

ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE

February 12, 2014
8:03 a.m.

MEMBERS PRESENT

Representative Lynn Gattis, Chair
Representative Gabrielle LeDoux
Representative Paul Seaton
Representative Peggy Wilson
Representative Harriet Drummond

MEMBERS ABSENT

Representative Lora Reinbold, Vice Chair
Representative Dan Saddler

COMMITTEE CALENDAR

HOUSE BILL NO. 210

"An Act relating to the administration of psychiatric medication to a student; relating to crisis intervention training for school personnel; and relating to restraint, escort, and seclusion of students in public and private schools."

- HEARD & HELD

HOUSE BILL NO. 220

"An Act repealing the secondary student competency examination and related requirements; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PRESENTATION: Department of Labor and Economic Development -
The GED (General Education Development Test)

- NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 210

SHORT TITLE: STUDENT RESTRAINT, SECLUSION, PSYC DRUGS

SPONSOR(S): REPRESENTATIVE(S) MILLETT, AUSTERMAN

01/21/14 (H) PREFILE RELEASED 1/10/14
01/21/14 (H) READ THE FIRST TIME - REFERRALS

01/21/14 (H) EDC, FIN
02/12/14 (H) EDC AT 8:00 AM CAPITOL 106

WITNESS REGISTER

VASILIOS (AKIS) GIALOPSOS, Staff
Representative Charisse Millett
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 210, on behalf of Representative Millett, Prime Sponsor.

KATE BURKHART, Executive Director
Alaska Mental Health Board
Advisory Board on Alcoholism and Drug Abuse
Statewide Suicide Prevention Council
Juneau, Alaska

POSITION STATEMENT: Assisted in the presentation of HB 210.

KENDRA STEA, Director of Client Services
Crisis Prevention Institute (CPI)
Milwaukee, Wisconsin

POSITION STATEMENT: Responded to questions, during the hearing of HB 210.

PAMELA LLOYD, Occupational Therapist
Anchorage School District
Anchorage, Alaska

POSITION STATEMENT: Responded to questions, during the hearing of HB 210.

MIKE HANLEY, Commissioner
Office of the Commissioner
Department of Education and Early Development (EED)
Juneau, Alaska

POSITION STATEMENT: Responded to questions, during the hearing of HB 210.

STARR MARSETT, Parent
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 210.

JESSIE HILL, Student
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 210.

ACTION NARRATIVE

[8:03:03 AM](#)

CHAIR LYNN GATTIS called the House Education Standing Committee meeting to order at 8:03 a.m. Representatives Gattis and Drummond were present at the call to order. Representatives LeDoux, Seaton, and P. Wilson arrived as the meeting was in progress.

HB 210-STUDENT RESTRAINT, SECLUSION, PSYC DRUGS

[8:03:27 AM](#)

CHAIR GATTIS announced that the first order of business would be HOUSE BILL NO. 210, "An Act relating to the administration of psychiatric medication to a student; relating to crisis intervention training for school personnel; and relating to restraint, escort, and seclusion of students in public and private schools."

[8:04:01 AM](#)

VASILIOS (AKIS) GIALOPSOS, Staff, Representative Charisse Millett, Alaska State Legislature, said the purpose of HB 210 is to rectify an absence that exists regarding a statewide policy addressing restraint and seclusion, of a student, in a school setting. Many districts in Alaska have taken independent measures to establish methods and training programs for personnel, including adoption of definitions and parental notification procedures. He pointed out that due to a lack of state statute and standards, a student transferring between districts could be confronted with a patchwork of efforts based on a variety of inconsistent approaches to training and defining what constitutes restraint or seclusion.

[8:05:19 AM](#)

REPRESENTATIVE DRUMMOND moved to adopt the committee substitute (CS) for HB 210, labeled 28-LS0852\I, Mischel, 2/11/14. Without objection, Version I was adopted as the working draft.

