

HB

210

<TARGET><BILL>HB 210</BILL><SUBJECT>HB
210</SUBJECT><COMM>SFIN28</COMM></TARGET>

SENATE FINANCE COMMITTEE REPORT

DATE: 4/11/14

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered CS FOR HOUSE BILL NO. 210(FIN) am

HB 210-SCHOOLS: RESTRAINT, SECLUSION, CRISIS TRG

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

and recommends:

- be replaced with SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
EED	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	Duslavy			✓	
Anna Fairclough	FAIRCLOUGH			✓	
	Bishop			✓	
	ELLISON	✓			
CO-CHAIR:	Kelly			✓	
CO-CHAIR:	Meyer	✓			

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 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates				
	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES							
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:	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 #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.

Alaska Legislature

Representative Charisse Millett

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Sponsor Statement

House Bill 210

Alaska is currently one of the less than 15 states that have no statewide policy regarding how children can either be physically restrained 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. Parent need to know if their child was involved in an incident of restrain or seclusion and the reasons for these actions need to be clearly defined. School personnel and administrators 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.

House Bill 210 is a balanced approach to ensure school safety. It requires that a school district's safety plan be made available to parents, legal guardians, students and the public. If an incident of restraint or seclusion occurs, the student's parents or legal guardians need to be informed the same day as 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 restrain or seclusion. Each school district needs to report all instances of restraint and seclusion on an annual basis to the Department of Education and Early Development.

HB 210 will protect students from trauma, keep parents informed of what happens to their child, and support teachers and school personnel tasked with incredibly difficult decisions. By ensuring a statewide, consistent set of rules, we make our schools safer for everyone. I would respectfully request your support.

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HB 210 Sectional Summary for Version B

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, legal guardians, 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 legal guardian within the same day as the incident.

Section 3. Adds specific stands 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 sections 2 and 3 of the bill.

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House Bill 210-Explanation of Changes

From Version Y to Version E

1. Section 1 of the Y Version in its entirety is deleted. All subsequent sections are numbered accordingly.
2. Section 4 (e) of the Y version is modified to read *"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..."*
3. Section 4 (f) of the Y version is modified to read *"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."*
4. Section 4 (g) of the Y version is modified to read *"'chemical restraint' means a psychopharmacologic drug that is used on a student for discipline or convenience and that is not required to treat a medical symptom"*
5. The terms "physically escort" or "physical escort" that was in the Y version is removed in its entirety from the bill. These terms were found in:
 - a. Section 4(c)(3)
 - b. Section 4(g)(3)
6. The E version of the bill adds two new sections entitled Sections 4 and 5. Section 4 cross references an existing statute related to private and religious school exemptions. Section 5 explicitly exempts private or religious schools from the provisions in Sections 1, 2, and 3.

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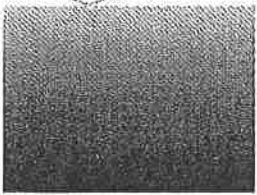
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House Bill 210-Explanation of Changes

From Version E to Version B

1. Section 1(a) is amended to read *"be made available to students, parents, legal guardians, and the public and..."*
2. Section 1(a)(1) is amended to include legal guardians to the required group of stakeholders local school districts would need to collaborate on assessing periodically the standards for student behavior and safety.
3. Section 2 is amended to require a school to notify the parent or legal guardian of a child who has been restrained or secluded on the same day as the incident. The previous version of the bill required notification within 24 hours.
4. Section 4(d) is amended to require that a follow up report of an incident involving restraint or seclusion of a student be provided to the parents or legal guardians of the student. The previous version of the bill would only provide the report to the parents or legal guardians of the student on request.



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

MEMBER OF THE
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RIGHTS
NETWORK

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 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).

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House Bill 210- Senate Finance Hearing List of Testifiers

Off-Net:

Lucy Hope, Director of Special Education, Mat-Su School District

Clayton Holland, Director of Pupil Services, Kenai Peninsula School District

Ron Cowan, Disability Law Center of Alaska

Jeanne Gherhart-Cyrus, Parent (Kiana)

Ashley Dunks, Parent (Mat-Su)

Off-Net for Questions:

Teresa Holt, Executive Director, Governor's Council on Disabilities and Special Education

Christie Reinhart, Staff, Governor's Council on Disabilities and Special Education

Kendra Stea, Crisis Prevention Institute