

**HB**

**210**

<TARGET><BILL>HB 210</BILL><SUBJECT>HB  
210</SUBJECT><COMM>HEDC28</COMM></TARGET>

HB210 version T was passed out of House Education Committee today, March 17, 2014 with two amendments.

Amendment #1: Page 4, line 12 after the word "review" add the phrase "must take place as soon as practical after the event and".

Amendment #3: Page 4, line 19 after the word "report" and before the word "to" add the phrase "on a form acceptable to the department".

# Alaska Legislature

## Representative Charisse Millett

### Session:

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*District 24*

### Explanation of Changes (From I Version to T Version)

1. Section 1 of the "I" Version has been removed from the "T" Version. Sections 2, 3, 4 of the "I" Version now become Sections 1, 2, 3 respectively in the "T" Version.
2. The term "physically escort" is removed entirely from the "T" Version.
3. Section 3 (g) (1) of the "T" Version changes the definition of chemical restraint to "a psychopharmacologic drug that is used on a student for discipline of convenience and that is not required to treat a medical symptom."
4. Sections 4, 5 are added to the "T" Version. Sections 4, 5 state that a religious or private school that is exempt under AS 14.45.100 is not required to comply AS 14.33.120 (b), 14.33.125, or 14.33.127, new sections that would be created by the enactment of HB 210.

28-LS0852\T  
Mischel  
2/25/14

CS FOR HOUSE BILL NO. 210( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES MILLETT AND AUSTERMAN, Gara, Foster

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to crisis intervention training for school personnel; and relating to  
2 restraint and seclusion of students in public schools."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 14.33.120(a) is amended to read:

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

8 (1) standards for student behavior and safety that reflect community  
9 standards and that include, at a minimum, basic requirements for respect and honesty;  
10 standards required under this paragraph must be developed and periodically reviewed  
11 with the collaboration of members of each school, parents, teachers, and other persons  
12 responsible for the students at a school; a governing body may require that standards  
13 developed under this paragraph be consistent for all schools in an attendance area or  
14 the district;

1 (2) standards relating to when a teacher is authorized to remove a  
2 student from the classroom for

3 (A) failure to follow student behavior and safety standards; or

4 (B) behavior described under AS 14.30.045(1) or (2);

5 (3) procedures for notifying teachers of dangerous students consistent  
6 with AS 47.12.310(b);

7 (4) standards relating to when a teacher, teacher's assistant, or other  
8 person responsible for students is authorized to use reasonable and appropriate force to  
9 maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

10 (5) policies necessary to comply with provisions of state and federal  
11 law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

12 (6) standards to address needs of students for whom mental health or  
13 substance abuse may be a contributing factor to noncompliance with the school  
14 disciplinary and safety program;

15 (7) policies for implementing a student conflict resolution strategy,  
16 including the nonviolent resolution or mediation of conflicts and procedures for  
17 reporting and resolving conflicts;

18 (8) procedures for periodic review and revision of the school  
19 disciplinary and safety program;

20 (9) policies and procedures consistent with standards for use of  
21 restraint and seclusion of students as described in AS 14.33.125.

22 \* **Sec. 2.** AS 14.33.120(b) is repealed and reenacted to read:

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

27 \* **Sec. 3.** AS 14.33 is amended by adding new sections to read:

28 **Sec. 14.33.125. Student restraint or seclusion; limitations.** (a) A public  
29 school disciplinary and safety program must

30 (1) prohibit restraint or seclusion of a student except as provided in (b)  
31 of this section;

1 (2) be annually reviewed with school personnel;  
2 (3) include a written report of each incident that is maintained in the  
3 student's record as described in (d) of this section; and

4 (4) include a review of each incident in which restraint or seclusion is  
5 used as provided in (e) of this section.

6 (b) A teacher, teacher's assistant, or other person responsible for students may  
7 physically restrain or seclude a student only if

8 (1) the student's behavior poses an imminent danger of physical injury  
9 to the student or another person;

10 (2) less restrictive interventions would be ineffective to stop the  
11 imminent danger to the student or another person;

12 (3) the person continuously monitors the student in face-to-face  
13 contact or, if face-to-face contact is unsafe, by continuous direct visual contact with  
14 the student;

15 (4) the person has received training in crisis intervention and de-  
16 escalation and restraint techniques that has been approved by the department under  
17 AS 14.33.127, unless a trained person is not immediately available and the  
18 circumstances are rare and present an unavoidable and unforeseen emergency; and

19 (5) the restraint or seclusion is discontinued immediately when the  
20 student no longer poses an imminent danger of physical injury to the student or  
21 another person or when a less restrictive intervention is effective to stop the danger of  
22 physical injury.

23 (c) A teacher, teacher's assistant, or other person responsible for students may  
24 not

25 (1) use chemical restraint;

26 (2) use mechanical restraint; or

27 (3) physically restrain a student by placing the student on the student's  
28 back or stomach or in a manner that restricts the student's breathing.

29 (d) School personnel who restrain or seclude a student shall provide a written  
30 report of the incident to the school administrator. A school shall provide a copy of the  
31 report to the student's parents or legal guardians on request. The report must include

- 1 (1) the date and time of the incident;
- 2 (2) the names and job titles of school personnel who participated in or  
3 supervised the incident;
- 4 (3) a description of the activity that preceded the incident, including  
5 efforts and strategies used with the student before the incident;
- 6 (4) a description of the incident, including the type and duration of the  
7 intervention used;
- 8 (5) a description of how the incident ended, including any further  
9 action taken.

10 (e) A school district shall ensure that a review process is established and  
11 conducted for each incident that involves restraint or seclusion of a student. The  
12 review must include

- 13 (1) staff review of the incident;
- 14 (2) follow-up communication with the student and the student's parent  
15 or legal guardian;
- 16 (3) review of and recommendations for adjusting or amending  
17 procedures, strategies, accommodations, individualized education plans, or other  
18 student behavior plans, or for additional staff training.

19 (f) Each school district shall annually report to the department the total  
20 number of incidents involving the restraint or seclusion of a student. The report must  
21 specify

- 22 (1) the number of incidents that resulted in injury or death of students  
23 or personnel;
- 24 (2) the number of incidents in which school personnel involved in the  
25 restraint or seclusion were not trained in an approved crisis intervention training  
26 program as described in AS 14.33.127(b); and
- 27 (3) the number of incidents involving the restraint or seclusion of a  
28 child with a disability under AS 14.30.350; the report must also include the category  
29 of the disability of the child involved in each incident.

30 (g) In this section,

- 31 (1) "chemical restraint" means a psychopharmacologic drug that is

1 used on a student for discipline or convenience and that is not required to treat a  
2 medical symptom;

3 (2) "mechanical restraint" means the use of a device that is not a  
4 medical device or protective equipment prescribed by a qualified health care  
5 professional to restrict a student's freedom of movement;

6 (3) "physically restrain" or "physical restraint" means a personal  
7 restriction that immobilizes or reduces the ability of a student to move the student's  
8 arms, legs, or head freely;

9 (4) "restraint" means physical restraint, chemical restraint, mechanical  
10 restraint, or other aversive behavioral interventions that compromise health and safety;

11 (5) "seclusion" means the involuntary confinement of a student in a  
12 room or area that the student is prevented from leaving; "seclusion" does not include a  
13 classroom timeout, supervised detention, or suspension from school under  
14 AS 14.30.045.