[8:05:53 AM](#)

MR. GIALOPSOS continued, explaining that the first provision requires the establishment definitions for allowable forms of restraint and seclusion. Secondly, the Department of Education

and Early Development (EED) is required to approve adequate, comprehensive, training plans for implementation by school districts regarding acceptable de-escalation techniques and the use of positive behavioral reinforcements. The department would also compile detailed restraint and seclusion incident reports, from all schools. In essence this bill will codify what many larger districts are already accomplishing and ensure uniformity of practices across the state, he finished.

[8:07:35 AM](#)

KATE BURKHART, Executive Director, Alaska Mental Health Board, Advisory Board on Alcoholism and Drug Abuse, Statewide Suicide Prevention Council, said the changes in the CS are intended to ensure students access to their medication in a safe and appropriate manner, taking into consideration that the majority of districts do not have school nurses or other licensed health care professionals on staff. She directed attention to the bill page 1, paragraph (2), which establishes a hierarchy for the administration of medication as described in the subsequent three subparagraphs. The preference would be for a health care professional such as a school nurse. Lacking that possibility a delegation for administration could be authorized pursuant to the Board of Nursing regulations. The third option would allow a school district employee, trained by a licensed health care professional to administer the medication, acting under a health plan specific to the student, as adopted in consultation with the student's parents/guardian and the school administrator.

The committee took an at-ease from 8:08 a.m. to 8:54 a.m.

[8:54:51 AM](#)

CHAIR GATTIS called the meeting back to order.

REPRESENTATIVE DRUMMOND moved to adopt the committee substitute (CS) for HB 210, labeled 28-LS0852\I, Mischel, 2/11/14. Without objection, Version I was adopted as the working draft.

[8:55:28 AM](#)

MR. GIALOPSOS recapped his opening statement.

[8:57:11 AM](#)

MS. BURKHART reiterated her opening comments, adding that the intent is to restrict the administration of psychiatric

medication to an appropriately approved person. Access to prescribed drugs will ensure that students are able to be at school safely and productively.

CHAIR GATTIS clarified that none of these prescriptions could be administered by school personnel without parental consent.

9:00:50 AM

REPRESENTATIVE P. WILSON reflected on her career as a school nurse and the specific training that she provided to aides. Citing the dominantly rural landscape of Alaska, and hence an absence of health care providers, she asked how the aides will be trained.

MS. BURKHART said that the current medication administration policy, when a school nurse is not available, requires the school administrator and parent to consult with the prescribing health care professional and other local health care professionals to develop and implement a health plan for the student. Training for the school staff would be provided by the health care professional. In remote situations, options could include the school counselor, special education teacher, or principal, consulting with the parent and prescribing health care professional to assure that the health plan accurately reflects the medication regimen. She said there is no intent to require a district to bring a health care professional into a remote village.

REPRESENTATIVE P. WILSON noted that current statute expressly stipulates a local health care provider and asked how the situation will be handled in the absence of such an individual.

MR. GIALOPSOS interjected that, because this is a matter of routine medication administration, the consultation can occur telephonically with the prescribing authority.

REPRESENTATIVE P. WILSON opined that the language in the bill should reflect these specific points.

MR. GIALOPSOS referred to page 2, subparagraph (C), to indicate that the broad language allows for the contingency when a health care professional is not available. He emphasized that the language stating "(C) trained by a licensed health care professional to administer the medication to the student ..." allows training to occur via any feasible means. The training is not anticipated to be an intensive course, but rather a brief

consultation of how and when the medication should be delivered on a routine basis, and include cautionary concerns.

[9:07:06 AM](#)

REPRESENTATIVE SEATON directed attention to page 1, subparagraph (B), to read the language, which states:

(B) acting under a delegation to assist with administration of medication from a licensed nurse ...

REPRESENTATIVE SEATON said the language implies assistance being provided in the presence of a nurse, differentiating it from the [language in subsection (C)], which appears to designate a person who is trained and acting independently.

