) THE STATE CHARTER SCHOOL INSTITUTE SHALL REPORT TO THE
13 DEPARTMENT OF EDUCATION ANY DOCUMENTATION BY ANY INSTITUTE
14 CHARTER SCHOOL CONCERNING ANY USE OF RESTRAINT UPON ANY
15 STUDENT OF ANY INSTITUTE CHARTER SCHOOL DURING THE PRECEDING
16 SCHOOL YEAR.

17 (b) EACH REPORT DESCRIBED IN SUBSECTION (1.5)(a) OF THIS
18 SECTION MUST INCLUDE, FOR EACH SCHOOL OR CHARTER SCHOOL OF A
19 SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES AND FOR EACH
20 INSTITUTE CHARTER SCHOOL, THE FOLLOWING DATA FROM THE PRECEDING
21 SCHOOL YEAR:

22 (I) THE TOTAL NUMBER OF INCIDENTS OF PHYSICAL RESTRAINT;

23 (II) THE TOTAL NUMBER OF INCIDENTS INVOLVING A HOLD OR
24 RESTRAINT IN A PRONE POSITION;

25 (III) THE TOTAL NUMBER OF STUDENTS PLACED IN A PHYSICAL
26 RESTRAINT;

27 (IV) THE TOTAL NUMBER OF INCIDENTS OF SECLUSION, INCLUDING

1 IDENTIFYING HOW MANY SUCH INCIDENTS OCCURRED IN A LOCKED ROOM;

2 (V) THE TOTAL NUMBER OF INCIDENTS IN RESPONSE TO WHICH A
3 SCHOOL RESOURCE OFFICER, LAW ENFORCEMENT OFFICER, OR PRIVATE
4 SECURITY OFFICER WAS SUMMONED;

5 (VI) THE TOTAL NUMBER OF STUDENTS PLACED IN SECLUSION;

6 (VII) THE TOTAL NUMBER OF INCIDENTS OF PHYSICAL RESTRAINT
7 OR SECLUSION THAT RESULTED IN INJURY OR DEATH TO ANY PERSON,
8 INCLUDING INDICATING WHETHER ANY STUDENTS OR SCHOOL EMPLOYEES
9 WERE INJURED OR BOTH, AND WHETHER THERE WAS A RESULTING DEATH;

10 (VIII) THE TOTAL NUMBER OF INCIDENTS OF PHYSICAL RESTRAINT
11 OR SECLUSION THAT INVOLVED ONE OR MORE STAFF MEMBERS WHO WERE
12 NOT TRAINED IN ACCORDANCE WITH SECTION 26-20-105 (1);

13 (IX) DEMOGRAPHIC CHARACTERISTICS OF EACH STUDENT WHO
14 WAS PHYSICALLY RESTRAINED OR SECLUDED, INCLUDING INFORMATION
15 INDICATING:

16 (A) THE STUDENT'S RACE, GENDER, AND ETHNICITY, AS SUCH
17 INFORMATION HAS BEEN REPORTED TO SCHOOL ADMINISTRATORS BY THE
18 STUDENT OR HIS OR HER PARENT OR LEGAL GUARDIAN, AND WHETHER THE
19 STUDENT HAS BEEN IDENTIFIED AS HAVING A DISABILITY, IF ANY;

20 (B) WHETHER THE STUDENT IS RECEIVING SERVICES PURSUANT TO
21 AN INDIVIDUALIZED EDUCATION PROGRAM; AND

22 (C) WHETHER THE STUDENT IS RECEIVING SERVICES FROM HIS OR
23 HER SCHOOL PURSUANT TO SECTION 504 OF THE FEDERAL
24 "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794, AS AMENDED.

25 (c) ON AND AFTER AUGUST 1, 2018, THE DEPARTMENT OF
26 EDUCATION SHALL MAKE PUBLICLY AVAILABLE ON ITS WEBSITE ANY
27 REPORTS DESCRIBED IN SUBSECTION (1.5)(a) OF THIS SECTION.

