

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0358.01 Richard Sweetman x4333

HOUSE BILL 17-1276

HOUSE SPONSORSHIP

Lontine,

SENATE SPONSORSHIP

Fields and Gardner,

House Committees

Education
Appropriations

Senate Committees

State, Veterans, & Military Affairs
Appropriations

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING THE USE OF CERTAIN RESTRAINTS UPON**
102 **PUBLIC SCHOOL STUDENTS, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

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

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.

HOUSE
3rd Reading Unamended
April 26, 2017

HOUSE
Amended 2nd Reading
April 25, 2017

on or before November 1, 2017, establishing a process by which a student 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. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Current law restricts the circumstances under which a public
5 agency may use restraints on an individual;

6 (b) Children are more vulnerable and impressionable than adults,
7 and it is wholly reasonable that our safeguards to protect the integrity and
8 sanctity of their bodies should be at least equal to those safeguards that
9 we afford to other persons; and

10 (c) The use of certain restraints on public school students should
11 be prohibited except when exigent circumstances exist.

12 (2) Now, therefore, the general assembly declares that:

13 (a) The use of a chemical, mechanical, or prone restraint upon a
14 student of a school of a school district, charter school of a school district,
15 or institute charter school is generally prohibited; and

16 (b) Notwithstanding this general prohibition, the prohibition does
17 not apply to:

18 (I) The use of a mechanical or prone restraint on a student who is
19 openly displaying a deadly weapon, including any device, instrument,
20 material, or substance, whether animate or inanimate, that, in the manner

1 it is used or intended to be used, is capable of producing death or serious
2 bodily injury; or

3 (II) The use of mechanical or prone restraints by an armed security
4 officer or a certified peace officer working in a school of a school district,
5 charter school of a school district, or institute charter school when the
6 officer satisfies certain conditions.

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

9 **26-20-111. Use of restraints in public schools - certain**
10 **restraints prohibited.** (1) EXCEPT AS PROVIDED OTHERWISE IN THIS
11 SECTION, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE
12 20, THE USE OF A CHEMICAL, MECHANICAL, OR PRONE RESTRAINT UPON A
13 STUDENT OF A SCHOOL OF A SCHOOL DISTRICT, CHARTER SCHOOL OF A
14 SCHOOL DISTRICT, OR INSTITUTE CHARTER SCHOOL IS PROHIBITED WHEN
15 THE STUDENT IS ON THE PROPERTY OF ANY AGENCY OR IS PARTICIPATING
16 IN AN OFF-CAMPUS, SCHOOL-SPONSORED ACTIVITY OR EVENT.

17 (2) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS
18 SECTION DOES NOT APPLY TO THE USE OF MECHANICAL OR PRONE
19 RESTRAINTS ON A STUDENT OF A SCHOOL OF A SCHOOL DISTRICT, CHARTER
20 SCHOOL OF A SCHOOL DISTRICT, OR INSTITUTE CHARTER SCHOOL WHO IS
21 OPENLY DISPLAYING A DEADLY WEAPON, AS DEFINED IN SECTION 18-1-901
22 (3)(e).

23 (3) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS
24 SECTION DOES NOT APPLY TO THE USE OF MECHANICAL OR PRONE
25 RESTRAINTS BY AN ARMED SECURITY OFFICER OR A CERTIFIED PEACE
26 OFFICER WORKING IN A SCHOOL OF A SCHOOL DISTRICT, CHARTER SCHOOL
27 OF A SCHOOL DISTRICT, OR INSTITUTE CHARTER SCHOOL WHEN THE

1 OFFICER:

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

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

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

7 (4) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS
8 SECTION DOES NOT APPLY TO SCHOOLS OPERATED IN STATE-OWNED
9 FACILITIES WITHIN THE DIVISION OF YOUTH CORRECTIONS.

10 **SECTION 3.** In Colorado Revised Statutes, 26-20-102, **amend**
11 the introductory portion, (1)(a)(II), (1)(a)(III), and (6)(c); and **add**
12 (1)(a)(VI), (5.3), and (5.5) as follows:

13 **26-20-102. Definitions.** As used in this ~~article~~ ARTICLE 20, unless
14 the context otherwise requires:

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

16 (II) Any county, city and county, municipality, ~~school district~~, or
17 other political subdivision of the state or any department, division,
18 section, unit, office, or agency of such county, city and county,
19 municipality, ~~school district~~, or other political subdivision of the state;

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

24 (VI) ANY SCHOOL DISTRICT, INCLUDING ANY SCHOOL OR CHARTER
25 SCHOOL OF A SCHOOL DISTRICT, AND THE STATE CHARTER SCHOOL
26 INSTITUTE ESTABLISHED IN SECTION 22-30.5-503, INCLUDING ANY
27 INSTITUTE CHARTER SCHOOL.