15 **Sec. 14.33.127. Crisis intervention training.** (a) The department shall  
16 approve crisis intervention training programs for schools, which shall include training  
17 in

18 (1) evidenced-based techniques that have been shown to be effective in  
19 the prevention of restraint and seclusion of students;

20 (2) evidence-based techniques shown to be effective in keeping school  
21 personnel and students safe when imposing physical restraint or seclusion of students;

22 (3) evidence-based skills related to positive behavior supports, conflict  
23 prevention, understanding antecedents, de-escalation, and conflict management;

24 (4) first aid and cardiopulmonary resuscitation; and

25 (5) applicable policies and procedures.

26 (b) The governing body of a school shall ensure that a sufficient number of  
27 school employees receives periodic training in an approved crisis intervention  
28 program to meet the needs of the school population.

29 (c) In this section,

30 (1) "restraint" has the meaning given in AS 14.33.125;

31 (2) "seclusion" has the meaning given in AS 14.33.125.

1 \* **Sec. 4.** AS 14.45.100 is amended to read:

2           **Sec. 14.45.100. Exemption.** Except as provided in (b) of this section, a [A]  
3 religious or other private school that complies with AS 14.45.100 - 14.45.130 is  
4 exempt from other provisions of law and regulations relating to education except law  
5 and regulations relating to physical health, fire safety, sanitation, immunization, and  
6 physical examinations.

7 \* **Sec. 5.** AS 14.45.100 is amended by adding a new subsection to read:

8           (b) A religious or other private school that is exempt under this section is not  
9 required to comply with AS 14.33.120(b), 14.33.125, or 14.33.127.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
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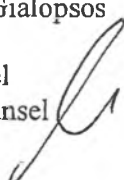
State Capitol  
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## MEMORANDUM

February 28, 2014

**SUBJECT:** Sectional Summary  
(CSHB 210( ) (Work Order No. 28-LS0852VT))

**TO:** Representative Charisse Millett  
Attn: Vasilios Gialopsos

**FROM:** Jean M. Mischel  
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Requires that the disciplinary and safety program adopted by a school district include standards for use of restraint and seclusion of students required under sec. 3 of the bill and be made available to students, parents, and the public.

**Section 2.** Requires that schools provide information about an incident involving restraint or seclusion of a student to the student's parent or guardian within 24 hours of the incident.

**Section 3.** Adds specific standards and prohibitions for restraining or secluding a student that apply to public schools. Defines terms used. Requires the department to approve crisis intervention training programs, as described, for schools and school districts to train a sufficient number of staff as necessary.

**Section 4.** Cross-references an exception for exempt private schools provided in sec. 5 of the bill.

**Section 5.** Expressly exempts exempt private schools from compliance with secs. 2 and 3 of the bill.

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14-098.lem

28-LS0852N  
Mischel  
2/11/14

**CS FOR HOUSE BILL NO. 210( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES MILLETT AND AUSTERMAN, Gara, Foster**

**A BILL**

**FOR AN ACT ENTITLED**

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

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1.** AS 14.30 is amended by adding a new section to read:

6 **Sec. 14.30.175. Administration of psychiatric medication.** (a) An employee  
7 of a school may administer psychiatric medication to a student only

8 (1) if the medication is administered as prescribed;

9 (2) if the employee is

10 (A) a licensed health care professional acting within the health  
11 care professional's scope of practice;

12 (B) acting under a delegation to assist with administration of  
13 medication from a licensed nurse authorized by regulations adopted by the  
14 Board of Nursing, and no employee who is a licensed health care professional

1 is available to administer the medication; or

2 (C) trained by a licensed health care professional to administer  
3 the medication to the student and acting under a health plan for the student  
4 adopted in consultation with the student's parent and the school administrator;  
5 and

6 (3) with the permission of the student's parent or legal guardian.

7 (b) In this section,

8 (1) "health care professional" means a physician, nurse practitioner, or  
9 physician assistant;

10 (2) "psychiatric medication" means a drug prescribed by a health care  
11 professional for the treatment of a mental or behavioral health condition.

12 \* **Sec. 2.** AS 14.33.120(a) is amended to read:

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

16 (1) standards for student behavior and safety that reflect community  
17 standards and that include, at a minimum, basic requirements for respect and honesty;  
18 standards required under this paragraph must be developed and periodically reviewed  
19 with the collaboration of members of each school, parents, teachers, and other persons  
20 responsible for the students at a school; a governing body may require that standards  
21 developed under this paragraph be consistent for all schools in an attendance area or  
22 the district;

23 (2) standards relating to when a teacher is authorized to remove a  
24 student from the classroom for

25 (A) failure to follow student behavior and safety standards; or

26 (B) behavior described under AS 14.30.045(1) or (2);

27 (3) procedures for notifying teachers of dangerous students consistent  
28 with AS 47.12.310(b);

29 (4) standards relating to when a teacher, teacher's assistant, or other  
30 person responsible for students is authorized to use reasonable and appropriate force to  
31 maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

1 (5) policies necessary to comply with provisions of state and federal  
2 law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

3 (6) standards to address needs of students for whom mental health or  
4 substance abuse may be a contributing factor to noncompliance with the school  
5 disciplinary and safety program;

6 (7) policies for implementing a student conflict resolution strategy,  
7 including the nonviolent resolution or mediation of conflicts and procedures for  
8 reporting and resolving conflicts;

9 (8) procedures for periodic review and revision of the school  
10 disciplinary and safety program;

11 **(9) policies and procedures consistent with standards for use of**  
12 **restraint and seclusion of students as described in AS 14.33.125.**

13 \* **Sec. 3.** AS 14.33.120(b) is repealed and reenacted to read:

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

18 \* **Sec. 4.** AS 14.33 is amended by adding new sections to read:

19 **Sec. 14.33.125. Student restraint, escort, or seclusion; limitations.** (a) A  
20 public or private school disciplinary and safety program must

21 (1) prohibit restraint or seclusion of a student except as provided in (b)  
22 of this section;

23 (2) be annually reviewed with school personnel;

24 (3) include a written report of each incident that is maintained in the  
25 student's record as described in (d) of this section; and

26 (4) include a review of each incident in which restraint or seclusion is  
27 used as provided in (e) of this section.

28 (b) A teacher, teacher's assistant, or other person responsible for students may  
29 physically restrain, physically escort, or seclude a student only if

30 (1) the student's behavior poses an imminent danger of physical injury  
31 to the student or another person;

1 (2) less restrictive interventions would be ineffective to stop the  
2 imminent danger to the student or another person;

3 (3) the person continuously monitors the student in face-to-face  
4 contact or, if face-to-face contact is unsafe, by continuous direct visual contact with  
5 the student;

6 (4) the person has received training in crisis intervention and de-  
7 escalation and restraint techniques that has been approved by the department under  
8 AS 14.33.127, unless a trained person is not immediately available and the  
9 circumstances are rare and present an unavoidable and unforeseen emergency; and

10 (5) the restraint or seclusion is discontinued immediately when the  
11 student no longer poses an imminent danger of physical injury to the student or  
12 another person or when a less restrictive intervention is effective to stop the danger of  
13 physical injury.

14 (c) A teacher, teacher's assistant, or other person responsible for students may  
15 not

16 (1) use chemical restraint that is not administered under AS 14.30.175;

17 (2) use mechanical restraint;

18 (3) physically escort a student in a manner that restricts the student's  
19 breathing; or

20 (4) physically restrain a student by placing the student on the student's  
21 back or stomach or in a manner that restricts the student's breathing.

