

HB

210

<TARGET><BILL>HB 210</BILL><SUBJECT>HB
210</SUBJECT><COMM>HFIN28</COMM></TARGET>

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSHB 210(EDC)
Fiscal Note Number: 1
(H) Publish Date: 3/18/14

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 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015					
Personal Services							
Travel							
Services	14.0		14.0	14.0	14.0	14.0	14.0
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	14.0	0.0	14.0	14.0	14.0	14.0	14.0

Fund Source (Operating Only)

1004 Gen Fund	14.0		14.0	14.0	14.0	14.0	14.0
Total	14.0	0.0	14.0	14.0	14.0	14.0	14.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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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If yes, by what date are the regulations to be adopted, amended or repealed? 09/30/14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: <u>Dr. Susan McCauley</u>	Phone: <u>(907)465-8686</u>
Division: <u>Director, Teaching and Learning Support</u>	Date: <u>02/07/2014 06:15 PM</u>
Approved By: <u>Mike Hanley</u>	Date: <u>02/07/14</u>
Agency: <u>Commissioner</u>	

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSHB 210(EDC)

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.

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Commodities							
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Miscellaneous							
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Part-time							
Temporary							

Change in Revenues							
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*Adopted
3/25/14*

28-LS0852/D
Mischel
3/25/14

CS FOR HOUSE BILL NO. 210(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

**Offered:
Referred:**

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

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, ^{legal guardians,} 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, on the same day as the incident, provide to the parent or
24 legal guardian of an affected student information relating to an incident involving
25 disruptive or violent behavior by the student that resulted in restraint or seclusion of
26 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. The report must include

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

(e) A school district shall ensure that a review process is established and conducted for each incident that involves restraint or seclusion of a student. The review must be conducted as soon as practicable after the event and include

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

(f) Each school district shall annually report to the department, on a form acceptable to the department, the total number of incidents involving the restraint or seclusion of a student. The report must specify

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

(g) In this section,

- (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.

Alaska Legislature

Representative Charisse Millett

Session:

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Juneau, AK 99801
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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.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

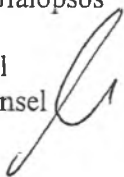
MEMORANDUM

February 28, 2014

SUBJECT: Sectional Summary
(CSHB 210() (Work Order No. 28-LS0852\T))

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.

JMM:lem
14-098.lem

Alaska Legislature

Representative Charisse Millett

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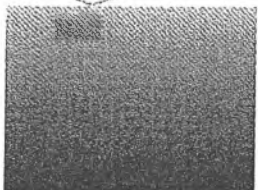
District 24

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.



DISABILITY
LAW CENTER
OF ALASKA



ANCHORAGE

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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.¹ Without clear, consistent

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¹ 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.

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 personnel 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.

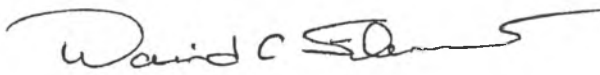
H.B.210 would also ensure that a report is written up following incidents of restraint or seclusion to be provided to the school administrator and the student's parents or guardians on request, as well as make certain that a review process is established and conducted for each incident. This process 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.²

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

² *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).