1 (5.3) "PRONE POSITION" MEANS A FACE-DOWN POSITION.

2 (5.5) "PRONE RESTRAINT" MEANS A RESTRAINT IN WHICH THE
3 INDIVIDUAL WHO IS BEING RESTRAINED IS SECURED IN A PRONE POSITION.

4 (6) "Restraint" means any method or device used to involuntarily
5 limit freedom of movement, including bodily physical force, mechanical
6 devices, or chemicals. "Restraint" includes chemical restraint, mechanical
7 restraint, and physical restraint. "Restraint" does not include:

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

13 [REDACTED]

14 **SECTION 4.** In Colorado Revised Statutes, **add 22-32-147** as
15 follows:

16 **22-32-147. Use of restraints on students - certain restraints**
17 **prohibited - reports and review process - definitions - rules.** (1) AS
18 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

5 (3) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH
6 SCHOOL DISTRICT SHALL REQUIRE ANY SCHOOL EMPLOYEE OR VOLUNTEER
7 WHO USES ANY TYPE OF RESTRAINT ON A STUDENT OF THE SCHOOL
8 DISTRICT TO SUBMIT A WRITTEN REPORT OF THE INCIDENT TO THE
9 ADMINISTRATION OF THE SCHOOL NOT LATER THAN ONE SCHOOL DAY
10 AFTER THE INCIDENT OCCURRED.

11 (b) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH
12 SCHOOL DISTRICT SHALL ESTABLISH A REVIEW PROCESS, CONDUCT THE
13 REVIEW PROCESS AT LEAST ANNUALLY, AND DOCUMENT THE RESULTS OF
14 EACH REVIEW PROCESS IN WRITING. EACH ANNUAL REVIEW PROCESS MUST
15 INCLUDE A REVIEW OF EACH INCIDENT IN WHICH RESTRAINT WAS USED ON
16 A STUDENT DURING THE PRECEDING YEAR. THE PURPOSE OF EACH ANNUAL
17 REVIEW PROCESS IS TO ENSURE THAT THE SCHOOL DISTRICT IS PROPERLY
18 ADMINISTERING RESTRAINT, IDENTIFYING ADDITIONAL TRAINING NEEDS,
19 MINIMIZING AND PREVENTING THE USE OF RESTRAINT BY INCREASING THE
20 USE OF POSITIVE BEHAVIOR INTERVENTIONS, AND REDUCING THE
21 INCIDENCE OF INJURY TO STUDENTS AND STAFF. EACH ANNUAL REVIEW
22 PROCESS MUST INCLUDE BUT IS NOT LIMITED TO:

23 (I) ANALYSIS OF INCIDENT REPORTS, INCLUDING CONSIDERATION
24 OF PROCEDURES USED DURING THE RESTRAINT, PREVENTATIVE OR
25 ALTERNATIVE TECHNIQUES ATTEMPTED, DOCUMENTATION, AND
26 FOLLOW-UP;

27 (II) TRAINING NEEDS OF STAFF;

1 (III) STAFF-TO-STUDENT RATIOS; AND

2 (IV) ENVIRONMENTAL CONSIDERATIONS, INCLUDING PHYSICAL
3 SPACE, STUDENT SEATING ARRANGEMENTS, AND NOISE LEVELS.

