

# SENATE BILL No. 1443

September 30, 2004, Introduced by Senator GEORGE and referred to the Committee on Health Policy.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending section 1312 (MCL 380.1312), as amended by 2000 PA  
461.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1312. (1) As used in this section: ~~—, "corporal~~

2       (a) "Chemical restraint" means a drug or medication that is  
3 used as a restraint to control behavior or restrict an  
4 individual's freedom of movement. Chemical restraint does not  
5 include use of a drug or medication that is standard treatment  
6 for the individual's medical or psychiatric condition.

7       (b) "Corporal punishment" means the deliberate infliction of  
8 physical pain by hitting, paddling, spanking, slapping, or any  
9 other physical force used as a means of discipline. ~~—(2)~~  
10 Corporal punishment does not include physical pain caused by

1 reasonable physical activities associated with athletic  
2 training.

3 (c) "Mechanical restraint" means a device, material, or  
4 equipment attached or adjacent to an individual's body that he or  
5 she cannot easily remove and that restricts freedom of movement  
6 or normal access to the individual's body. Mechanical restraint  
7 does not include a device, such as an orthopedically prescribed  
8 device, surgical dressings or bandages, or a protective helmet,  
9 that involves the physical restricting of an individual to permit  
10 the individual to participate in activities without the risk of  
11 physical harm to the individual.

12 (d) "Personal restraint" means any touching or holding of a  
13 pupil by another person causing a personal restriction that  
14 immobilizes a pupil or reduces a pupil's freedom of movement.  
15 Personal restraint does not include physically escorting a pupil  
16 or the use of a device, such as an orthopedically prescribed  
17 device, surgical dressings or bandages, a protective helmet, or  
18 another device, that involves the physical holding of an  
19 individual to permit the individual to participate in activities  
20 without the risk of physical harm to the individual.

21 (e) "Seclusion" means a behavior control technique involving  
22 confinement of an individual alone in an area from which the  
23 individual is physically prevented from leaving. Seclusion does  
24 not include a time out.

25 (2) ~~-(3)-~~ A person employed by or engaged as a volunteer or  
26 contractor by a local or intermediate school board or public  
27 school academy shall not inflict or cause to be inflicted

1 corporal punishment, **seclusion, chemical restraint, or mechanical**  
2 **restraint** upon any pupil under any circumstances.

3       (3) ~~—(4)—~~ A person employed by or engaged as a volunteer or  
4 contractor by a local or intermediate school board or public  
5 school academy may use reasonable physical force **or reasonable**  
6 **personal restraint** upon a pupil **only** as necessary to maintain  
7 order and control in a school or school-related setting for the  
8 purpose of providing an environment conducive to safety and  
9 learning **or in a situation when a pupil's behavior threatens**  
10 **imminent physical harm to the pupil or others or to property and**  
11 **the use of physical force or personal restraint is necessary to**  
12 **ensure the safety of the pupil, another person, or property.** In  
13 maintaining that order and control, the person may use physical  
14 force **or personal restraint** upon a pupil as may be necessary for  
15 1 or more of the following:

16       (a) To restrain or remove a pupil whose behavior is  
17 interfering with the orderly exercise and performance of school  
18 district or public school academy functions within a school or at  
19 a school-related activity, if that pupil has refused to comply  
20 with a request to refrain from further disruptive acts.

21       (b) For self-defense or the defense of another.

22       (c) To prevent a pupil from inflicting harm on himself or  
23 herself.

24       (d) To quell a disturbance that threatens physical injury to  
25 any person.

26       (e) To obtain possession of a weapon or other dangerous  
27 object upon or within the control of a pupil.

(f) To protect property.

**(4)** ~~—(5)—~~ A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force **or necessary reasonable personal restraint** upon a pupil, or upon another person of school age in a school-related setting, as described in subsection ~~—(4)—~~ **(3)** is not liable in a civil action for damages arising from the use of that physical force **or personal restraint** and is presumed not to have violated subsection ~~—(3)—~~ **(2)** by the use of that physical force **or personal restraint**. This subsection does not alter or limit a person's immunity from liability provided under 1964 PA 170, MCL 691.1401 to ~~—691.1415—~~ **691.1419**.