22 (d) School personnel who restrain or seclude a student shall provide a written  
23 report of the incident to the school administrator. A school shall provide a copy of the  
24 report to the student's parents or legal guardians on request. The report must include

25 (1) the date and time of the incident;

26 (2) the names and job titles of school personnel who participated in or  
27 supervised the incident;

28 (3) a description of the activity that preceded the incident, including  
29 efforts and strategies used with the student before the incident;

30 (4) a description of the incident, including the type and duration of the  
31 intervention used;

1 (5) a description of how the incident ended, including any further  
2 action taken.

3 (e) A school district shall ensure that a review process is established and  
4 conducted for each incident that involves restraint or seclusion of a student. The  
5 review must include

6 (1) staff review of the incident;

7 (2) follow-up communication with the student and the student's parent  
8 or legal guardian;

9 (3) review of and recommendations for adjusting or amending  
10 procedures, strategies, accommodations, individualized education plans, or other  
11 student behavior plans, or for additional staff training.

12 (f) Each school district shall annually report to the department the total  
13 number of incidents involving the restraint or seclusion of a student. The report must  
14 specify

15 (1) the number of incidents that resulted in injury or death of students  
16 or personnel;

17 (2) the number of incidents in which school personnel involved in the  
18 restraint or seclusion were not trained in an approved crisis intervention training  
19 program as described in AS 14.33.127(b); and

20 (3) the number of incidents involving the restraint or seclusion of a  
21 child with a disability under AS 14.30.350; the report must also include the category  
22 of the disability of the child involved in each incident.

23 (g) In this section,

24 (1) "chemical restraint" means controlling a student's behavior or  
25 restricting a student's freedom of movement by the use of a drug or medication;

26 (2) "mechanical restraint" means the use of a device that is not a  
27 medical device or protective equipment prescribed by a qualified health care  
28 professional to restrict a student's freedom of movement;

29 (3) "physically escort" or "physical escort" means temporarily  
30 touching or holding the hand, wrist, arm, shoulder, or back for the purpose of guiding  
31 the movement of a student from one location to another;

1 (4) "physically restrain" or "physical restraint" means a personal  
 2 restriction that immobilizes or reduces the ability of a student to move the student's  
 3 arms, legs, or head freely;

4 (5) "restraint" means physical restraint, chemical restraint, mechanical  
 5 restraint, or other aversive behavioral interventions that compromise health and safety;

6 (6) "seclusion" means the involuntary confinement of a student in a  
 7 room or area that the student is prevented from leaving; "seclusion" does not include a  
 8 classroom timeout, supervised detention, or suspension from school under  
 9 AS 14.30.045.

10 **Sec. 14.33.127. Crisis intervention training.** (a) The department shall  
 11 approve crisis intervention training programs for schools, which shall include training  
 12 in

13 (1) evidenced-based techniques that have been shown to be effective in  
 14 the prevention of restraint and seclusion of students;

15 (2) evidence-based techniques shown to be effective in keeping school  
 16 personnel and students safe when imposing physical restraint or seclusion of students;

17 (3) evidence-based skills related to positive behavior supports, safe  
 18 physical escort, conflict prevention, understanding antecedents, de-escalation, and  
 19 conflict management;

20 (4) first aid and cardiopulmonary resuscitation; and

21 (5) applicable policies and procedures.

22 (b) The governing body of a school shall ensure that a sufficient number of  
 23 school employees receives periodic training in an approved crisis intervention  
 24 program to meet the needs of the school population.

25 (c) In this section,

26 (1) "physical escort" has the meaning given in AS 14.33.125;

27 (2) "restraint" has the meaning given in AS 14.33.125;

28 (3) "seclusion" has the meaning given in AS 14.33.125.

# Alaska Legislature

## Representative Charisse Millett

### Session:

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*District 24*

### Explanation of Changes: House Bill 210/Version I

1. Amends Section 1 (a) (2) (B) with *"acting under a delegation to assist with the administration of medication from a licensed nurse authorized by regulations adopted by the Board of Nursing, and no employee who is a licensed health care professional is available to administer the medication;"*
2. Amends Section 1 (a) (2) by adding subsection (C) to read *"trained by a licensed health care professional to administer the medication to the student and acting under a health plan for the student adopted in consultation with the student's parents and school administrator;"*
3. Amends Section 1 (b) by adding subsection (1) to read *"health care professional means a physician, nurse practitioner, or physician assistant;"*
4. Amends Section 4 (c) (3) to read *"physically escort a student in a manner that restricts the student's breathing;"*
5. Amends Section 5 (c)(4) to read *"physically restrain a student by placing the student on the student's back or stomach or in a manner that restricts the student's breathing;"*

Prepared by: Vasilios Gialopsos

# Alaska Legislature

## Representative Charisse Millett

### Session:

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*District 24*

### Sectional Analysis-House Bill 210/Version I

**Sec 1:** Would amend AS 14.30 by adding a new section, 14.30.175 that allows the administration of psychiatric medication to a student by an employee of a school under the following conditions: the medication must be administered as it is prescribed, the employee must be either a licensed health care practitioner acting within their professional scope of practice.

If there is not an employee who is a licensed health care professional available, then either an employee delegated by a licensed nurse who is authorized by regulations adopted by the Board of Nursing, or employees trained by a licensed health care professional and acting pursuant to a health plan for a student adopted in consultation with the school administrator and the student's parents may administer the medication. Section 1 defines a health care professional for the purposes of this section as a physician, nurse practitioner, or physician's assistant, and defines psychiatric medication as a drug prescribed by aforementioned health care professional for the treatment of a mental or behavioral health condition.

**Sec 2:** Would amend AS 14.33.120 (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.

**Section 4:** Would amend AS 14.33 by adding two new subsections. 14.33.125, the first new subsection, prohibits the use of restraint and seclusion except if either the student is posing an imminent harm to themselves or others, less restrictive means have been attempted and are ineffective, the person restraining or secluding is able to maintain either face-to-face or direct visual contact with the student, and the restraint or seclusion is discontinued once the imminent danger is has ceased, or less restrictive methods would now be effective.

In addition, the person administering the restraint or seclusion would need to be trained in crisis intervention, de-escalation and restraint techniques approved by the Department of Education and Early Development under 14.33.127, a new subsection created by Section 4 of the bill. A person who is not trained under 14.33.127 may still restrain or seclude a student only if a trained person is not available and the circumstances are both an unforeseen emergency and are rare and unavoidable.

Under no circumstances is a school employee allowed to either chemically or mechanically restrain a student, or physically restrain or escort a student in a manner that restricts their breathing.

A school must have a written report of any incident of seclusion and restraint detailing the events leading up to the incident, actions taken, the duration of the incident, the personnel involved, the number of instances a student was restrained or secluded within that incident, and a description of any further action taken. The school must also have that incident available to parents upon request.

14.33.125 also includes the requirement that a school in its written school disciplinary and safety program, have a detailed program to address seclusion and restraint and under what conditions it is allowed, and the follow up procedures to any incidents of seclusion or restraint. The school will be required to annually submit its incident data regarding seclusion and restraint to the Department of Education and Early Development. 14.33.125 also defines chemical, mechanical and physical restraint, as well as seclusion and physically escort.

14.33.127, the second new subsection, requires the Department of Education and Early Development to approve the crisis intervention training program required for schools under AS 14.33.125, a new subsection created by Section 4 of the bill. The Department would need to ensure that the program: utilizes evidence based techniques shown to be effective in preventing the need for restraint and seclusion, keeping school personnel and students safe during the administering of restraint or seclusion. In addition, the program would need to instruct in positive behavior supports, de-escalation techniques and conflict management, as well as first aid and cardiopulmonary resuscitation. 14.33.127 would require the governing body of a school to ensure that a sufficient number of school staff are trained in proportion to the school population.

