

ALASKA STATE LEGISLATURE
SENATE EDUCATION STANDING COMMITTEE

April 11, 2014

8:00 a.m.

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator Mike Dunleavy, Vice Chair
Senator Bert Stedman
Senator Charlie Huggins
Senator Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 210(FIN) AM
"An Act relating to crisis intervention training for school personnel; and relating to restraint and seclusion of students in public schools."

- MOVED CSHB 210(FIN) AM OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 210

SHORT TITLE: SCHOOLS: RESTRAINT, SECLUSION, CRISIS TRG

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
02/12/14	(H)	Heard & Held
02/12/14	(H)	MINUTE(EDC)
03/17/14	(H)	EDC AT 8:00 AM CAPITOL 106
03/17/14	(H)	Moved CSHB 210(EDC) Out of Committee
03/17/14	(H)	MINUTE(EDC)
03/18/14	(H)	EDC RPT CS(EDC) NT 3DP 2NR 1AM
03/18/14	(H)	DP: SADDLER, SEATON, GATTIS
03/18/14	(H)	NR: REINBOLD, KITO III
03/18/14	(H)	AM: P.WILSON
03/24/14	(H)	FIN AT 8:30 AM HOUSE FINANCE 519
03/24/14	(H)	<Bill Hearing Postponed>

03/25/14 (H) FIN AT 8:30 AM HOUSE FINANCE 519
 03/25/14 (H) Heard & Held
 03/25/14 (H) MINUTE(FIN)
 03/25/14 (H) FIN AT 7:00 PM HOUSE FINANCE 519
 03/25/14 (H) Moved CSHB 210(FIN) Out of Committee
 03/25/14 (H) MINUTE(FIN)
 03/27/14 (H) FIN RPT CS(FIN) NT 11DP
 03/27/14 (H) DP: GUTTENBERG, HOLMES, T.WILSON,
 MUNOZ, NEUMAN, THOMPSON, EDGMON, GARA,
 03/27/14 (H) COSTELLO, STOLTZE, AUSTERMAN
 04/07/14 (H) TRANSMITTED TO (S)
 04/07/14 (H) VERSION: CSHB 210(FIN) AM
 04/07/14 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)
 04/07/14 (S) -- MEETING CANCELED --
 04/08/14 (S) READ THE FIRST TIME - REFERRALS
 04/08/14 (S) EDC, FIN
 04/11/14 (S) EDC AT 8:00 AM BELTZ 105 (TSBldg)

WITNESS REGISTER

VASILIOS GIALOPSOS, Staff
 Representative Charisse Millet
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented information on HB 210.

CLAYTON HOLLAND, Director
 Pupil Services
 Kenai Peninsula School District
 Kenai, Alaska

POSITION STATEMENT: Testified in support of HB 210.

CHRISTIE REINHART, Staff
 Governor's Council on Disabilities and Special Education
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 210.

LUCY HOPE, Director
 Student Support Services
 Mat-Su Borough School District
 Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 210.

MARK REGAN, Legal Director
 Disability Law Center for Alaska
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 210.

JEANNE GERHARDT-CYRUS, representing herself
Kiana, Alaska

POSITION STATEMENT: Testified in support of HB 210.

ASHLEY DUNKS, representing herself
Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 210.

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

POSITION STATEMENT: Testified in support of HB 210.

MIKE COONS, representing himself
Palmer, Alaska

POSITION STATEMENT: Testified on HB 210.

PAUL PRUSSING, Deputy Director
Teaching and Learning Support
Department of Education and Early Development (DEED)
Juneau, Alaska

POSITION STATEMENT: Answered questions related to HB 210.

MARY NANUWAK, representing herself
Chevak, Alaska

POSITION STATEMENT: Testified in support of HB 210.

JEAN MISCHEL, Attorney
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions related to HB 210.

ACTION NARRATIVE

[8:00:37 AM](#)

CHAIR GARY STEVENS called the Senate Education Standing Committee meeting to order at 8:00 a.m. Present at the call to order were Senators Gardner, Stedman, Dunleavy, and Chair Stevens.

HB 210-SCHOOLS: RESTRAINT, SECLUSION, CRISIS TRG

[8:01:00 AM](#)

CHAIR STEVENS announced the consideration of HB 210. He said that version B.A was before the committee.

