

Initiative No. 1819

January 3, 2022

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-4334.1/22

ATTY/TYPIST: CC:eab

BRIEF DESCRIPTION:

Initiative No. 1819

January 3, 2022

AN ACT Relating to restraint or isolation of students; amending RCW 28A.155.210 and 28A.600.486; adding new sections to chapter 28A.600 RCW; creating new sections; repealing RCW 28A.600.485; and providing an expiration date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** FINDINGS. The legislature finds the following:

(1) Restraint and isolation have resulted in serious physical injury, psychological trauma, and death to children in public and private schools. National research shows students have been subjected to restraint and isolation in schools as a means of discipline, to force compliance, or as a substitute for appropriate educational and behavioral support;

(2) All children have the right to be free from physical and mental abuse, aversive behavioral interventions that compromise health and safety, and any restraint or isolation imposed solely for purposes of discipline or convenience;

(3) Safe, effective, and evidence-based strategies are available to support children who display challenging behaviors in school settings. Training for staff focused on the dangers of restraint and isolation as well as training in evidence-based positive behavior supports, de-escalation techniques, and physical restraint and isolation prevention can reduce the incidence of injury, trauma, and death;

(4) School personnel have the right to work in a safe environment and should be provided training, resources, and support to prevent injury and trauma to themselves and others;

(5) Despite the widely recognized risks of restraint and isolation, a substantial disparity exists among many local school districts with regard to the protection and oversight of the rights of children and school personnel to a safe learning environment;

(6) Children are subjected to restraint and isolation at higher rates than adults. Physical restraint that restricts breathing or causes other body trauma, as well as isolation in the absence of continuous face-to-face monitoring, have resulted in the deaths of children in schools;

(7) Children are protected from inappropriate restraint and the use of isolation in other settings, such as hospitals, health facilities, and nonmedical community-based facilities. Similar protections are needed in schools, yet such protections must acknowledge the differences of the school environment;

(8) Research confirms that restraint and isolation are not therapeutic, nor are these practices effective means to calm, discipline, or teach children, and may have an opposite effect while simultaneously decreasing a child's ability to learn;

(9) The effective implementation of school-wide positive behavior supports is linked to greater academic achievement, significantly fewer disciplinary problems, increased instruction time, and staff perception of a safer teaching environment; and

(10) The 2015 bipartisan reauthorization of the federal elementary and secondary education act requires states to support local educational agencies in improving school conditions through reducing the use of aversive behavioral interventions. The report issued by the committee on health, education, labor, and pensions of the United States senate regarding the authorization described aversive behavioral interventions as including isolation and restraint. There is bipartisan agreement that schools must reduce isolation and restraint to improve school conditions for all children.

NEW SECTION. **Sec. 2.** PURPOSES. The purposes of sections 3 through 7 of this act are to:

(1) Prohibit isolation in schools;

(2) Prevent isolation and prevent and reduce the use of physical restraint in schools;

- (3) Ensure the safety of all students and school personnel in schools and promote a positive school culture and climate;
- (4) Protect students from:
 - (a) Physical and mental abuse;
 - (b) Aversive behavioral interventions that compromise health and safety;
 - (c) Any isolation;
 - (d) Any physical restraint imposed solely for purposes of discipline or convenience;
 - (e) Physical restraint or physical escort that is life-threatening, that restricts breathing, or that restricts blood flow to the brain, including prone and supine restraint; and
 - (f) Physical restraint if contraindicated based on the student's disability, health care needs, or medical or psychiatric condition;
- (5) Ensure that physical restraint is imposed in school only when a student's behavior poses an imminent danger of serious physical injury to the student, school personnel, or others;
- (6) Ensure that:
 - (a) Parents are fully informed of the prohibitions and requirements of sections 4 through 7 of this act;
 - (b) Parents are fully informed of the policies on restraint and isolation of the applicable school, local educational agency, and Washington state;
 - (c) Parents are notified when physical restraint has been used on their child or children; and
 - (d) A meeting with parents occurs to discuss the incident in which physical restraint is imposed on their child; and
- (7) Assist local educational agencies and schools in:
 - (a) Establishing policies and procedures to keep all students, including students with the most complex and intensive behavioral needs, and school personnel safe;
 - (b) Providing school personnel with the necessary tools, training, and support to ensure the safety of all students and school personnel;

(c) Collecting and analyzing data on physical restraint in schools; and

(d) Identifying and implementing effective evidence-based models to prevent isolation and reduce and prevent physical restraint in schools.

NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this section apply throughout sections 4 through 7 of this act unless the context clearly requires otherwise.

(1) "Applicable program" means any program for which either the superintendent of public instruction, the United States secretary of education, or the United States department of education has administrative responsibility as provided by law or by delegation of authority pursuant to law. The term includes each program for which the United States secretary of education or the United States department of education has administrative responsibility for under the department of education organization act (20 U.S.C. 3401 et seq.) or under other federal law.

(2) "Chemical restraint" means a drug or medication used on a student to control behavior or restrict freedom of movement that is not:

(a) Prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under state law, for the standard treatment of a student's medical or psychiatric condition; or

(b) Administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law.

(3) "Elementary school" means a public or nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

(4) "Isolation" means the involuntary confinement of a student alone in a room or area from which the student is locked into,

confined by a closed door, or otherwise physically prevented from leaving. "Isolation" does not include a time out, provided a student is not locked into a room, confined to a room by a closed door, or otherwise physically prevented from leaving a room or other area.

(5) "Local educational agency" means school districts, educational service districts, and any other local agency or any entity responsible for public or private elementary and secondary education.

(6) "Mechanical restraint" means the use of devices as a means of restricting a student's freedom of movement.

(7) "Other staff" means specialized instructional support personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

(8) "Paraprofessional" and "paraeducator" include education assistants, instructional assistants, behavior technicians, or other behavior specialists.

(9) "Parent," in addition to biological, adoptive, or other legal parents, also includes a legal guardian or other person standing in loco parentis, such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare.

(10) "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

(11) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the student's arms, legs, torso, or head freely, except that such term does not include a physical escort, mechanical restraint, or chemical restraint.

(12) "Positive behavior interventions and supports" means a school-wide, systematic approach to embed evidence-based practices and data-driven decision making to improve school climate and culture, including a range of systemic and individualized positive

strategies to reinforce desired behaviors and diminish reoccurrence of challenging behaviors, in order to achieve improved academic and social outcomes and increase learning for all students, including students with the most complex and intensive behavioral needs.

"Positive behavior interventions and supports" includes a range of systemic and individualized positive strategies to reinforce desired behaviors, diminish reoccurrence of challenging behaviors, and teach appropriate behaviors to students.

(13) "Protection and advocacy system" means a protection and advocacy system established under section 143 of the developmental disabilities assistance and bill of rights act of 2000 (42 U.S.C. Sec. 15043).

(14) "School" means:

(a) An elementary school or secondary school; or

(b) An entity that provides elementary and/or secondary education.

(15) "School leader" means a principal, assistant principal, or other individual who is:

(a) An employee or officer of an elementary school or secondary school, local educational agency, or other entity operating an elementary school or secondary school; and

(b) Responsible for the daily instructional leadership and managerial operations in the elementary school or secondary school building.

(16) "School personnel" means individuals who are employed by a school, or who perform services for a school on a contractual basis, including employees of an outside contractor, as:

(a) School leaders;

(b) Teachers;

(c) Specialized instructional support personnel;

(d) Paraprofessionals; or

(e) Other staff.

(17) "School resource officer" means a sworn law enforcement officer who is:

(a) Assigned by the employing police department to a local educational agency or school;

(b) Contracting with a local educational agency or school; or

(c) Employed by a local educational agency or school.