28-LS0852\R  
Mischel  
2/4/14

**CS FOR HOUSE BILL NO. 210( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES MILLETT AND AUSTERMAN, Gara, Foster

**A BILL**

**FOR AN ACT ENTITLED**

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

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 14.30 is amended by adding a new section to read:

6 **Sec. 14.30.175. Administration of psychiatric medication.** (a) An employee  
7 of a school may administer psychiatric medication to a student only

8 (1) if the medication is administered as prescribed;

9 (2) if the employee is

10 (A) a licensed health care professional acting within the health  
11 care professional's scope of practice; or

12 (B) acting under a delegation to assist with administration of  
13 medication from a licensed nurse authorized by regulations adopted by the  
14 Board of Nursing, and no employee who is a licensed health care professional

1 is available to administer the medication; and

2 (3) with the permission of the student's parent or legal guardian.

3 (b) In this section, "psychiatric medication" means a drug prescribed for the  
4 treatment of a mental or behavioral health condition.

5 \* **Sec. 2.** AS 14.33.120(a) is amended to read:

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

9 (1) standards for student behavior and safety that reflect community  
10 standards and that include, at a minimum, basic requirements for respect and honesty;  
11 standards required under this paragraph must be developed and periodically reviewed  
12 with the collaboration of members of each school, parents, teachers, and other persons  
13 responsible for the students at a school; a governing body may require that standards  
14 developed under this paragraph be consistent for all schools in an attendance area or  
15 the district;

16 (2) standards relating to when a teacher is authorized to remove a  
17 student from the classroom for

18 (A) failure to follow student behavior and safety standards; or

19 (B) behavior described under AS 14.30.045(1) or (2);

20 (3) procedures for notifying teachers of dangerous students consistent  
21 with AS 47.12.310(b);

22 (4) standards relating to when a teacher, teacher's assistant, or other  
23 person responsible for students is authorized to use reasonable and appropriate force to  
24 maintain classroom safety and discipline as described under AS 11.81.430(a)(2);

25 (5) policies necessary to comply with provisions of state and federal  
26 law, including 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act);

27 (6) standards to address needs of students for whom mental health or  
28 substance abuse may be a contributing factor to noncompliance with the school  
29 disciplinary and safety program;

30 (7) policies for implementing a student conflict resolution strategy,  
31 including the nonviolent resolution or mediation of conflicts and procedures for

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reporting and resolving conflicts;

(8) procedures for periodic review and revision of the school disciplinary and safety program;

(9) policies and procedures consistent with standards for use of restraint and seclusion of students as described in AS 14.33.125.

\* Sec. 3. AS 14.33.120(b) is repealed and reenacted to read:

(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.

\* Sec. 4. AS 14.33 is amended by adding new sections to read:

**Sec. 14.33.125. Student restraint, escort, or seclusion; limitations.** (a) A public or private school disciplinary and safety program must

(1) prohibit restraint or seclusion of a student except as provided in (b) of this section;

(2) be annually reviewed with school personnel;

(3) include a written report of each incident that is maintained in the student's record as described in (d) of this section; and

(4) include a review of each incident in which restraint or seclusion is used as provided in (e) of this section.

(b) A teacher, teacher's assistant, or other person responsible for students may physically restrain, physically escort, or seclude a student only if

(1) the student's behavior poses an imminent danger of physical injury to the student or another person;

(2) less restrictive interventions would be ineffective to stop the imminent danger to the student or another person;

(3) the person continuously monitors the student in face-to-face contact or, if face-to-face contact is unsafe, by continuous direct visual contact with the student;

(4) the person has received training in crisis intervention and de-escalation and restraint techniques that has been approved by the department under

1 AS 14.33.127, unless a trained person is not immediately available and the  
2 circumstances are rare and present an unavoidable and unforeseen emergency; and

3 (5) the restraint or seclusion is discontinued immediately when the  
4 student no longer poses an imminent danger of physical injury to the student or  
5 another person or when a less restrictive intervention is effective to stop the danger of  
6 physical injury.

7 (c) A teacher, teacher's assistant, or other person responsible for students may  
8 not

9 (1) use chemical restraint that is not administered under AS 14.30.175;

10 (2) use mechanical restraint;

11 (3) physically escort a student in a manner that restricts the student's  
12 breathing; or

13 (4) physically restrain a student by placing the student on the student's  
14 back or stomach or in a manner that restricts the student's breathing.

15 (d) School personnel who restrain or seclude a student shall provide a written  
16 report of the incident to the school administrator. A school shall provide a copy of the  
17 report to the student's parents or legal guardians on request. The report must include

18 (1) the date and time of the incident;

19 (2) the names and job titles of school personnel who participated in or  
20 supervised the incident;

21 (3) a description of the activity that preceded the incident, including  
22 efforts and strategies used with the student before the incident;

23 (4) a description of the incident, including the type and duration of the  
24 intervention used;

25 (5) a description of how the incident ended, including any further  
26 action taken.

27 (e) A school district shall ensure that a review process is established and  
28 conducted for each incident that involves restraint or seclusion of a student. The  
29 review must include

30 (1) staff review of the incident;

31 (2) follow-up communication with the student and the student's parent

1 or legal guardian;

2 (3) review of and recommendations for adjusting or amending  
3 procedures, strategies, accommodations, individualized education plans, or other  
4 student behavior plans, or for additional staff training.

5 (f) Each school district shall annually report to the department the total  
6 number of incidents involving the restraint or seclusion of a student. The report must  
7 specify

8 (1) the number of incidents that resulted in injury or death of students  
9 or personnel;

10 (2) the number of incidents in which school personnel involved in the  
11 restraint or seclusion were not trained in an approved crisis intervention training  
12 program as described in AS 14.33.127(b); and

13 (3) the number of incidents involving the restraint or seclusion of a  
14 child with a disability under AS 14.30.350; the report must also include the category  
15 of the disability of the child involved in each incident.

16 (g) In this section,

17 (1) "chemical restraint" means controlling a student's behavior or  
18 restricting a student's freedom of movement by the use of a drug or medication;

19 (2) "mechanical restraint" means the use of a device that is not a  
20 medical device or protective equipment prescribed by a qualified health care  
21 professional to restrict a student's freedom of movement;

22 (3) "physically escort" or "physical escort" means temporarily  
23 touching or holding the hand, wrist, arm, shoulder, or back for the purpose of guiding  
24 the movement of a student from one location to another;

25 (4) "physically restrain" or "physical restraint" means a personal  
26 restriction that immobilizes or reduces the ability of a student to move the student's  
27 arms, legs, or head freely;

28 (5) "restraint" means physical restraint, chemical restraint, mechanical  
29 restraint, or other aversive behavioral interventions that compromise health and safety;

30 (6) "seclusion" means the involuntary confinement of a student in a  
31 room or area that the student is prevented from leaving; "seclusion" does not include a

1 classroom timeout, supervised detention, or suspension from school under  
2 AS 14.30.045.

3 **Sec. 14.33.127. Crisis intervention training.** (a) The department shall  
4 approve crisis intervention training programs for schools, which shall include training  
5 in

6 (1) evidenced-based techniques that have been shown to be effective in  
7 the prevention of restraint and seclusion of students;

8 (2) evidence-based techniques shown to be effective in keeping school  
9 personnel and students safe when imposing physical restraint or seclusion of students;

10 (3) evidence-based skills related to positive behavior supports, safe  
11 physical escort, conflict prevention, understanding antecedents, de-escalation, and  
12 conflict management;

13 (4) first aid and cardiopulmonary resuscitation; and

14 (5) applicable policies and procedures.