8:01:26 AM

VASILIOS GIALOPSOS, Staff, Representative Charisse Millet, Alaska State Legislature, Juneau, Alaska, presented information on HB 210. He related that Alaska currently has no statewide policy regarding the conditions under which a student could be restrained or secluded in school and HB 210 would address that. The bill has four key components. The first is that a school district's safety and discipline program, which would include policies for restraint and seclusion, would need to be made available to parents, legal guardians, students, and the public. The second component is, if a child were to be restrained or secluded, the school must notify the parent or legal guardian on the same day of the incident. The third component defines the terms of restraint and seclusion. It requires school staff to be trained and to conduct a review process as soon as practicable. The last component would have Department of Education and Early Development (DEED) approve the crisis intervention programs for school districts. School districts would also need to submit a report on a yearly basis.

8:05:04 AM

CHAIR STEVENS said it is the first hearing on the bill. He asked if the death of a child has occurred due to restraint.

MR. GIALOPSOS said not in Alaska. In Ohio, a child died from asphyxiation due to improper restraint.

CHAIR STEVENS asked who would do the restraining.

MR. GIALOPSOS said it would usually be the special education provider or the administrator.

8:06:27 AM

SENATOR DUNLEAVY commented on training for the designated restrainer.

MR. GIALOPSOS addressed the training for the restrainer. He said often a school staff will train other teachers.

SENATOR DUNLEAVY said the focus is on special education issues.

MR. GIALOPSOS said correct.

SENATOR DUNLEAVY asked about reporting on the same day.

MR. GIALOPSOS replied there will be notification on the same day.

8:08:10 AM

CHAIR STEVENS thought one of the reasons for this legislation was to protect personnel from lawsuits.

MR. GIALOPSOS agreed it would reduce liability and lessen injuries.

SENATOR GARDNER related that she was looking at the bill from a student-safety perspective. She referred to Section 5, where the bill exempts religious schools from complying with reports to parents, crisis training, and the review provisions. She questioned, if the goal is to protect students, why religious schools are exempt.

MR. GIALOPSOS said the original version of the bill included religious and private schools. He noted, upon consultation with legal services and through the committee process, it was concluded that there are no statutory enforcement mechanisms for religious schools to comply. A legal opinion determined that corporal punishment is allowed, but not to the point of assault or injury. The bill provides parents a choice.

SENATOR GARDNER maintained that the report to parents is important in public and in private schools.

MR. GIALOPSOS responded that existing statutes preclude that for private schools.

8:11:54 AM

SENATOR DUNLEAVY stated that anyone with an IEP or a 504 plan would be trained in this procedure.

MR. GIALOPSOS said that is the intent.

SENATOR DUNLEAVY explained 504 requirements.

CHAIR STEVENS asked if students in private schools have IEP's.

MR. GIALOPSOS deferred to the department to answer.

CHAIR STEVENS opined that the policy could be used by public and private schools.

[8:13:38 AM](#)

CLAYTON HOLLAND, Director, Pupil Services, Kenai Peninsula School District, Kenai, Alaska, testified in support of HB 210. He said that the Kenai School District has been implementing most of what is in this bill for several years. He described the notification process they use and the Mandt System training, a crisis prevention program. He said they update the plan often. The district has a policy to have at least one person trained in small schools and a minimum of two in the larger schools.

CHAIR STEVENS asked if the bill would require any changes in the Kenai District.

MR. HOLLAND said the district is currently in compliance.

SENATOR GARDNER understood the bill targets students who are in danger to themselves and to others, not a student under the desk crying.

MR. HOLLAND agreed. He said they don't restrain a student unless they are a danger to themselves or others.

[8:17:53 AM](#)

CHRISTIE REINHART, Staff, Governor's Council on Disabilities and Special Education, Anchorage, Alaska, testified in support of HB 210. She shared her experience as a parent of an autistic child. She said the staff at the school her son attended had a plan for restraint which worked. She described what happens when there is not such a plan in place. She concluded that clear regulations about restraints and seclusion are needed in public schools to ensure that students are safe.

CHAIR STEVENS asked if HB 210 solves the problem and if it is already in place.

MS. REINHART related that it is in place already in some school districts. Having consistency across the state is very important. She praised the thoroughness of input from various groups resulting in a gold standard bill.

CHAIR STEVENS announced the arrival of Senator Huggins.

[8:22:39 AM](#)

LUCY HOPE, Director, Student Support Services, Mat-Su Borough School District, Wasilla, Alaska, testified in support of HB 210. She described the restraint and seclusion plan in the Mat-Su School District that has been in place since 2008 and which

bears similarities to the bill. She described the definitions of the plan and the training involved, which uses the Mandt System. She pointed out that changing challenging behavior depends on developing strong and healthy relationships, training, and avoiding restraint. The 2-day course is spent on how to avoid using restraint. Appropriate personnel in each school are trained. The methodology of the process is included in the student's IEP. She described the program as pro-active. She said this bill would not change what is happening in Mat-Su except for reporting to the state.