MR. GIALOPSOS explained that the Board of Nursing is allowed to promulgate regulations that allow for the delegation of authority to personnel who aren't licensed health care practitioners. A concern must be addressed for imposing provisions which may prove too restrictive in a rural community setting. He reiterated the content of the previously discussed three subparagraphs and said there is a convergence in this language, which is intended to be as expansive as possible in order to allow students the appropriate access to routine medications.

REPRESENTATIVE SEATON maintained that subparagraph (B) doesn't specify training, and offered his interpretation that it describes a licensed health care professional performing a duty as an assistant to help complete a task. He asked whether the language is meant to identify a staffer to act as nurse, rather than assistant, for administering medications temporally after being granted the authority through delegation that includes training.

MR. GIALOPSOS confirmed the members understanding.

[9:10:12 AM](#)

REPRESENTATIVE DRUMMOND suggested it would be interesting to know what training a parent receives to administer the same medication to the child on a year-around basis.

[9:10:39 AM](#)

REPRESENTATIVE P. WILSON directed attention to page 1, line 8, to read the language, which states:

- (1) if the medication is administered as prescribed;
- (2) if the employee is
 - (A) a licensed health care professional acting within the health care professional's scope of practice;

REPRESENTATIVE P. WILSON suggested amending the language to read "... practice; or" to allow flexibility and align with the language in the subparagraph that follows. Additionally, she said an additional subparagraph, (D), could be inserted to include the possibility of a parent or other person administering the medication at school.

MR. GIALOPSOS said the "or" is used for drafting purposes to compound the three subparagraphs, only appearing after the final phrase but it is implied in the preceding phrases. He offered to clarify this assumed implication for the final draft to ensure the intent is appropriately reflected. Further, he offered that there is no language that would preclude a parent/guardian from administering the medication in the school setting.

[9:12:40 AM](#)

REPRESENTATIVE DRUMMOND assumed that if the student resides in a village small enough to not have a health aide in residence, the parent probably lives in close proximity to the school. She asked what concern precipitated the drafting of the bill.

MR. GIALOPSOS said motivation for HB 210 arose from concern that children were being restrained without parental notification. He reported that, on a national level, some restraints included archaic provisions allowing the use of Thorazine shots for chemical restraint or using the student's medicine in a non-prescribed manner to induce sedation. He acknowledged that the bill primarily addresses physical restraint options.

REPRESENTATIVE DRUMMOND noted that the types of medication has not yet been addressed, and asked whether Thorazine is normally prescribed or on hand for emergency use.

[9:14:21 AM](#)

MS. BURKHART said the medications that are contemplated would be those prescribed for patients with diagnosis of severe emotional disturbances: mood disorders, anxiety, and attention deficit disorders. She pointed out that HB 210 includes language that dis-allows school personnel to administer a chemical for restraint purposes. The intent of the bill is to ensure appropriate routine administration of a prescribed drug to a patient who has returned home from a residential psychiatric treatment center and is assimilating into the mainstream school setting.

[9:15:54 AM](#)

MR. GIALOPSOS directed attention to page 4, lines 18-21, to highlight the language which prohibits restraint that could restrict a student's breathing, or placing a student on their back or stomach in a manner that restricts breathing. The requirement does not prohibit an educator or school professional from placing an arm around a student's shoulders for the purpose of providing a reasonable physical escort. The prone position is understood to cause death and is, thus not allowed. Any other form of restraint that the drafter's have not conjured that would still have the same outcome for loss of breathing, is likewise not allowed.

[9:18:00 AM](#)

REPRESENTATIVE P. WILSON inquired what type of physical restraint might be allowed.

MR. GIALOPSOS deferred.

[9:19:31 AM](#)

KENDRA STEA, Director of Client Services, Crisis Prevention Institute (CPI) said that standing restraint positions are commonly taught, which helps avoid the high risk of asphyxia that may occur using a prone position. She described restraint as a method of intervention for ensuring safety in a given situation and disengagement should happen as soon as possible.