4 (c) NOT MORE THAN FIVE CALENDAR DAYS AFTER THE USE OF
5 RESTRAINT ON A STUDENT, THE SCHOOL ADMINISTRATION SHALL MAIL,
6 FAX, OR E-MAIL A WRITTEN REPORT OF THE INCIDENT TO THE PARENT OR
7 LEGAL GUARDIAN OF THE STUDENT. THE WRITTEN REPORT MUST BE
8 PLACED IN THE STUDENT'S CONFIDENTIAL FILE AND INCLUDE:

9 (I) THE ANTECEDENT OF THE STUDENT'S BEHAVIOR, IF KNOWN;

10 (II) A DESCRIPTION OF THE INCIDENT;

11 (III) ANY EFFORTS MADE TO DE-ESCALATE THE SITUATION;

12 (IV) ANY ALTERNATIVES TO THE USE OF RESTRAINTS THAT WERE
13 ATTEMPTED;

14 (V) THE TYPE AND DURATION OF THE RESTRAINT USED;

15 (VI) ANY INJURIES THAT OCCURRED; AND

16 (VII) THE STAFF MEMBERS WHO WERE PRESENT AND STAFF
17 MEMBERS WHO WERE INVOLVED IN ADMINISTERING THE RESTRAINT.

18 (4) ON OR BEFORE NOVEMBER 1, 2017, THE STATE BOARD SHALL
19 PROMULGATE RULES ESTABLISHING A PROCESS BY WHICH A STUDENT OR
20 A PARENT OR LEGAL GUARDIAN OF A STUDENT MAY FORMALLY COMPLAIN
21 ABOUT THE USE OF RESTRAINT OR SECLUSION BY ANY EMPLOYEE OR
22 VOLUNTEER OF ANY SCHOOL OR CHARTER SCHOOL OF A SCHOOL DISTRICT
23 OR BOARD OF COOPERATIVE SERVICES. TO THE EXTENT PRACTICABLE, THE
24 PROCESS MUST REFLECT THE COMPLAINT PROCESS FOR FILING A STATE
25 COMPLAINT UNDER THE FEDERAL "INDIVIDUALS WITH DISABILITIES
26 EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED.

27 **SECTION 5.** In Colorado Revised Statutes, **add** 22-30.5-528 as

1 follows:

2 **22-30.5-528. Institute charter schools - use of restraints on**
3 **students - certain restraints prohibited - reports and review process**

4 **- definitions - rules.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
5 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) PURSUANT TO SECTION 26-20-111, THE USE OF A CHEMICAL,
16 MECHANICAL, OR PRONE RESTRAINT UPON A STUDENT IN AN INSTITUTE
17 CHARTER SCHOOL IS PROHIBITED.

18 (3) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH
19 SCHOOL DISTRICT SHALL REQUIRE ANY SCHOOL EMPLOYEE OR VOLUNTEER
20 WHO USES ANY TYPE OF RESTRAINT ON A STUDENT OF THE SCHOOL
21 DISTRICT TO SUBMIT A WRITTEN REPORT OF THE INCIDENT TO THE
22 ADMINISTRATION OF THE SCHOOL NOT LATER THAN ONE SCHOOL DAY
23 AFTER THE INCIDENT OCCURRED.

24 (b) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH
25 SCHOOL DISTRICT SHALL ESTABLISH A REVIEW PROCESS, CONDUCT THE
26 REVIEW PROCESS AT LEAST ANNUALLY, AND DOCUMENT THE RESULTS OF
27 EACH REVIEW PROCESS IN WRITING. EACH ANNUAL REVIEW PROCESS MUST

1 INCLUDE A REVIEW OF EACH INCIDENT IN WHICH RESTRAINT WAS USED ON
2 A STUDENT DURING THE PRECEDING YEAR. THE PURPOSE OF EACH ANNUAL
3 REVIEW PROCESS IS TO ENSURE THAT THE SCHOOL DISTRICT IS PROPERLY
4 ADMINISTERING RESTRAINT, IDENTIFYING ADDITIONAL TRAINING NEEDS,
5 MINIMIZING AND PREVENTING THE USE OF RESTRAINT BY INCREASING THE
6 USE OF POSITIVE BEHAVIOR INTERVENTIONS, AND REDUCING THE
7 INCIDENCE OF INJURY TO STUDENTS AND STAFF. EACH ANNUAL REVIEW
8 PROCESS MUST INCLUDE BUT IS NOT LIMITED TO:

9 (I) ANALYSIS OF INCIDENT REPORTS, INCLUDING CONSIDERATION
10 OF PROCEDURES USED DURING THE RESTRAINT, PREVENTATIVE OR
11 ALTERNATIVE TECHNIQUES ATTEMPTED, DOCUMENTATION, AND
12 FOLLOW-UP;

13 (II) TRAINING NEEDS OF STAFF;

14 (III) STAFF-TO-STUDENT RATIOS; AND

15 (IV) ENVIRONMENTAL CONSIDERATIONS, INCLUDING PHYSICAL
16 SPACE, STUDENT SEATING ARRANGEMENTS, AND NOISE LEVELS.