CHAIR STEVENS asked about the Mandt System.

MS. HOPE described the program modules that focus on specific topics, such as using restraint, building healthy relationships, and how to have conversations with students. The restraint module requires a demonstration of proficiency of restraint techniques. She compared it to CPR - it has to be automatic. She noted that communication between adults in the classroom is important.

[8:28:04 AM](#)

SENATOR GARDNER asked if they require a nurse to check on the student following the incident. She asked if the Mat-Su District has a school nurse in each building.

MS. HOPE said one person is designated to each building, but not necessarily a nurse.

MARK REGAN, Legal Director, Disability Law Center for Alaska, Anchorage, Alaska, testified in support of HB 210. He related that the bill would put into place best practices about seclusion and restraint and ensure reporting to the state. He pointed out that often parents do not know that restraint or seclusion is taking place in school.

[8:31:59 AM](#)

SENATOR GARDNER asked if he is concerned that private schools are exempted, especially regarding not reporting to parents.

MR. REGAN said they were in support of the original version of the bill that did not exclude private schools. He noted it is best to start with what people can deal with so they do support the amended version of the bill.

SENATOR GARDNER asked if they support the bill version with private school exemptions.

MR. REGAN said yes.

SENATOR GARDNER asked if he would support it if it required parental notification at private schools.

MR. REGAN said yes, but that version would contain an oversight issue.

[8:33:52 AM](#)

JEANNE GERHARDT-CYRUS, representing herself, Kiana, Alaska, testified in support of HB 210. She explained that she was speaking as a parent of a child who was repeatedly restrained by individuals who were not trained. She described the procedure used and the lack of follow-up for her daughter by a medical person. She noted that the staff was untrained. Her daughter was diagnosed with Post-Traumatic Stress Syndrome. She described her daughter's current state - an honor student and avid reader due to new tactics of self-accommodation. She stressed that everyone is safer under de-escalation techniques.

CHAIR STEVENS thanked Ms. Gerhardt-Cyrus for her testimony. He noted larger districts seem to be complying and wondered if it a problem for smaller districts.

MS. GERHARDT-CYRUS said her small district currently has a program and training in place.

CHAIR STEVENS asked how many staff and teachers are in Kiana.

MS. GERHARDT-CYRUS said there are 10 certified teachers and about 90 to 120 students.

[8:42:19 AM](#)

MS. GERHARDT-CYRUS shared a letter by her daughter, Ivory, who requested that the legislature support this legislation.

[8:44:16 AM](#)

ASHLEY DUNKS, representing herself, Palmer, Alaska, testified in support of HB 210. She shared her experience having an autistic son and how he struggled in school with anxiety and fear. She described how the school dealt with her son's behavior by isolating him. As a result, she had him medicated, but the behavior continued and she was not informed. She said the BLC is currently researching the incident at North Star School. Since he has moved to a new school, she said her son is doing well.

CHAIR STEVENS thanked Ms. Dunks for her testimony.

[8:51:54 AM](#)

KENDRA STEA, Director, Client Services, Crisis Prevention Institute (CPI), Milwaukee, Wisconsin, testified in support of HB 210. She said her company is a national training provider that produces programs, response techniques, and safety strategies. She stressed the importance of HB 210. She offered to answer questions.

CHAIR STEVENS noted there are various systems to assist with training.

MS. STEA said yes.

[8:55:21 AM](#)

MIKE COONS, representing himself, Palmer, Alaska, testified on HB 210. He shared his experience as a paramedic and the importance of the Mandt training. He suggested that paramedics provide the training rather than teachers and that there be a stress debriefing after incidents.

[9:01:24 AM](#)

SENATOR GARDNER asked if private schools are subject to AS 14.33.120.

PAUL PRUSSING, Deputy Director, Teaching and Learning Support, Department of Education and Early Development (DEED), Juneau, Alaska, answered questions related to HB 210. He said the department has no involvement with private schools.

SENATOR GARDNER asked why the exception for private schools needs to be in the bill.

MR. PRUSSING responded that the sponsor could address the question, but he understood that there was a legal determination regarding that.

SENATOR GARDNER said the state can't require private schools to inform parents of the use of seclusion or restraint of children.

MR. PRUSSING said yes.

CHAIR STEVENS asked if the department is supportive of the bill.

MR. PRUSSING said yes.

CHAIR STEVENS inquired if the department sees any difficulties in implementing the provisions in the bill throughout the state, in large and small districts.