**(5)** ~~—(6)—~~ A person who willfully or through gross negligence violates subsection ~~—(3)—~~ **(2)** or who willfully or through gross negligence violates subsection ~~—(4)—~~ **(3)** may be appropriately disciplined by his or her school board or public school academy. This subsection does not limit a school board's or public school academy's authority to discipline an employee for a violation of its own policies.

**(6)** ~~—(7)—~~ In determining whether an employee, volunteer, or contractor has acted in accordance with subsection ~~—(4)—~~ **(3)**, deference shall be given to reasonable good-faith judgments made by that person **if the person's actions are consistent with the local or intermediate school district's or public school academy's plan under subsection (7) regarding the use of emergency interventions**.

1           (7) ~~—(8)—~~ A local or intermediate school district or a  
2 public school academy shall develop, ~~—and—~~ implement, and provide  
3 to pupils and parents a code of student conduct and a plan  
4 regarding the use of emergency interventions and shall enforce  
5 ~~—its—~~ and comply with the provisions of the code of student  
6 conduct and the emergency intervention plan with regard to pupil  
7 misconduct in a classroom, elsewhere on school premises, on a  
8 school bus or other school-related vehicle, or at a school  
9 sponsored activity or event whether or not it is held on school  
10 premises. The code of student conduct shall include the school  
11 district's or public school academy's policy regarding use of  
12 emergency interventions and personal restraint.

13           (8) If a person employed by or engaged as a volunteer or  
14 contractor by a local or intermediate school district or a public  
15 school academy uses personal restraint on a pupil in a situation  
16 in which personal restraint is allowed under this section, all of  
17 the following apply to the personal restraint:

18           (a) The person shall use only that reasonable force as is  
19 necessary to accomplish the personal restraint in the situation.

20           (b) The person shall ensure that the safety and comfort of  
21 the pupil are maintained during the use of personal restraint.

22           (c) The person shall discontinue that intervention as soon  
23 as the situation no longer exists.

24           (d) Throughout the personal restraint, the pupil shall be  
25 monitored in person to assess, monitor, and reevaluate the  
26 pupil's condition. This monitoring shall be conducted by a  
27 school staff member who is not otherwise directly involved in the

1 administration of the intervention.

2 (e) If the personal restraint lasts for more than 30  
3 minutes, school officials shall contact emergency personnel to  
4 respond to handle the situation.

5 (f) The local or intermediate school district or public  
6 school academy shall report the incident to the superintendent of  
7 public instruction in an annual report of incidents involving  
8 personal restraint. The superintendent of public instruction  
9 shall prescribe the form and manner of this annual report.

10 (9) The department shall develop a model list of  
11 alternatives to the use of corporal punishment. This model list  
12 shall be developed in consultation with organizations that  
13 represent the interests of teachers, school employees, school  
14 boards, school administrators, pupils, parents, and child  
15 advocates, plus any other organization that the state board of  
16 education may wish to consult. The department shall send this  
17 model list to each school district, public school academy, and  
18 intermediate school district in the state and to each nonpublic  
19 school in the state that requests it. A local or intermediate  
20 school board or public school academy shall approve and cause to  
21 be distributed to each employee, volunteer, and contractor a list  
22 of alternatives to the use of corporal punishment. Upon request,  
23 the department of education shall provide assistance to schools  
24 in the development of programs and materials to implement this  
25 section.

26 (10) Any resolution, bylaw, rule, policy, ordinance, or  
27 other authority permitting corporal punishment, **personal**

1 restraint, seclusion, chemical restraint, or mechanical restraint  
2 is void.

3 (11) The board of a local or intermediate school district or  
4 board of directors of a public school academy shall ensure that  
5 all of the following are done with respect to the use of personal  
6 restraint:

7 (a) Before the beginning of the next school year that begins  
8 after the effective date of this subsection, and at least  
9 annually thereafter, at least 1 member of the staff of each  
10 school it operates shall attend a nationally recognized training  
11 program on the use of personal restraint. The department shall  
12 identify 1 or more programs that are suitable for the purposes of  
13 this subdivision and notify local and intermediate school  
14 districts and public school academies of these programs.

15 (b) Within the first 30 days after the beginning of each  
16 school year, training on the use of personal restraint shall be  
17 provided to every staff member who is employed in a position in  
18 which he or she might be required to implement personal restraint  
19 on a pupil. This training shall be conducted by a staff member  
20 who has attended the training described in subdivision (a).