1 **SECTION 5.** In Colorado Revised Statutes, **add** 22-32-147 as
2 follows:

3 **22-32-147. Use of restraints on students - certain restraints**
4 **prohibited - definitions - rules.** (1) AS USED IN THIS SECTION, UNLESS
5 THE CONTEXT OTHERWISE REQUIRES:

6 (a) "CHEMICAL RESTRAINT" HAS THE SAME MEANING AS SET FORTH
7 IN SECTION 26-20-102 (2).

8 (b) "MECHANICAL RESTRAINT" HAS THE SAME MEANING AS SET
9 FORTH IN SECTION 26-20-102 (4).

10 (c) "PRONE POSITION" MEANS A FACE-DOWN POSITION.

11 (d) "PRONE RESTRAINT" MEANS A RESTRAINT IN WHICH THE
12 INDIVIDUAL BEING RESTRAINED IS SECURED IN A PRONE POSITION.

13 (e) "RESTRAINT" HAS THE SAME MEANING AS SET FORTH IN
14 SECTION 26-20-102 (6).

15 (2) (a) PURSUANT TO SECTION 26-20-111, THE USE OF A CHEMICAL,
16 MECHANICAL, OR PRONE RESTRAINT UPON A STUDENT IN A SCHOOL OR
17 CHARTER SCHOOL OF A SCHOOL DISTRICT OR BOARD OF COOPERATIVE
18 SERVICES IS PROHIBITED.

19 (b) EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE SERVICES
20 SHALL REPORT ANNUALLY TO THE DEPARTMENT OF EDUCATION EACH
21 DOCUMENTED USE OF RESTRAINT, AS DESCRIBED IN SECTION 26-20-106
22 (1.5).

23 (3) ON OR BEFORE NOVEMBER 1, 2017, THE STATE BOARD SHALL
24 PROMULGATE RULES ESTABLISHING A PROCESS BY WHICH A STUDENT OR
25 A PARENT OR LEGAL GUARDIAN OF A STUDENT MAY FORMALLY COMPLAIN
26 ABOUT THE USE OF RESTRAINT OR SECLUSION BY ANY EMPLOYEE OR
27 VOLUNTEER OF ANY SCHOOL OR CHARTER SCHOOL OF A SCHOOL DISTRICT

1 OR BOARD OF COOPERATIVE SERVICES. TO THE EXTENT PRACTICABLE, THE
2 PROCESS MUST REFLECT THE COMPLAINT PROCESS FOR FILING A STATE
3 COMPLAINT UNDER THE FEDERAL "INDIVIDUALS WITH DISABILITIES
4 EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED.

5 **SECTION 6.** In Colorado Revised Statutes, **add 22-30.5-528** as
6 follows:

7 **22-30.5-528. Institute charter schools - use of restraints on**
8 **students - certain restraints prohibited - definitions - rules.** (1) AS
9 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

10 (a) "CHEMICAL RESTRAINT" HAS THE SAME MEANING AS SET FORTH
11 IN SECTION 26-20-102 (2).

12 (b) "MECHANICAL RESTRAINT" HAS THE SAME MEANING AS SET
13 FORTH IN SECTION 26-20-102 (4).

14 (c) "PRONE POSITION" MEANS A FACE-DOWN POSITION.

15 (d) "PRONE RESTRAINT" MEANS A RESTRAINT IN WHICH THE
16 INDIVIDUAL BEING RESTRAINED IS SECURED IN A PRONE POSITION.

17 (e) "RESTRAINT" HAS THE SAME MEANING AS SET FORTH IN
18 SECTION 26-20-102 (6).

19 (2) (a) PURSUANT TO SECTION 26-20-111, THE USE OF A CHEMICAL,
20 MECHANICAL, OR PRONE RESTRAINT UPON A STUDENT IN AN INSTITUTE
21 CHARTER SCHOOL IS PROHIBITED.

22 (b) THE STATE CHARTER SCHOOL INSTITUTE SHALL REPORT
23 ANNUALLY TO THE DEPARTMENT OF EDUCATION EACH DOCUMENTED USE
24 OF RESTRAINT, AS DESCRIBED IN SECTION 26-20-106 (1.5).