MR. PRUSSING noted a minimal fiscal note and very little effort on the department's part.

[9:03:50 AM](#)

At ease

[9:04:42 AM](#)

CHAIR STEVENS requested that the sponsor address Senator Gardner's question.

SENATOR GARDNER asked whether Section 5 is needed.

MR. GIALOPSOS said he understood that Section 5 is not superfluous because it was in the original bill and because Legislative Legal suggested exempting private and religious schools. Otherwise, the Department of Health and Social Services (DHSS) would have to address lacking the enforcement mechanism and it would be a false pretense that the department would be able to enforce it. The sponsor considers it a matter for a separate bill.

CHAIR STEVENS suggested Jean Mischel from Legal Services might be available for comments.

SENATOR GARDNER said child abuse is not acceptable and the provision should apply to private schools even though the department cannot hold them accountable. She noted she would not object to passing the bill out of committee.

MR. GIALOPSOS said the sponsor is inclined to submit a separate piece of legislation next session.

[9:08:34 AM](#)

At ease

[9:09:23 AM](#)

MARY NANUWAK, representing herself, Chevak, Alaska, testified in support of HB 210. She maintained that the bill should apply to both private and public schools.

[9:11:10 AM](#)

CHAIR STEVENS explained that Section 5 exempts private and religious schools from provisions in HB 210.

JEAN MISCHEL, Attorney, Legislative Legal Services, Legislative Affairs Agency, Juneau, Alaska, answered questions related to HB 210.

SENATOR GARDNER clarified her question. She said Section 5 exempts the schools under three provisions. She understood that the reporting requirements to the state are not required of private and religious schools. The provision that exempts them from AS 14.33.120(b), which is simply notifying parents when restraint or seclusion has been used. Even if there is "no teeth for failure to comply," she opined that it is important to be clear to all schools that all parents of all students need to be notified when their children are impacted. She called it good public policy. She asked if that could be done in this bill or if it would have to be separate legislation.

MS. MISCHEL related that current regulation of private schools divides them into non-exempt and exempt private schools. Non-exempt schools must meet all public education laws. Exempt schools would not be beholden to this bill nor other provisions in state law pertaining to schools. The requirement that schools notify parents is applicable to governing bodies of the school district. Even without Section 5 exemptions for private schools, she opined that Section 1 would not apply because it requires the governing body of a school district to do something. The legislature does have some authority over private and religious schools regarding public health and welfare of state residents. She said AS 14.45.030 and AS 14.45.100 are the primary provisions that the legislature has adopted with respect to private schools. She suggested, under public health and welfare authority, the provisions might be applied, but not in Section 1.

[9:15:13 AM](#)

SENATOR GARDNER suggested removing AS 14.33.120(b) from Section 5, leaving in the provision of parent notification. She asked if there would be problems doing so.

MS. MISCHEL said you could take the cross reference out of Section 5 and make it applicable to exempt private schools. It may leave an ambiguity. She suggested stating the intention to include public or private schools in Section 2. Current law requires exempt private schools to comply with laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical exams. She said she could easily argue that the provision affects physical health.

However, each private school would go through a determination whether those laws apply to them. She said she would be surprised if private schools didn't report to parents.

SENATOR GARDNER offered Conceptual Amendment 1, in Section 5, to remove AS 14.33.120(b), and in Section 1, add the words "public or private" after "A" on line 23. It would then read, (b) "A public or private school shall, on the same day"

CHAIR STEVENS asked Senator Gardner to state the intention of the amendment.

SENATOR GARDNER explained that the intention is that all schools, public or private, shall notify parents on the same day that restraints or seclusion are used on the student.

SENATOR HUGGINS objected. He questioned where the cut-off point is.

SENATOR GARDNER said it is about protecting students when restraints are used by authorities and informing parents.

SENATOR HUGGINS asked if Senator Gardner would include vacation bible schools.

SENATOR GARDNER responded that they are not really schools.

CHAIR STEVENS voiced concern about the change and suggested that there were other ways to achieve the intent.

A roll call vote was taken. Senator Gardner voted in favor of Conceptual Amendment 1 and Senators Stedman, Huggins, Dunleavy, and Chair Stevens voted against it. Therefore, Conceptual Amendment 1 failed to pass.

[9:20:59 AM](#)

SENATOR HUGGINS moved to report CSHB 210(FIN)am from committee with individual recommendations and attached fiscal note. There being no objection, the motion carried.

[9:21:12 AM](#)

At ease

[9:22:19 AM](#)

There being nothing further to come before the committee, Chair Stevens adjourned the Senate Education Standing Committee at 9:21 a.m.