(18) "School security guard" means a contractor or an employee of a local educational agency or school responsible for addressing one or more of the following safety and crime prevention activities in and around a school:

(a) Assisting school personnel in school safety incidents;

(b) Educating students in crime and illegal drug use prevention and safety;

(c) Developing or expanding community justice initiatives for students;

(d) Training students in conflict resolution and supporting restorative justice programs;

(e) Serving as a liaison between the school and outside agencies, including other law enforcement agencies; or

(f) Screening students or visitors to the school for prohibited items.

(19) "Secondary school" means a public or nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, including adult transition services for special education students through the August 31st end of the school year in which such students reach age 21.

(20) "Special education school" means a school that focuses primarily on serving the needs of students with disabilities under the individuals with disabilities education act (20 U.S.C. Sec. 1400 et seq.) or section 504 of the rehabilitation act of 1973 (29 U.S.C. Sec. 794).

(21) "Specialized instructional support personnel" means:

(a) School counselors, school social workers, and school psychologists; and

(b) Other qualified professional personnel, such as school nurses, speech language pathologists, and school librarians, involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services, including related services as that term is defined in 20 U.S.C. Sec. 1401 as part of a comprehensive program to meet student needs.

(22) "State-approved crisis intervention training program" means an approved training program that, at a minimum, provides:

(a) Training in evidence-based techniques shown to be effective in the prevention of physical restraint;

(b) Evidence-based skills training related to positive behavior supports, safe physical escort, conflict prevention, understanding antecedents, de-escalation, and conflict management;

(c) Training in evidence-based techniques shown to be effective in keeping both school personnel and students safe when imposing physical restraint;

(d) Training in first aid and cardiopulmonary resuscitation;

(e) Information describing state policies and procedures that meet the minimum standards established by rules adopted pursuant to section 4 of this act; and

(f) Certification for school personnel, school resource officers, and school security guards in the techniques and skills described in (a) through (d) of this subsection, which must be renewed on a periodic basis.

(23) "Student" means a student enrolled in a school.

(24) "Time out" means a behavior management technique that is part of an approved treatment program and may involve the separation of a student from a group, in a nonlocked setting, for the purpose of calming. "Time out" does not include isolation or any separation of the student from which such student is physically or otherwise prohibited from leaving.

NEW SECTION. **Sec. 4.** MINIMUM STANDARDS—RULES OF CONSTRUCTION.

(1) Minimum standards.

(a) Rules.

(i) In general. Not later than 90 days after the effective date of this section, to protect each student from physical or mental abuse, aversive behavioral interventions that compromise student health and safety, isolation, or physical restraint imposed solely for purposes of discipline or convenience or in a manner otherwise inconsistent with this section and sections 5 through 7 of this act, the superintendent of public instruction shall adopt rules establishing minimum standards consistent with this subsection.

(ii) Head start. The secretary of the department of children, youth, and families, in coordination with the superintendent of public instruction, shall adopt rules under this subsection (1) with respect to head start agencies, including early head start agencies, under the head start act (24 U.S.C. Sec. 9801 et seq.).

(b) Prohibited actions. Each school personnel, school security guard, and school resource officer is prohibited from imposing on a student any of the following:

(i) Isolation;

(ii) Mechanical restraints;

(iii) Chemical restraints;

(iv) Physical restraint or physical escort that is life-threatening, that restricts breathing, or that restricts blood flow to the brain, including prone and supine restraint;

(v) Physical restraint if contraindicated based on the student's disability, health care needs, or medical or psychiatric condition, as documented in:

(A) A health care directive or medical management plan;

(B) A behavior intervention plan;

(C) An individualized education program or an individualized family service plan, as these are defined in section 602 of the individuals with disabilities education act (20 U.S.C. Sec. 1401);

(D) A plan developed pursuant to section 504 of the rehabilitation act of 1973 (29 U.S.C. Sec. 794) or Title II of the

Americans with disabilities act of 1990 (42 U.S.C. Sec. 12131 et seq.); or

(E) Other relevant record made available to the state or local educational agency involved;

(vi) Physical restraint that is not in compliance with (c) of this subsection; or

(vii) Any other form of aversive behavioral interventions.