15 (b) The governing body of a school shall ensure that a sufficient number of  
16 school employees receives periodic training in an approved crisis intervention  
17 program to meet the needs of the school population.

18 (c) In this section,

19 (1) "physical escort" has the meaning given in AS 14.33.125;

20 (2) "restraint" has the meaning given in AS 14.33.125;

21 (3) "seclusion" has the meaning given in AS 14.33.125.

# Alaska Legislature

## Representative Charisse Millett

### Session:

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Juneau, AK 99801  
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*District 24*

### Explanation of Changes – House Bill 210-Version R

1. Section 1 (a) (2) (B) is amended to read “acting under a delegation to assist with administration of medication from a licensed nurse authorized by regulations adopted by the Board of Nursing, and no employee who is a licensed health care professional is available to administer the medication;”
2. Section 4 (c) (3) is amended to read “physically escort a student in a manner that restricts a student’s breathing”
3. Section 4 (c) (4) is amended to read “physically restrain a student by placing the student on the student’s back or stomach or in a manner that restricts the student’s breathing”

# Alaska Legislature

## Representative Charisse Millett

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### *Sponsor Statement*

#### *House Bill 210*

Alaska currently has no statewide policy regarding how children can be physically restrained and/or secluded in schools. Placing students in positions where they are immobilized or put into a room by themselves are emotionally charged subjects that require our attention. The conditions under which these actions are allowed are vague and require clarification. The three areas that require clarification include: what constitutes physical restraint and seclusion; under what conditions physical restraint and seclusion can be exercised; what actions are required of school personnel.

Students need to attend a school that is safe. Parents need to know if their child was involved in an incident of restraint or seclusion and the reasons for these actions need to be clearly defined. School personnel and administrator need to know that the actions they take to protect the safety of their students were justified and that they will not be held liable for carrying out their duties correctly.

HB 210 is a balance approach to ensure school safety. It requires that a school district's safety plan be made available to parents and the public. If an incident of restraint or seclusion occurs, the student's parents need to be informed within 24 hours of the incident. With the exception of emergency situations, only those who have undergone training approved by the Department of Education and Early Development can engage in physical restraint and seclusion. Each school district needs to report the number of times students were restrained and secluded on an annual basis.

HB 210 will protect students from the physical harm and the emotional trauma that comes from the improper use and frequency of techniques; keep parents abreast of what happens to their child, and support teachers and school personnel who have to make incredibly difficult decisions during crisis situations. By ensuring a statewide, consistent set of expectations, guidelines, and requirements, we make our schools safer for everyone. I would respectfully appreciate your support.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: HB 210  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB210-EED-SSA-2-7-14  
Title: STUDENT RESTRAINT, SECLUSION, PSYC  
DRUGS  
Sponsor: MILLETT, AUSTERMAN  
Requester: House Education Committee

Department: Department of Education and Early Development  
Appropriation: Teaching and Learning Support  
Allocation: Student and School Achievement  
OMB Component Number: 2796

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

|                               | FY2015                  | Included in               | Out-Year Cost Estimates |                |                |                |                |
|-------------------------------|-------------------------|---------------------------|-------------------------|----------------|----------------|----------------|----------------|
|                               | Appropriation Requested | Governor's FY2015 Request | FY 2015                 | FY 2016        | FY 2017        | FY 2018        | FY 2019        |
| <b>OPERATING EXPENDITURES</b> | <b>FY 2015</b>          | <b>FY 2015</b>            | <b>FY 2016</b>          | <b>FY 2017</b> | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> |
| Personal Services             |                         |                           |                         |                |                |                |                |
| Travel                        |                         |                           |                         |                |                |                |                |
| Services                      | 14.0                    |                           | 14.0                    | 14.0           | 14.0           | 14.0           | 14.0           |
| Commodities                   |                         |                           |                         |                |                |                |                |
| Capital Outlay                |                         |                           |                         |                |                |                |                |
| Grants & Benefits             |                         |                           |                         |                |                |                |                |
| Miscellaneous                 |                         |                           |                         |                |                |                |                |
| <b>Total Operating</b>        | <b>14.0</b>             | <b>0.0</b>                | <b>14.0</b>             | <b>14.0</b>    | <b>14.0</b>    | <b>14.0</b>    | <b>14.0</b>    |

**Fund Source (Operating Only)**

|               |             |            |             |             |             |             |             |
|---------------|-------------|------------|-------------|-------------|-------------|-------------|-------------|
| 1004 Gen Fund | 14.0        |            | 14.0        | 14.0        | 14.0        | 14.0        | 14.0        |
| <b>Total</b>  | <b>14.0</b> | <b>0.0</b> | <b>14.0</b> | <b>14.0</b> | <b>14.0</b> | <b>14.0</b> | <b>14.0</b> |

**Positions**

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| Full-time |  |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |  |

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| <b>Change in Revenues</b> |  |  |  |  |  |  |  |
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**Estimated CAPITAL (FY2015) cost:** 0.0 (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes  
If yes, by what date are the regulations to be adopted, amended or repealed? 09/30/14

**Why this fiscal note differs from previous version:**

|                 |
|-----------------|
| Initial version |
|-----------------|

Prepared By: Dr. Susan McCauley Phone: (907)465-8686  
Division: Director, Teaching and Learning Support Date: 02/07/2014 06:15 PM  
Approved By: Mike Hanley Date: 02/07/14  
Agency: Commissioner

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2014 LEGISLATIVE SESSION**

**BILL NO. HB210**

**Analysis**

Section 14.33.125 (f)(1) (2) (3): requires school districts to report three new data elements to the department. This section does not require new duties of EED, other than collecting the data. This fiscal note is based on collection of reports only and does not provide for any analysis or cumulative and summary reporting by EED. The design of a data collection notebook and technical assistance to support districts in completing the data collection yearly at \$7.0.

Section 14.33.127 (a): requires EED to approve crisis intervention programs for schools. This fiscal note is based on EED's responsibility to identifying crisis intervention programs and build a webpage with a list of current evidence-based prevention and intervention programs for schools to choose from at \$7.0.

Alaska Legislature  
Representative Charisse Millett

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*District 24*

Memorandum

To: *Lynn* The Honorable Lynn Gattis, Chair  
House Education Committee *Charisse Millett*

From: Representative Charisse Millett

Re: Hearing Request for House Bill 210

Date: February 5<sup>th</sup>, 2014

---

Honorable Chair Gattis,

I respectfully request a hearing for House Bill 210 in the House Education Committee at your earliest convenience. The staffer assigned to this piece of legislation is Vasilios "Akis" Gialopsos. He can be reached at 465-4937.

Respectfully,  
Charisse Millett

# Alaska Dispatch

News and voices from the Last Frontier

Published on *Alaska Dispatch* (<http://www.alaskadispatch.com>)

[Home](#) > Are Anchorage School District's seclusion rooms just another teaching tool?

[Megan Edge](#) [1]

September 24, 2013

**Main Image:**

[Seclusion room Mt. Iliamna elementary school](#) [2]

**Main Image Caption:**

Images of one of Mt. Iliamna Elementary School's "seclusion rooms" -- rooms with no furniture, monitored by cameras, into which students are placed when they're acting out enough to be considered a danger to themselves or others.

Shortly before Megan Conner's son began first grade last October at Mt. Iliamna Elementary School, on Joint Base Elmendorf-Richardson in Anchorage, her son said something that stunned her, and made her cry.