REPRESENTATIVE P. WILSON recalled a situation of a child with convulsive attacks, and, as the school nurse, she would administer the intravenous medication, to interrupt the seizure while the student was on the ground. She asked what is

recommended in a situation where a student cannot remain in, or be brought back to, a standing position.

MS. STEA clarified that the described seizure scenario represents a medical restraint, and CPI focuses training for behavioral restraint. To a follow-up question, she said if a student assumes a fetal position, such action would not pose a physical threat to anyone, and not require restraint.

[9:25:16 AM](#)

PAMELA LLOYD, Occupational Therapist, Anchorage School District, reported that the Anchorage School District uses CPI and said that restraint is typically a final measure, and added that when a student acts out it affects everyone present. Some facilities have crisis intervention coaches, trained in CPI, to intervene when a student becomes violent. She described how a student might be directed away from the group, herded to a quiet area, and calmness restored. If there is jeopardy of self-injury, or to others, and a crisis coach encounters resistance, physical removal may be resorted to and is performed by a two person team; one at the feet and one at the shoulders to perform a safe carry. To a member's question, she said that the Mandt System is another technique for accomplishing a similar end, used in some settings.

[9:27:55 AM](#)

MR. GIALOPSOS referred to the committee handout titled, "Sectional Analysis-House Bill 210/Version I," to read the language, which states:

Sec 2: Would amend AS 14.13.120(a), the requirement for school districts to have a written school disciplinary and safety program, by requiring that it be made available to students, parents and the public. Section 2 also adds a new subsection (9), which requires that the program include the policies and procedures consistent with 14.33.125, a new section that would be added by Section 4 of the bill.

Sec 3: Would repeal the current language in 14.33.120(b) which have the Department of Education and Early Development define the requirements of reporting an incident, and replaced with a new requirement that, after an incident resulting in a student being restrained or secluded, the student's

school must notify the parent or legal guardian of the student within 24 hours.

MR. GIALOPSOS pointed out that the requirement for timely notice to the parent was the impetus for bringing this bill forward.

REPRESENTATIVE SEATON asked the definition being used for notice to the parent.

MR. GIALOPSOS directed attention to page 3, line 14, to read the language, which states:

(b) A school shall, not later than 24 hours after the incident, report to the parent or legal guardian of an affected student information relating to an incident involving disruptive or violent behavior by a student that resulted in restraint or seclusion of a student by school personnel.

MR. GIALOPSOS offered that the requirement may be fulfilled via e-mail, telephonically, or in-person. The parent would need to acknowledge receipt of the timely notification.

CHAIR GATTIS suggested that the key word maybe received; hence a letter in the mail would not suffice.

REPRESENTATIVE SEATON asked to have schools respond to the notification question, due to the varied circumstances and setting of the teaching facilities. He cautioned having a legal consequence tied to this requirement, pointing out that a school employee could make every effort to notify a parent and not have the receipt acknowledged.

CHAIR GATTIS concurred.

[9:33:08 AM](#)

REPRESENTATIVE P. WILSON offered that a village setting provides a unique situation, apart from the urban schools, and having a statute encompassing the entire state is a challenge in this regard. She conjectured that the regulations might address the requirement at the local level for ensuring receipt of the notification.

[9:34:39 AM](#)

MR. GIALOPSOS established that the intent of the language is to allow the State Board of Regulation the ability to promulgate regulations around local considerations and contingencies. He stressed the importance to have a hard 24 hour rule, to which facilities must adhere, stating that notification schemes would need to be in place and fully exhausted to ensure compliance. The State Board of Education is the authoritative body that would define the mechanisms to be employed.

REPRESENTATIVE SEATON pointed out that the parent or legal guardian may not be present in the area where the student attends school; a variable that would need to be addressed. He cautioned that justifying a statute requiring verification of receipt may not be possible considering all the variables; despite any proviso generating a panoply of options for given situations.