(c) Physical restraint. The use of physical restraint by any school personnel, school security guard, or school resource officer is in compliance with the minimum standards adopted under this section only if all of the following requirements are met:

(i) The student's behavior poses an imminent danger of serious physical injury to the student, school personnel, school security guard, school resource officer, or others;

(ii) Before using physical restraint, less restrictive interventions would be ineffective in stopping such imminent danger of serious physical injury;

(iii) Such physical restraint is imposed by school personnel, school security guard, or school resource officer, who:

(A) Continuously monitors the student face-to-face; or

(B) If school personnel safety, or the safety of a school security guard or school resource officer, is significantly compromised by such face-to-face monitoring, such personnel, guard, or officer, is in continuous direct visual contact with the student by looking directly at the student from a distance rather than electronically monitoring the student using a security camera or other system;

(iv) Such physical restraint is imposed by:

(A) School personnel, or a school resource officer or school security guard, trained and certified by a state-approved crisis intervention training program; or

(B) School personnel, or a school security guard or school resource officer, not trained and certified as described in

(c)(iv)(A) of this subsection, in the case of a rare and clearly

unavoidable emergency circumstance when school personnel, or a school resource officer or school security guard, trained and certified as described in (c) (iv) (A) of this subsection is not immediately available due to the unforeseeable nature of the emergency circumstance;

(v) Such physical restraint ends immediately upon the cessation of the imminent danger of serious physical injury to the student, any program personnel, a school security guard, a school resource officer, or another individual;

(vi) The physical restraint does not interfere with the student's ability to communicate in the student's primary language or primary mode of communication; and

(vii) During the physical restraint, the least amount of force necessary is used to protect the student or others from the threatened injury.

(d) Training. Each local educational agency shall ensure that a sufficient number of school personnel are trained and certified by a state-approved crisis intervention training program to meet the needs of the specific student population in each school.

(e) Prohibition on planned intervention. The use of physical restraint as a planned intervention may not be written into a student's education plan, individual safety plan, behavioral plan, or individualized education program, as defined in section 602 of the individuals with disabilities education act (20 U.S.C. Sec. 1401), except that local educational agencies or schools may establish policies and procedures for use of physical restraint in school safety or crisis plans, provided that such a plan is not specific to any individual student.

(f) Procedures following physical restraint. Each school and local educational agency shall establish procedures to be followed after an incident involving the imposition of physical restraint upon a student that must include all of the following:

(i) Procedures to provide to the parents or guardians of the student, with respect to such incident:

(A) An immediate verbal communication, or an electronic communication if interactive verbal communication cannot be effected after reasonable attempts, as soon as is practicable and not later than the same day as the incident; and

(B) Written notification, as soon as is practicable, by postal mail and also by electronic mail if available, and not later than 24 hours after the incident by a report that includes, at minimum:

(I) The date and time of the incident, as well as location and duration of the incident;

(II) The name and job title of the individuals who administered the physical restraint;

(III) A description of the activity that led to the restraint incident, including precipitating events;

(IV) Positive interventions used prior to restraint;

(V) The type of restraint, length of time of restraint, and a description of the actions of the student and staff during the restraint incident;

(VI) A description of the imminent danger of serious physical injury to the student or others to necessitate the use of restraint;

(VII) An explanation of why less restrictive interventions would have been ineffective in stopping such imminent danger of serious physical injury;

(VIII) Whether the student or staff was physically injured during the restraint incident, together with the names of any staff injured, a description of injuries to the student or staff, and a description of any medical care provided; and

(IX) Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

(C) Any school employee, school resource officer, or school security officer who uses restraint on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within 24 hours submit the written report of the

incident, together with a written statement from the individuals who administered the physical restraint and also from each adult witness who was in the proximity of the student immediately before and/or during the time of the physical restraint, but was not directly involved in such restraint, to the district office.