25 (3) ON OR BEFORE NOVEMBER 1, 2017, THE STATE BOARD SHALL
26 PROMULGATE RULES ESTABLISHING A PROCESS BY WHICH A STUDENT OR
27 A PARENT OR LEGAL GUARDIAN OF A STUDENT MAY FORMALLY COMPLAIN

1 ABOUT THE USE OF RESTRAINT OR SECLUSION BY ANY EMPLOYEE OR
2 VOLUNTEER OF ANY INSTITUTE CHARTER SCHOOL. TO THE EXTENT
3 PRACTICABLE, THE PROCESS MUST REFLECT THE COMPLAINT PROCESS FOR
4 FILING A STATE COMPLAINT UNDER THE FEDERAL "INDIVIDUALS WITH
5 DISABILITIES EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS
6 AMENDED.

7 **SECTION 7.** In Colorado Revised Statutes, 22-32-109.1, **add**
8 (2)(a)(I)(L) as follows:

9 **22-32-109.1. Board of education - specific powers and duties**
10 **- safe school plan - conduct and discipline code - safe school reporting**
11 **requirements - school response framework - school resource officers**
12 **- definitions - repeal. (2) Safe school plan.** In order to provide a
13 learning environment that is safe, conducive to the learning process, and
14 free from unnecessary disruption, each school district board of education
15 or institute charter school board for a charter school authorized by the
16 charter school institute shall, following consultation with the school
17 district accountability committee and school accountability committees,
18 parents, teachers, administrators, students, student councils where
19 available, and, where appropriate, the community at large, adopt and
20 implement a safe school plan, or review and revise, as necessary in
21 response to any relevant data collected by the school district, any existing
22 plans or policies already in effect. In addition to the aforementioned
23 parties, each school district board of education, in adopting and
24 implementing its safe school plan, may consult with victims' advocacy
25 organizations, school psychologists, local law enforcement, and
26 community partners. The plan, at a minimum, must include the following:

27 (a) **Conduct and discipline code.** (I) A concisely written conduct

1 and discipline code that shall be enforced uniformly, fairly, and
2 consistently for all students. Copies of the code shall be provided to each
3 student upon enrollment at the elementary, middle, and high school levels
4 and shall be posted or kept on file at each public school in the school
5 district. The school district shall take reasonable measures to ensure that
6 each student of each public school in the school district is familiar with
7 the code. The code shall include, but need not be limited to:

8 (L) INFORMATION CONCERNING THE SCHOOL DISTRICT'S POLICIES
9 FOR THE USE OF RESTRAINT AND SECLUSION ON STUDENTS, INCLUDING A
10 REFERENCE TO SECTION 26-20-111 AND INFORMATION CONCERNING THE
11 PROCESS FOR FILING A COMPLAINT REGARDING THE USE OF RESTRAINT OR
12 SECLUSION, AS SUCH PROCESS IS SET FORTH BY RULE OF THE STATE BOARD
13 PURSUANT TO SECTION 22-32-147.

14 **SECTION 8.** In Colorado Revised Statutes, **add** 22-2-143 as
15 follows:

16 **22-2-143. Department of education - duty to collect data**
17 **concerning the use of restraints on students.** ON AND AFTER THE
18 EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL COLLECT AND
19 RETAIN DATA REPORTED TO THE DEPARTMENT BY SCHOOL DISTRICTS,
20 BOARDS OF COOPERATIVE SERVICES, AND BY THE STATE CHARTER SCHOOL
21 INSTITUTE PURSUANT TO SECTION 22-30.5-528 (2)(b), 22-32-147 (2)(b),
22 AND 26-20-106(1.5). PURSUANT TO SECTIONS 26-20-106 (1.5)(c), ON AND
23 AFTER AUGUST 1, 2018, THE DEPARTMENT SHALL MAKE SUCH REPORTS
24 PUBLICLY AVAILABLE ON ITS WEBSITE.

25 **SECTION 9. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2018 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.