"He told me and my husband that he wished he could kill us both," Conner said.

Conner's son found his way to Mt. Iliamna Elementary -- a special needs school -- after a long string of trying experiences at other schools and institutions. Conner said that there were a number of times where she was told that her son was acting out by being both physically and verbally abusive to others.

Conner reached out to Alaska Dispatch to attest to her son's experience at Mt. Iliamna, where he has been placed into a "seclusion room" -- a room with no furniture where a student is sometimes placed when they've been acting out -- a number of times. [Alaska Dispatch ran a story Friday](#) [3] addressing a report that found seclusion rooms were regularly used on dozens of students at Mt. Iliamna over the course of the 2012-2013 school year.

Conner requested that Alaska Dispatch not use her minor son's name, so for purposes of readability, her child will be referred to as "Charlie."

When Charlie, now eight years old, expressed a desire to kill his parents last year, it took his mother's breath away, but it wasn't the first time he had a violent outburst.

## Not a typical toddler

When Conner first had an idea that something wasn't right with her only child, he was two years old.

"He would slam his head, or body, against the wall until he hurt himself, and bruised himself and started to cry," she said. She said it didn't matter if it was a concrete wall -- he would do it until he exhausted himself.

"People would say, 'It's normal. He's just a boy. He doesn't know how to control himself.' But no, it's not normal," said Conner. "Kids don't just slam their heads into a wall. I have worked with kids since I was 10, and I had never experienced a child as difficult as my child was."

According to Conner, some nights, Charlie wouldn't sleep. She remembered one time in particular when her son stayed awake for nearly 24 hours.

When Charlie was 4 years old, he started daycare. Caregivers told Conner her son would scream and yell at his daycare teachers, and push other kids. One time, she received a report that Charlie was throwing chairs across the classroom.

In the fall of 2010, Charlie started kindergarten at Taku Elementary. Then four, he went to school for the first quarter, but according to Conner, she received a phone call every day from school officials, who said he was throwing desks, (or) doing physical harm to other people.

"I ended up deciding to pull him out of school," she said. "If I didn't they would have expelled him." Conner hoped that another year out of school would give her son time to mature.

That same fall Charlie's daycare also said they could no longer take him because of his behavioral issues. Then in January 2011, Charlie started therapy, but after about four months with no results -- another dead end -- Charlie's therapist told Conner she still had no idea what his triggers were.

Medications were hit or miss for Charlie, Conner said. Some worked for a little while then would suddenly stop. Others, she said, didn't work at all. Some medication made him sleepy; others made him stay awake longer. She said that some even made her smart, loving boy with a charismatic giggle, angrier.

In the fall of 2011, Charlie went back to school at Williwaw Elementary to complete kindergarten.

## **Back to school**

A doctor suggested that Charlie take a neuropsychological test shortly before he returned to school. In June 2012, Charlie's mother said they brought him into a room, alone, with a doctor and administered a series of exams.

Doctors told her academically he was very smart, and even advanced in some areas. The doctor eventually diagnosed him with Attention Deficit Hyperactivity Disorder (ADHD), Pervasive Developmental Disorder, and an unspecified mood disorder.

Two months later, in August 2012, Charlie went back to school as a first grader at Nunaka Valley Elementary School, where things initially started well.

"One day, he was going to the nurse's office to take his medication and he punched the nurse, who is like triple his size," she said. "He left a softball-size bruise on her back." Shortly after the incident, Conner began exploring the idea of Mt. Iliamna Elementary, which specializes in caring for students with behavioral or emotional problems.

## **A learning tool?**

Charlie began class at Mt. Iliamna in October of 2012. Before Conner accepted enrollment, she took a tour of the school, including the recently-controversial "safe room," or seclusion room.

Charlie has since visited the "safe room" several times while enrolled at the school. Anchorage School District (ASD) Assistant Superintendent Linda Carlson said a seclusion room is just as much a learning tool as a classroom because the rooms provide a safe and private space, where they can learn how to control their own emotions.

The first time Charlie was restrained and went into a safe room was in February of 2013, Conner said. According to Conner's copy of Charlie's daily report, he had been in computer lab with his classmates. When the class period was over, he began screaming and stomping his feet. Charlie flipped a desk and started tossing books across the room.

"A teacher restrained him for two minutes," said Conner. "Restraining is getting down on their level and hugging them, basically controlling him because he can't control himself."

According to Carlson, the teachers at Mt. Iliamna are trained annually on how to properly restrain a student or use the seclusion room, and those methods are only used when it develops into a safety issue.

Charlie began second grade at the special needs school last month.

"At registration every teacher he knew he ran up to and hugged," said Conner. "The staff, they always know who your child is and are happy when parents make an effort to be a part of their child's progress and are willing to share progress with parents at immediate request."

"It's not like a death sentence. They work with them to get them back to a regular school," she said.

Ultimately, she hopes that Charlie will go back to his home school, but she said he's not ready yet. Carlson said there is no way to track the school's success rate because each child is different.

Although Charlie's situation isn't ideal, Conner said he is learning how to manage his anger, and is still getting a regular education at Mt. Iliamna Elementary School.

"It's better than the alternative -- institutionalizing him," she said. "If I did that I feel like that's me giving up. This way he comes home every day and we can still be a family."

Contact Megan Edge at [megan\(at\)alaskadispatch.com](mailto:megan(at)alaskadispatch.com) [4]. Follower on Twitter [@Meatedge](https://twitter.com/Meatedge) [5]

**Source URL:** <http://www.alaskadispatch.com/article/20130924/are-anchorage-school-districts-seclusion-rooms-just-another-teaching-tool>

**Links:**

[1] <http://www.alaskadispatch.com/authors/786251>

[2] <http://www.alaskadispatch.com/image/seclusion-room-mt-iliamna-elementary-school>

[3] <http://www.alaskadispatch.com/article/20130920/report-anchorage-special-needs-elementary-school-students-frequently-held-isolation>

[4] <mailto:megan@alaskadispatch.com>

[5] <https://twitter.com/Megtedge>

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**Alaska Legislature**  
**Representative Charisse Millett**

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*District 24*

**Memorandum**  
**Request for Teleconference/Technical Capabilities**

**To:** The Honorable Lynn Gattis, Chair  
House Education Committee

**From:** Representative Charisse Millett

**Re:** Request for Teleconference and Technical Capabilities for House Bill 210 Hearing

**Date:** February 5<sup>th</sup>, 2014

---

Honorable Chair Gattis,

I respectfully request that the hearing request for House Bill 210 be accompanied by this request for teleconferencing capabilities. Our office has received requests from several individuals to testify remotely. We would appreciate any indulgence of your patience.

Respectfully,  
Charisse Millett

**Alaska Legislature**  
**Representative Charisse Millett**

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**Memorandum**  
**Request for Teleconference/Technical Capabilities**

**To:** The Honorable Lynn Gattis, Chair  
House Education Committee

**From:** Representative Charisse Millett

**Re:** Preliminary List of Testifiers for House Bill 210

**Date:** February 5<sup>th</sup>, 2014

---

Honorable Chair Gattis,

Enclosed is a preliminary list of testifiers who have indicated they are available to testify with respect to House Bill 210:

**In Person:**

Teresa Holt, Executive Director of the Governor's Council on Disabilities and Special Education,  
Christie Reinhardt, Staff to the Governor's Council on Disabilities and Special Education,  
Ric Nelson, Chair of the Governor's Council on Disabilities and Special Education

**Remotely:**

Dave Fleurant, Disability Law Center of Alaska

Respectfully,  
Charisse Millett



educate. empower. enrich.