(ii) A meeting between parents or guardians of the student and the school, as soon as is practicable, and not later than five school days following the incident, unless such meeting is delayed by written mutual agreement of the parent or guardian and school:

(A) That must include, at a minimum:

(I) The parent or guardian of such student;

(II) The student involved, if appropriate;

(III) The school personnel, school resource officer, or school security guard who imposed the restraint;

(IV) A teacher of such student;

(V) A school leader of such student; and

(VI) An expert on behavior interventions, who may be a special education teacher;

(B) The purpose of which shall be to discuss the incident, as described by both the student and the school personnel, or the school resource officer or school security guard involved, including:

(I) Any precipitating behavior or other events;

(II) How the incident occurred and what actions transpired;

(III) The appropriateness of the response;

(IV) Whether proper procedures were followed; and

(V) Prior positive behavior interventions and supports used to de-escalate the situation; and

(C) That must include:

(I) A discussion of proactive strategies to help the student avoid similar incidents and to prevent future need for the use of restraint, including any need for training or support for school personnel, school resource officers, or school security guards;

(II) For a student identified as eligible to receive accommodations under section 504 of the rehabilitation act of 1973 (29 U.S.C. Sec. 794) or Title II of the Americans with disabilities act of 1990 (42 U.S.C. Sec. 12131 et seq.), or accommodations or special education or related services under the individuals with disabilities education act (20 U.S.C. Sec. 1400 et seq.), a discussion of the need for a functional behavioral assessment and a behavior intervention plan; or for a student not identified as eligible to receive these accommodations, evidence of a referral for such accommodations or special education or related services, or documentation of the basis for declining to such a referral for the student;

(III) Provision to the parent, for use during the meeting, a written statement from the individuals who administered the physical restraint and also from each adult witness who was in the proximity of the student immediately before and/or during the time of the physical restraint, but was not directly involved in such restraint; and

(IV) An assurance that in a case in which the student attends the meeting, the information communicated by the student in that meeting will be for purposes of debriefing an incident where restraint was imposed upon the student, may only be shared to the extent necessary to protect the safety of the student or others, and may not be used against the student in any disciplinary, criminal, or civil investigations or proceedings; and

(iii) Any other procedures consistent with this section and sections 5 through 7 of this act that the superintendent of public instruction determines appropriate.

(2) Rules of construction.

(a) In general. Nothing in this section or sections 5 through 7 of this act authorizes the superintendent of public instruction to adopt rules prohibiting the use of:

(i) Time out, provided a student is not locked into a room, confined to a room by a closed door, or otherwise physically prevented from leaving a room or other area; or

(ii) Devices implemented by trained school personnel, or utilized by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed, provided that such devices are not used to purposefully cause a student pain as a means of behavioral modification, including:

(A) Restraints for medical immobilization;

(B) Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or

(C) Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

(b) Law enforcement. Nothing in this section or sections 5 through 7 of this act prevents a sworn law enforcement officer from carrying out the duties of the officer under law.

NEW SECTION. **Sec. 5.** REPORTING. (1) Reporting requirements. By December 31, 2022, and by the last day of each calendar month thereafter, each local educational agency and school in compliance with the requirements of section 444 of the general education provisions act, commonly known as the family educational rights and privacy act of 1974, (20 U.S.C. Sec. 1232g) shall prepare and submit to the superintendent of public instruction, and make available to the public, a report that includes the information described in subsection (2) of this section, with respect to each school, each local educational agency, each special education school, and each school not under the jurisdiction of a local educational agency.

(2) Information requirements.

(a) General information requirements. The report described in subsection (1) of this section must include:

(i) With respect to physical restraint imposed upon students during the preceding calendar month and also for the academic year to date:

(A) The total number of such incidents;

(B) The total number of students upon whom such restraint was imposed;

(C) In the case in which such restraint was imposed more than once on a student, the number of times such student was so restrained;

(D) The total number of injuries to students and staff; and

(E) The total number of such incidents involving the use of restraint where there was a referral to law enforcement; and

(ii) Other information relevant to implementation of this section or section 3, 4, 6, or 7 of this act, as determined by the superintendent of public instruction.

(b) Disaggregation.