17 (c) NOT MORE THAN FIVE CALENDAR DAYS AFTER THE USE OF
18 RESTRAINT ON A STUDENT, THE SCHOOL ADMINISTRATION SHALL MAIL,
19 FAX, OR E-MAIL A WRITTEN REPORT OF THE INCIDENT TO THE PARENT OR
20 LEGAL GUARDIAN OF THE STUDENT. THE WRITTEN REPORT MUST BE
21 PLACED IN THE STUDENT'S CONFIDENTIAL FILE AND INCLUDE:

22 (I) THE ANTECEDENT OF THE STUDENT'S BEHAVIOR, IF KNOWN;

23 (II) A DESCRIPTION OF THE INCIDENT;

24 (III) ANY EFFORTS MADE TO DE-ESCALATE THE SITUATION;

25 (IV) ANY ALTERNATIVES TO THE USE OF RESTRAINTS THAT WERE
26 ATTEMPTED;

27 (V) THE TYPE AND DURATION OF THE RESTRAINT USED;

1 (VI) ANY INJURIES THAT OCCURRED; AND

2 (VII) THE STAFF MEMBERS WHO WERE PRESENT AND STAFF
3 MEMBERS WHO WERE INVOLVED IN ADMINISTERING THE RESTRAINT.

4 (4) ON OR BEFORE NOVEMBER 1, 2017, THE STATE BOARD SHALL
5 PROMULGATE RULES ESTABLISHING A PROCESS BY WHICH A STUDENT OR
6 A PARENT OR LEGAL GUARDIAN OF A STUDENT MAY FORMALLY COMPLAIN
7 ABOUT THE USE OF RESTRAINT OR SECLUSION BY ANY EMPLOYEE OR
8 VOLUNTEER OF ANY INSTITUTE CHARTER SCHOOL. TO THE EXTENT
9 PRACTICABLE, THE PROCESS MUST REFLECT THE COMPLAINT PROCESS FOR
10 FILING A STATE COMPLAINT UNDER THE FEDERAL "INDIVIDUALS WITH
11 DISABILITIES EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS
12 AMENDED.


13 **SECTION 6.** In Colorado Revised Statutes, 22-32-109.1, **add**
14 (2)(a)(I)(L) as follows:

15 **22-32-109.1. Board of education - specific powers and duties**
16 **- safe school plan - conduct and discipline code - safe school reporting**
17 **requirements - school response framework - school resource officers**
18 **- definitions - repeal. (2) Safe school plan.** In order to provide a
19 learning environment that is safe, conducive to the learning process, and
20 free from unnecessary disruption, each school district board of education
21 or institute charter school board for a charter school authorized by the
22 charter school institute shall, following consultation with the school
23 district accountability committee and school accountability committees,
24 parents, teachers, administrators, students, student councils where
25 available, and, where appropriate, the community at large, adopt and
26 implement a safe school plan, or review and revise, as necessary in
27 response to any relevant data collected by the school district, any existing

1 plans or policies already in effect. In addition to the aforementioned
2 parties, each school district board of education, in adopting and
3 implementing its safe school plan, may consult with victims' advocacy
4 organizations, school psychologists, local law enforcement, and
5 community partners. The plan, at a minimum, must include the following:

6 (a) **Conduct and discipline code.** (I) A concisely written conduct
7 and discipline code that shall be enforced uniformly, fairly, and
8 consistently for all students. Copies of the code shall be provided to each
9 student upon enrollment at the elementary, middle, and high school levels
10 and shall be posted or kept on file at each public school in the school
11 district. The school district shall take reasonable measures to ensure that
12 each student of each public school in the school district is familiar with
13 the code. The code shall include, but need not be limited to:

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

20 

21 **SECTION 7. Appropriation.** For the 2017-18 state fiscal year,
22 \$18,414 is appropriated to the department of education. This
23 appropriation is from the general fund and is based on an assumption that
24 the department will require an additional 0.3 FTE. To implement this act,
25 the department may use this appropriation for the office dropout
26 prevention and student reengagement.

27 **SECTION 8. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2018 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.