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(Deaf, hard of hearing, or speech impaired)  
crisisprevention.com

February 10, 2014

## Governor's Council on Disabilities & Special Education

3601 C Street, Suite 740  
Anchorage, AK 99503

Dear Council Members,

On behalf of the 28,000 active members of the CPI Instructor Association and CPI (Crisis Prevention Institute), thank you for the opportunity to provide comment on the **CSHB 210, a Bill for an Act entitled "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."** For over 33 years, CPI has been active in educating and training educators in the skills necessary to manage a crisis situation and to safely intervene physically when required. We share the State of Alaska's goals of promoting positive behavioral interventions and supports in schools and minimizing risks associated with the use of restraint and seclusion by focusing on early prevention and safe, effective interventions.

CPI commends the Alaska Board of Education and Early Learning for addressing this important and sensitive subject. For years, CPI has supported legislature, departments of education, and advocacy groups in developing rules and policies for the use of restraint and seclusion in public schools. CPI makes the following suggestions, based on our knowledge of best practices and our expertise, on the use of physical restraint and in supporting organizations to become restraint-free environments.

CPI makes the following recommendations that we feel would strengthen this Bill.

**Sec. 14.33.125 (4):** CPI encourages the Council to add language to reflect not only has the person received training, but that they have demonstrated competency in the skills associated with that training on an annual basis. For example: **(4) The person has received initial training and annual retraining; and has demonstrated competency in crisis intervention and de-escalation and restraint techniques that have been approved by the department under AS 14.33.127, unless a trained person is not immediately available and the circumstances are rare and present an unavoidable and unforeseen emergency.**

**Sec 14.33.125 (5)(c):** CPI suggests strengthening the language around prohibited practices associated with restraint to include all of the following:

### **Prohibited forms and uses of physical restraint**

- A. **Physical restraint may not be used for punitive purposes, staff convenience or to control challenging behavior.**
- B. **Physical restraint may not be used to prevent property destruction or disruption of the environment in the absence of imminent risk of injury.**

- C. **No physical restraint may be used that restricts the free movement of the diaphragm or chest or that restricts the airway so as to interrupt normal breathing or speech (restraint-related positional asphyxia) of a student.**
- D. **No physical restraint may be used that involves taking the student to the floor and forcibly holding him or her in a prone, supine, seated or side position.**
- D. **No physical restraint may be used that relies on pain for control, including but not limited to joint hyperextension, excessive force, take-down (supported or unsupported), the use of any physical structure (e.g. wall, railing or post), punching and hitting.**
- E. **Physical restraint may not be used as a therapeutic or educational intervention.**
- F. **Aversive procedures and mechanical and chemical restraints may not be used under any circumstances.**
- G. **Prescribed assistive devices are not considered mechanical restraints when used as prescribed. Their use must be supervised by qualified and trained individuals in accordance with professional standards.**
- H. **Prescribed medications administered by a health care provider consistent with a student's health care plan are permitted.**

**Sec 14.33.125 (5)(c)(3):** Physical interventions, including physical escorts should be limited in use to situations of imminent danger. CPI would encourage adding to the prohibition of an escort position that restricts student's breathing to clarify that physical escort may be used to move a student only if the need for movement outweighs the risks involved in such movement. Most physical escorts taught within crisis intervention programs are taught only to be used when the individual is an imminent danger to self or others. By definition, the technique often restricts or reduces the ability of the student to move the student's arms or legs freely, and thereby is considered a restraint.

**Sec 14.33.125 (5)(c)(4):** CPI applauds the restriction of high risk positions such as those created by placing a student on the student's stomach or back or in a manner that restricts the student's breathing. However, in situations where standing restraints are utilized; CPI feels it is equally important to address the reality that an emergency situation may begin or end up on the ground with the student being in a position on his/her stomach or back. We offer the following language to address the use of a transitional hold to move the student back to a safer position if there is no option to disengage in the event the restraint falls to the ground; or if the event begins on the ground:

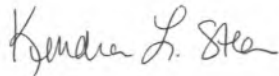
- **Transitional Hold** is a brief physical restraint of an individual, which may be on the ground, for the purpose of quickly and effectively gaining physical control of an individual who has met the criteria for physical restraint, with the intent to transition that individual to a safer, standing position as quickly as possible.
- **If a student is demonstrating imminent risk while on the ground, or if during the process of physical restraint the student directs the restraint to the ground, staff should make attempts to disengage or utilize a transitional hold to move the student back to a safer restraint position.**



Thank you again for the opportunity to review and provide comment on your proposed Bill. We look forward to partnering with Alaska schools to ensure the *Care, Welfare, Safety and Security*<sup>SM</sup> for all students and staff members.

Please do not hesitate to contact me directly should you have questions or concerns about our suggestions.

Sincerely,



Kendra L. Stea MS, NCC  
Director of Client Services



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February 11, 2014

The Honorable Charisse Millet  
Alaska State House of Representatives  
State Capitol, Room 403  
Juneau, AK 99801

RE: HB 210: Student Restraint, Seclusion, Psyc

*Via Electronic Mail*

Dear Representative Millet:

The Disability Law Center (DLC) is writing to you in regard of the current version of HB 210, an act relating to student restraint, seclusion, and psychiatric medications and which has been referred to the House Education Committee.

As it is written, the current draft of HB 210 closes a major gap in protections for children who may be subjected to restraint and seclusion and would regulate the use of these serious methodologies in our schools. Currently, there are no state or federal laws which regulate or restrict the use of seclusion or restraint in public or private schools. Alaska is one of ten states (out of 51) that has nonbinding, suggested guidelines that have no legal force and that are easily changed. The result is a patchwork of inconsistent policies, or no policies at all, across local school districts. This puts students at risk for injury, abuse, and violation of their rights. As H.B. 210 continues through the legislative process, we would like to take this opportunity to provide you with information that you may find helpful.

Besides creating consistent, binding policies regarding restraint and seclusion across the state, H.B. 210 also provides a vital safeguard by allowing only trained school personnel physically restrain, physically escort or seclude a student when the student's behavior poses an imminent danger of physical injury to the student or another person. It also provides language describing when an intervention must cease. Seclusion and restraint are emergency interventions that should only be used in rare occasions when absolutely necessary to protect students from severe physical danger. From government studies to private sector and non-profit studies, many have recognized the inherent risks associated with the use of restraint or seclusion over the years. These studies have found that the use of restraint and seclusion can cause serious consequences, such as physical or psychological harm, loss of dignity, and even death.<sup>1</sup> Without clear, consistent

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<sup>1</sup> Government agencies that have completed studies on restraint and seclusion include: The President's New Freedom Commission on Mental Health, Center for Mental Services, Substance Abuse and Mental Health Services Administration, Government Accountability office. National accreditation and member organizations that have done studies on restraint and seclusion include: The Joint Commission on Accreditation of Healthcare Organizations, American Psychological Association, American Psychiatric Nurses Association, and National Association of Psychiatric Health Systems.

## ANCHORAGE

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guidelines, the potential to have students placed in restraint in seclusion in non-emergency situations is great. The need to have consistent language to all school districts across the state explaining when these emergency interventions can be used, and when they must end, is imperative. H.B. 210 would also require that a student be monitored by school personal with face-to-face contact or by continued direct visual contact with the student. This language would ensure that all school districts across the state are held accountable for student's safety when they are placed in seclusion.