(i) General disaggregation requirements. The information described in (a) of this subsection shall be disaggregated:

(A) By the total number of incidents in which physical restraint was imposed upon a student:

(I) That resulted in injury;

(II) That resulted in death; and

(III) In which the school personnel imposing physical restraint were not trained and certified as described in section 4 of this act;

(B) By the demographic characteristics of all students upon whom physical restraint was imposed, including disaggregation:

(I) By each major racial and ethnic group, economically disadvantaged students as compared to students who are not economically disadvantaged, English proficiency status, sex, and migrant status;

(II) By students with an individualized education program under section 614(d) of the individuals with disabilities education act (20 U.S.C. Sec. 1414(d));

(III) By students who have a plan developed pursuant to section 504 of the rehabilitation act of 1973 (29 U.S.C. Sec. 794); and

(IV) By students who have a plan developed pursuant to Title II of the Americans with disabilities act of 1990 (42 U.S.C. Sec. 12131 et seq.);

(C) By the total number of incidents of restraint in which school personnel, or a school resource officer or school security guard was involved, which may include the school personnel, school resource officer, or school security guard imposing the physical restraint or assisting with the physical restraint; and

(D) By the name and type of school, including disaggregation by special education school, charter school, and private school.

(ii) Unduplicated count—Exception. The disaggregation required under (b)(i) of this subsection:

(A) Must be carried out in a manner to ensure an unduplicated count of the total number of incidents in the preceding full academic year in which physical restraint was imposed upon a student; and

(B) May not be required in a case in which the number of students in a category would reveal personally identifiable information about an individual student.

(3) Website posting of data. No later than January 31, 2023, and by the last day of each calendar month thereafter, the office of the superintendent of public instruction shall publish to its website the data received from each local educational agency and school during the previous calendar month. If a local educational agency or school submits such data late, or corrects previously submitted data, such late data and/or corrected data must be published by the office of the superintendent of public instruction to its website within 30 days after its receipt. The superintendent of public instruction shall maintain on its website all data, including such data reported under RCW 28A.600.485 or section 15 of this act, that was reported for at least the previous five academic years and for the current academic year.

NEW SECTION. **Sec. 6.** ENFORCEMENT. (1) In general.

(a) Use of remedies. If a local educational agency or school fails to comply with any provision of section 4 or 5 of this act, the superintendent of public instruction shall:

(i) Withhold further payment of all funding by the state of Washington; and/or

(ii) Require a local educational agency or school to submit within one month after notification of failure to comply, for approval by the superintendent of public instruction, and implement, within one month after approval by the superintendent of public instruction, a corrective plan of action, which shall include specific time frames and actions, and which may include redirection of funds received under an applicable program.

(b) Cessation of withholding of funds. Whenever the superintendent of public instruction determines, whether by certification or other appropriate evidence, that a local educational agency or school that is subject to the withholding of payments under (a)(i) or (ii) of this subsection has cured the failure providing the basis for the withholding of payments, the superintendent of public instruction shall cease the withholding of payments with respect to the local educational agency or school.

(2) Rights and remedies of students and parents.

(a) In general. Nothing in this section or section 4, 5, or 7 of this act:

(i) Restrict or limits, or allows the superintendent of public instruction to restrict or limit, any other rights or remedies otherwise available to students or parents under federal, state, or local law; or

(ii) Restrict or limits federal, state, or local laws, rules, regulations, or policies that provide for more stringent prohibitions or limitations on the use of isolation, restraint, or aversive interventions than the prohibitions or limitations that are provided for in this section or section 4, 5, or 7 of this act.

(b) Relief under federal, state, and local law. A student or parent may file a civil action under the United States Constitution, the Americans with disabilities act of 1990 (42 U.S.C. Sec. 12101 et seq.), Title V of the rehabilitation act of 1973 (29 U.S.C. Sec. 791 et seq.), the Washington law against discrimination (chapter 49.60 RCW), this section, or other applicable federal, state, or local law in the case of the use of isolation or restraint in violation of this section or section 4, 5, or 7 of this act seeking relief from the use of isolation or restraint, or other available remedies with respect of such student. In all such civil actions, the student or parent shall be entitled to declaratory judgment, injunctive relief, compensatory damages, attorneys' fees, and expert fees, as may be appropriate, if violation of the law is proven.

