

HOUSE BILL No. 2170

By Committee on Children and Seniors

1-28

1 AN ACT concerning schools and school districts; relating to seclusion and
2 restraint of pupils.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. Sections 1 through 6, and amendments thereto, shall be
6 known and may be cited as the freedom from unsafe restraint and
7 seclusion act.

8 Sec. 2. As used in sections 1 through 6, and amendments thereto, the
9 following terms shall have the meanings specified herein:

10 (a) "Altercation" means a fight involving a student. Any student
11 possessing a weapon in such a manner as to pose an imminent risk of harm
12 qualifies as an altercation.

13 (b) "Children with disabilities" has the meaning specified in K.S.A.
14 72-962, and amendments thereto.

15 (c) "Department" means state department of education.

16 (d) "Imminent risk of harm" means an immediate and impending
17 threat of a person causing substantial physical injury to self or others.
18 Violent action that destroys substantial property may fall within this
19 standard only if the property destruction also poses an immediate and
20 impending threat of causing substantial physical injury to self or others.

21 (e) "Individualized education program" and "IEP" have the meaning
22 specified in K.S.A. 72-962, and amendments thereto.

23 (f) "Mechanical restraint" means any device or object used to limit a
24 person's movement, except that a protective or stabilizing device either
25 ordered by a person appropriately licensed to issue the order for the device
26 or required by law shall not be considered to be a mechanical restraint.
27 This term does not include any device used by a law enforcement officer,
28 campus police officer or school security officer in carrying out law
29 enforcement duties.

30 (g) "Physical restraint" means bodily force used to substantially limit
31 a person's movement, except that consensual, solicited or unintentional
32 contact and contact to provide comfort, assistance or instruction shall not
33 be deemed to be physical restraint.

34 (h) "School employees" means teachers, paraprofessionals, providers
35 of related services, administrators and support staff.

36 (i) "Seclusion room" means a room or other confined area in which a

1 child with a disability is placed in isolation from other persons for a
2 limited time and from which the student is prevented from having egress.

3 Sec. 3. (a) No child with a disability shall be subjected to
4 unreasonable, unsafe or unwarranted use of physical restraint or seclusion
5 rooms. A child shall never be physically restrained or placed in a seclusion
6 room for purposes of discipline or punishment, or for the convenience of a
7 school employee. A child shall not be subjected to any form of mechanical
8 restraint.

9 (b) A child with a disability shall be placed in a seclusion room or
10 physically restrained only if the behavior of the student presents an
11 imminent risk of harm. However, if the child is involved in an altercation,
12 then physical restraint may still be used even if the imminent risk of harm
13 standard is not met.

14 (c) A child with a disability shall not be placed in a seclusion room if
15 the child is known to have any medical condition that a licensed health
16 care provider has indicated, in a written statement that is provided to the
17 school and that is on file with the school, precludes this action.

18 (d) A child with a disability shall not be physically restrained or
19 placed in a seclusion room except by a school employee who has had
20 training in the appropriate use of these techniques. Such training shall be
21 from training programs approved by the department to ensure that school
22 employees are trained in the proper and safe use of seclusion rooms and
23 physical restraint. This training requirement shall not apply if the child is
24 involved in an altercation.

25 (e) While a child with a disability is in a seclusion room, the school
26 employee who is supervising the student shall be able to see and hear the
27 student at all times.

28 (f) No more than one child with a disability shall be placed in a
29 seclusion room at anytime.

30 (g) Any seclusion room equipped with a locking door shall ensure
31 that the lock automatically disengages when the teacher or attendant
32 viewing the child walks away from the seclusion room or in cases of
33 emergency, such as fire or severe weather.

34 (h) If a school has a seclusion room, it will be a safe place with
35 proportional and similar characteristics as other rooms where students
36 frequent. It shall be free of any condition that could be a danger to the
37 student, well ventilated and sufficiently lighted.

38 Sec. 4. (a) When any child with a disability is placed in a seclusion
39 room or is subjected to physical restraint, the school employee who used
40 the seclusion room or physical restraint, or an employee who witnessed its
41 use, shall document the use of the seclusion room or the physical restraint.
42 This documentation shall be completed no later than the school day
43 following the day on which the seclusion room or physical restraint is

1 used. A copy of the documentation will be provided to the parent or legal
2 guardian of the child when the documentation is completed.

3 (b) Each public school district shall submit information and data on
4 the use of seclusion and restraint as required by the department. At a
5 minimum, the department shall collect sufficient information and data to
6 ensure the patrons, policymakers and the public can gain a clear picture of
7 the depth and breadth of the use of seclusion and restraint in Kansas
8 schools. The purpose of the information and data collected is to provide
9 detailed information so that policymakers can identify trends and
10 opportunities in order to help reduce the use of seclusion and restraint in
11 public schools.

12 (c) The department shall compile the reports from the schools and
13 provide the results to the public, the governor and the committees on
14 education in the senate and the house of representatives by January 20,
15 2016, and annually thereafter, and publish the school policy, as set forth in
16 this act, to ensure uniformity and compliance with this act. A copy of the
17 school policy shall be issued to each public school. In issuing these
18 reports, the department will ensure that as much information and data as
19 possible is provided on the use of seclusion and restraint in order to allow
20 patrons, policymakers and the public to be able to compare the data on the
21 use and incidences between school districts and individual schools. In
22 compiling the aggregate data, individual student confidentiality shall be
23 reasonably protected in accordance with the student data privacy act.

24 Sec. 5. (a) The state board of education shall promulgate rules and
25 regulations as necessary to implement the provisions of this act including
26 rules and regulations regarding:

27 (1) A process for an individual or an organization to submit a
28 complaint to the commissioner of education alleging that a public school is
29 violating or has violated a provision of sections 1 through 6, and
30 amendments thereto, or K.A.R. 91-42-1.

31 (2) A process for investigating a complaint submitted under
32 subsection (a).

33 (3) A process for ensuring that complainants and schools are treated
34 equally in the complaint process.

35 (4) The minimum standards for use of seclusion and restraint.

36 (5) A process for completion of a written report of findings of facts
37 and conclusions.

38 (6) A process for determining sanctions if a district fails to comply
39 with identified corrective actions.

40 (b) The decision of the commissioner of education on a complaint
41 shall be final.

42 Sec. 6. This act shall take effect and be in force from and after its
43 publication in the statute book.