In addition, H.B. 210 requires that a parent or guardian will be promptly notified within 24 hours when their child experiences restraint or seclusion while at school. As DLC found in its investigation of the use of restraint and seclusion in schools, parents or guardians were informed much later, or never at all, that their child had been placed in restraint or seclusion. The possibility of needing to seek prompt medical attention makes the 24 hour notification important. Parents need to know so that they can watch for injuries and psychological trauma, and seek appropriate follow up care. Notification also enables parents to work with staff to prevent future incidents of restraint or seclusion and to ensure positive behavioral supports and de-escalations methods are in place.

H.B.210 would also ensure that a report is written up following incidents of restraint or seclusion to be provided to the school administrator and the student's parents or guardians on request, as well as make certain that a review process is established and conducted for each incident. This process will mean that school personnel will look at what caused the event, how it could have been avoided, and by analyzing, planning for, and implementing positive interventions. This type of debriefing has been shown help reduce and eliminate restraint and seclusion.<sup>2</sup>

Finally, H.B. 210 would direct school districts to report to the department the total number of incidents involving restraint and seclusion of a student. The annual report would allow the state to be aware of potential trends in the use of restraint and seclusion across Alaska and address any problems when necessary.

Thank you for addressing this issue for allowing the Disability Law Center to be a part of this is important discussion.

Sincerely,

DISABILITY LAW CENTER OF ALASKA



David C. Fleurant  
Executive Director

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<sup>2</sup> *Medicaid Program; Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities Providing Psychiatric Services to Individuals Under Age 21; Interim Final Rule*, 66 FED. REG. 7148, 7152 (Jan. 22, 2001). A systematic debriefing process also counters implementation drift—the tendency to go back to prior patterns of routinely using seclusion/restraint as a response. BethAnn Glew, *Reducing The Use Of Seclusion And Restraint In Segregated Special Education School Settings Through Implementation Of The Collaborative Problem Solving Model* (2012) (unpublished dissertation, Duquesne University).

The Honorable Lynn Gattis, Chair  
House Education Committee  
Alaska State Legislature  
State Capitol, Room 420  
Juneau, AK 99801

Dear Representative Gattis,

Support the **Safe Students Act, HB 210**

My husband was called to school to witness a 250 pound principal lying on top of our 9 year old daughter, who was crying and screaming, "Get off of me, I can't breathe, you're breaking my arm."

This is not Education!

I am a parent of a child who was restrained multiple times in grades 1-8. My daughter experiences prenatal exposure to alcohol and is one of the few in rural areas to have received a diagnosis.

My daughter experienced high anxiety in school. She would self- accommodate by hiding under her desk or removing herself from the classroom situation which caused visual/ verbal overload.

Unfortunately, the teacher's reaction to this 'non- compliance' was usually to closer to her face, use more words and talk louder. Far from encouraging 'compliance', this caused increased anxiety and my daughter would attempt to leave the classroom.

When prevented from self- accommodating, i.e., boxed in a corner; my daughter would act out physically. Additionally harmful- staff restraining was untrained, non- certified and multiple. We had reports of two adults carrying my daughter down the hall held by arms and legs towards seclusion.

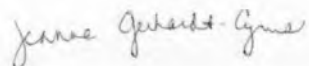
My daughter was subsequently diagnosed with PTSD.

This year, my daughter is on the honor roll as a freshman in high school. We are working with the Complex Behavioral Collaborative and the teachers allow her to self- accommodate. Her anxiety is much reduced and she is able to excel in school. Between her efforts, those of the CBC, staff, and parents in collaboration, everyone is safer, and she is reaching towards her potential.

This is Education!

Our students AND staff need training in approved de-escalation techniques. Inappropriate and unnecessary restraint and seclusion needs to stop. The physical and psychological damage is too high a price to pay.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeanne Gerhardt-Cyrus".

Jeanne Gerhardt- Cyrus, Parent

Kiana, Alaska



Testimony of the Disability Law Center of Alaska  
House Education Committee  
March 17, 2014

Presented by: Ronald A. Cowan  
Legal Rights Advocate II/  
Investigator

Good morning Chairman Gattis and members of the House Education Committee,

My name is Ron Cowan, and I'd like to thank you for the opportunity to comment on this proposed legislation on behalf of the Disability Law Center of Alaska, the State's designated Protection & Advocacy system for people who experience a disability. I am the primary abuse and neglect investigator for our agency, and have previously served as the State's Long-Term Care Ombudsman and as a regulator.

As many of you already know, the use of restraint and seclusion in schools has become a much talked about issue over the past 10 or more years. The main reasons for this are the number of injuries and even deaths that have been linked to the use of restraint and seclusion in schools. So too, some studies and investigations have revealed the inappropriate or misuse of restraint and seclusion in schools. Legislation to address these concerns has been introduced in Congress and many states have adopted or are developing statutes and regulations to provide rules and conditions for the use of restraints and seclusion.

In our own State, we have received complaints about students as young as 3 years old being held in physical restraints by school staff or being picked up and carried to rooms they can't leave because the door is locked or someone holds the door handle or puts their foot or body against the door. In some schools, utility closets have been used that have no windows or means to monitor the student for safety. In other schools make-shift seclusion cubicles or large box-like devices have been built out of plywood. In yet other schools, padded mats like those used in physical education classes have been stood up and held by staff as they surround a student so that he or she is unable to leave. Frequently, these interventions might not be viewed by school staff as "seclusion" because a staff member is present. As a result, even though the student was subjected to the same potential risks for injury and trauma as if he or she had been in seclusion alone, the parents would not necessarily be notified. In these cases, the parents would not be alerted to observe for possible trauma, nor was there a requirement for school staff to conduct additional assessments of the behaviors, review interventions, or develop positive behavioral supports with the participation of the parents, that might preclude future unsafe behavior. Given the language and safeguards of HB210, the above scenario is less likely to occur and it would create consistent policies and practices throughout the State.

ANCHORAGE

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The current language of HB210 provides numerous protections to those students who may be subjected to the use of restraint or seclusion, a large percentage of whom experience a disability. These required safeguards include notice to parents; written reports; the use of restraint and seclusion only in emergent circumstances where other interventions are not successful; termination of the restraint or seclusion as soon as the unsafe behavior has subsided; staff training of an approved program; continuous monitoring of a student in seclusion; review and analysis of plans and assessments following the use of restraint and seclusion; and finally, annual reporting to the State.

Restraint and seclusion are not evidence-based educational, therapeutic or behavioral program interventions. The use of restraint and seclusion is indicative of the failure of other therapeutic interventions, not success and therefore should only be used in rare circumstances. Under the best of circumstances, restraint and seclusion are used only when a student is displaying behaviors that are unsafe for the student or others, or where those behaviors are deemed to be imminent, and where other interventions are not or have not been successful in ameliorating the behavior that is unsafe. The restraint and seclusion is terminated as soon as the unsafe behavior has stopped. The circumstances surrounding the unsafe behavior, the unsafe behavior itself, and the interventions attempted or considered are re-evaluated, with changes in the student's plan or additional staff training occurring as necessary.

Under the worst of circumstances, restraint and seclusion are used when less aggressive, less restrictive interventions may have been successful in preventing or mitigating the unsafe behavior or when they are used for convenience, punishment or to bring about compliance. As stated earlier, the use of restraint and seclusion may result in injury or death; they may also result in creating a traumatic experience, often to a child whose behavior stems from other traumatic experiences or a disability.

HB210 provides needed added protections to students, while ensuring parents are consistently made aware of circumstances that may be taking away students' opportunities for learning, placing their child at risk, and giving parents the opportunity to work with school staff to develop interventions that enhance rather than restrict student learning.