[9:36:53 AM](#)

REPRESENTATIVE DRUMMOND directed attention to page 1, line 3, to note that the bill title, and language throughout the sections, encompasses private schools and asked how oversight for these facilities would be handled.

MR. GIALOPSOS responded that the EED would be required to take up the task.

REPRESENTATIVE DRUMMOND asked if EED has other oversight responsibilities in regards to private schools.

MR. GIALOPSOS deferred.

[9:38:42 AM](#)

REPRESENTATIVE LEDOUX provided a scenario of a student in a private facility, and lacking a health care professional on site, asked if the parent would be required to return to the private facility to administer the drug.

MR. GIALOPSOS drew attention to page 1, line 12, and the language stipulating the requirement for a consultation with a health care professional to occur, resulting in the delegation of authority for administering purposes.

REPRESENTATIVE LEDOUX asked whether a school would need to have a conversation with a health care professional.

MR. GIALOPSOS responded, yes.

REPRESENTATIVE LEDOUX pointed out that having a conversation with a doctor often involves a lengthy process.

MR. GIALOPSOS explained that this aspect of the legislation applies only psychiatric drugs and situations that would require an initial consultation to establish a routine for administration of a medication. He alluded to the scenario presented earlier of a student returning from a psychiatric facility to re-enter a mainstream school setting, and clarified that this would be part of the transitional plan for the student.

[9:43:04 AM](#)

CHAIR GATTIS said that the pharmacist often acts as a consultant regarding administration of medication, particularly when receiving a refill. She asked whether a pharmacist would be considered a health care professional for the purpose of this requirement.

MR. GIALOPSOS answered, no.

[9:44:11 AM](#)

REPRESENTATIVE SEATON turned to page 2, line 13, to read the language, which states:

(a) Each governing body shall adopt a written school disciplinary and safety program. The program required under this subsection must **be made available to students, parents, and the public** ...

REPRESENTATIVE SEATON noted that this requirement is being imposed on private facilities, and said it could be challenging to craft policy for private schools to adopt if they aren't governed under state regulations.

[9:45:44 AM](#)

CHAIR GATTIS asked about the department's involvement for overseeing compliance of state statute in a private school setting.

MIKE HANLEY, Commissioner, Office of the Commissioner, Department of Education and Early Development (EED), responded

that there is no mechanism in the bill suggesting the department follow-up or monitor data received from private schools. Referring to page 5, subsection (f), he paraphrased the language, which states:

Each school district shall annually report to the department the total number of incidents involving the restraint or seclusion of a student.

COMMISSIONER HANLEY said there is no requirement for the department to utilize the data in any way other than to make it a public document; no expectation is written in the bill. Also, the department is only aware of the private schools that register. The language could be clarified and the responsibility of the law could be extended to known private schools. He underscored that the proposed departmental responsibilities, as well as the ability for monitoring, are not clear for following-up on the compliance issues addressed in the legislation.

[9:48:12 AM](#)

REPRESENTATIVE SEATON asked if the department currently receives mandated reports from private schools.

COMMISSIONER HANLEY responded that there are no reports mandated by the state for private schools to file, although such facilities are allowed access to the performance scholarship, if criteria are met.

REPRESENTATIVE SEATON inquired about current departmental approval for crisis intervention training programs, and extending the same to private facilities.

COMMISSIONER HANLEY responded that nothing is in place at this time for private or public schools, and added that it would be an added responsibility and require a fiscal note.

REPRESENTATIVE SEATON said the bill indicates [page 6, subsection (a)] "The department shall approve crisis intervention training programs for schools," implying that all schools will be included in the scope of this section. He presumed that the public schools will have a standard of training established and asked if the department would anticipate the same standards being implemented for private schools.

COMMISSIONER HANLEY responded that it is not clear and currently EED authority does not reach into private facilities.

[9:50:13 AM](#)

REPRESENTATIVE P. WILSON referred to and re-read the same language [page 6, subsection (a)] to inquire if statute currently exists and if it would be up to the department to establish an appropriate program for implementation.