(c) Nonapplicability. Section 615(l) of the individuals with disabilities education act (20 U.S.C. Sec. 1415(l)) does not apply to an action filed pursuant to this section, regardless of whether or not the student is seeking relief that is also available under the individuals with disabilities education act (20 U.S.C. Sec. 1400 et seq.).

NEW SECTION. **Sec. 7.** PROTECTION AND ADVOCACY SYSTEMS. (1) Notification. In a case in which physical injury or death of a student occurs in conjunction with the use of isolation or physical restraint or any intervention used to control behavior at a school, the local educational agency serving such school or the agency administering a head start program under the head start act (42 U.S.C. Sec. 9801 et seq.) shall have procedures to, and are required to:

(a) Notify, in writing, not later than 24 hours after such injury or death occurs:

- (i) The superintendent of public instruction;
- (ii) The local law enforcement agency; and
- (iii) The relevant protection and advocacy system; and

(b) Provide any information that the protection and advocacy system may require.

(2) Restatement of authority. Protection and advocacy systems shall have the same authorities and rights provided under subtitle C of Title I of the developmental disabilities assistance and bill of rights act of 2000 (42 U.S.C. Sec. 15041 et seq.) with respect to protections provided for students under this section or sections 4 through 6 of this act when such students are otherwise eligible to be clients of the protection and advocacy system, including investigating, monitoring, and enforcing such protections.

Sec. 8. RCW 28A.155.210 and 2013 c 202 s 3 are each amended to read as follows:

A school that is required to develop an individualized education program as required by federal law must include within the plan procedures for notification of a parent or guardian regarding the use of restraint (~~(or isolation)~~).

Sec. 9. RCW 28A.600.486 and 2013 c 202 s 4 are each amended to read as follows:

Parents and guardians of children who have individualized education programs or plans developed under section 504 of the rehabilitation act of 1973 must be provided a copy of the district policy on the use of (~~isolation and~~) restraint at the time that the program or plan is created.

NEW SECTION. **Sec. 10.** This act must be liberally construed to effectuate the policies, purposes, and intent of this act.

NEW SECTION. **Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 12.** This act may be known and cited as the keeping all students safe act.

NEW SECTION. **Sec. 13.** Sections 1 through 7 of this act are each added to chapter 28A.600 RCW.

NEW SECTION. **Sec. 14.** RCW 28A.600.485 (Restraint of students—Use of restraint or isolation specified in individualized education programs or plans developed under section 504 of the rehabilitation act of 1973—Procedures—Summary of incidents of isolation or restraint—Publishing to website) and 2015 c 206 s 3 & 2013 c 202 s 2 are each repealed.

NEW SECTION. **Sec. 15.** (1) (a) With respect to any incidents of restraint or isolation that occur during either the 2021-22 school year or the 2022-23 school year prior to the effective date of this section, each local educational agency and school shall report these to the superintendent of public instruction by December 31, 2022. No later than January 31, 2023, the office of the superintendent of public instruction shall publish to its website the data received from each local educational agency and school. If a local educational agency or school submits such data late, or corrects previously submitted data, such late data and/or corrected data shall be published by the office of the superintendent of public instruction to its website within 30 days after its receipt.

(b) In making reports under this subsection (1), the school shall include the number of individual incidents of restraint and isolation, the number of students involved in the incidents, the number of injuries to students and staff, and the types of restraint or isolation used.

(2) For purposes of this section:

(a) "Isolation" means restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet

space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.

(b) "Restraint" means physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement. It does not include appropriate use of a prescribed medical, orthopedic, or therapeutic device when used as intended, such as to achieve proper body position, balance, or alignment, or to permit a student to safely participate in activities.

(3) This section expires January 31, 2024.

--- **END** ---