COMMISSIONER HANLEY said the department would anticipate vetting a list of programs that meet the criteria, and making it available for school districts to access. The language doesn't indicate that follow-up would be required on behalf of the department.

REPRESENTATIVE P. WILSON asked about associated costs.

COMMISSIONER HANLEY indicated that a component exists of about \$14,000.

[9:52:08 AM](#)

REPRESENTATIVE LEDOUX inquired about current rules governing the administration of none psychiatric drugs, in the public schools, and whether state law affects private schools.

COMMISSIONER HANLEY deferred.

REPRESENTATIVE LEDOUX said it would be helpful to understand the school policy for administering medications in general and how the requirement for providing psychiatric drugs differs.

[9:53:33 AM](#)

STARR MARSETT, Parent, stated support for HB 210. She began her testimony indicating representation of her adopted grandson, Cody, then continued, paraphrasing from a prepared statement which read as follows [original punctuation provided]:

Cody is currently in 9th grade. He attended Mt. Iliamna from 1st grade through the middle of 5th grade. Mt. Iliamna is a day school offering Intensive Behavior Support Services. Restraint and seclusion was written into Cody's Individual Education Plan. Although I expressed my concerns that placement in the safe room could traumatize Cody further as he was

neglected as an infant and he was, and is, very fearful of being left alone; we still have to sit by Cody's bedside every night for him to go to sleep. My concerns were not addressed. At that time, I was never notified of when Cody was placed in seclusion or restrained, nor was there ever any discussion or meeting to talk about amending his Individual Education Plan to keep him out of the safe room; except for the annual [review] of the Individual Education Plan.

Cody was transitioned to his neighborhood school the middle of his 5th grade year. He was placed in a classroom with 31 or more students with a teacher's assistant who was not trained. I was shown a bookroom that might be used for any quiet time that Cody might need.

As the second half of the school year progressed Cody became more anxious, started having nightmares, and urinating in his pants. He would beg me not to leave him there; he would say they were mean to him. The last month of the school year, I found out by accident that Cody was being placed in a cleaned out janitorial closet with no furniture and a cold tile floor, a narrow window, and the door locked so he could not leave. This was all done without my knowledge or approval and was not part of his Individual Education Plan. I removed Cody from the school immediately. During investigation, we were told one reason he was placed in the room was because he wouldn't take a break.

Cody attended a different neighborhood school for 6th grade. He flourished. The staff was trained, no seclusion, he had a full-time trained teacher assistant with him throughout his day, and he participated in after school activities, showing that Cody could be successful in the right environment with trained staff.

Even in today's environment when we think we have advanced so far, there are still untrained school staff that think locking a child in a room is OK.

We need this bill to keep all children safe. As a parent, I still look back to those days that Cody

begged me not to leave him and how I failed him. I hope today in some small way I have convinced you to support this bill.

I would like to address the question about disbursing medication. Cody does get medication, during the day at school. It is a controlled medication. Even though it is prescribed, it must be picked up in person. The school district has a form that we fill out and the doctor signs, with instructions for administering the drug at school.

[9:57:56 AM](#)

JESSIE HILL, Student, stated his intent to address the section of the bill dealing with restraint. Speaking from his experience, as an Anchorage School District student, he said as a kindergartener he experienced restraint in the classroom. He testified that, when he acted up, the class teacher used duct tape to bind his hands to the table and feet to the chair, as well as covering his face. He recalled being restrained for most of one school day in this manner. Reporting the action to his parents, they were reluctant to believe what he was describing, but did call the school for verification and received an official denial of the incident. Years later, he said his parents came to realize that he was not fabricating the story and eventually believed him. He stressed the importance that school restraint should be reported to parents, and said the experience has had a lasting effect on his life.

[9:59:50 AM](#)

CHAIR GATTIS announced HB 210 was held over.

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 9:59 a.m.