

SUBSTITUTE FOR
HOUSE BILL NO. 5417

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1307h.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1307H. AS USED IN SECTIONS 1307 TO 1307H:

2 (A) "CHEMICAL RESTRAINT" MEANS THE ADMINISTRATION OF
3 MEDICATION FOR THE PURPOSE OF RESTRAINT.

4 (B) "DE-ESCALATION TECHNIQUES" MEANS EVIDENCE- AND RESEARCH-
5 BASED STRATEGICALLY EMPLOYED VERBAL OR NONVERBAL INTERVENTIONS USED
6 TO REDUCE THE INTENSITY OF THREATENING BEHAVIOR BEFORE, DURING, AND
7 AFTER A CRISIS SITUATION OCCURS.

8 (C) "DOCUMENTATION" MEANS DOCUMENTATION DEVELOPED BY THE
9 DEPARTMENT THAT IS UNIFORM ACROSS THE STATE.

10 (D) "EMERGENCY PHYSICAL RESTRAINT" MEANS A LAST RESORT
11 EMERGENCY SAFETY INTERVENTION INVOLVING PHYSICAL RESTRAINT THAT IS

1 NECESSITATED BY AN ONGOING EMERGENCY SITUATION AND THAT PROVIDES AN
2 OPPORTUNITY FOR THE PUPIL TO REGAIN SELF-CONTROL WHILE MAINTAINING
3 THE SAFETY OF THE PUPIL AND OTHERS. EMERGENCY PHYSICAL RESTRAINT
4 DOES NOT INCLUDE PHYSICAL RESTRAINT THAT IS USED FOR THE
5 CONVENIENCE OF SCHOOL PERSONNEL, AS A SUBSTITUTE FOR AN EDUCATIONAL
6 PROGRAM, AS A FORM OF DISCIPLINE OR PUNISHMENT, AS A SUBSTITUTE FOR
7 LESS RESTRICTIVE ALTERNATIVES, AS A SUBSTITUTE FOR ADEQUATE
8 STAFFING, OR AS A SUBSTITUTE FOR SCHOOL PERSONNEL TRAINING IN
9 POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT. EMERGENCY PHYSICAL
10 RESTRAINT DOES NOT INCLUDE A PRACTICE PROHIBITED UNDER SECTION
11 1307B. EMERGENCY PHYSICAL RESTRAINT DOES NOT INCLUDE PHYSICAL
12 RESTRAINT WHEN CONTRAINDICATED BASED ON A PUPIL'S DISABILITY,
13 HEALTH CARE NEEDS, OR MEDICAL OR PSYCHIATRIC CONDITION, AS
14 DOCUMENTED IN A RECORD OR RECORDS MADE AVAILABLE TO THE SCHOOL.

15 (E) "EMERGENCY SECLUSION" MEANS A LAST RESORT EMERGENCY SAFETY
16 INTERVENTION INVOLVING SECLUSION THAT IS NECESSITATED BY AN ONGOING
17 EMERGENCY SITUATION AND THAT PROVIDES AN OPPORTUNITY FOR THE PUPIL
18 TO REGAIN SELF-CONTROL WHILE MAINTAINING THE SAFETY OF THE PUPIL
19 AND OTHERS. TO QUALIFY AS EMERGENCY SECLUSION, THERE MUST BE
20 CONTINUOUS OBSERVATION BY SCHOOL PERSONNEL OF THE PUPIL IN
21 SECLUSION, AND THE ROOM OR AREA USED FOR CONFINEMENT MUST COMPLY
22 WITH STATE AND LOCAL FIRE AND BUILDING CODES; MUST NOT BE LOCKED;
23 MUST NOT PREVENT THE PUPIL FROM EXITING THE AREA IF SCHOOL
24 PERSONNEL BECOME INCAPACITATED OR LEAVE THAT AREA; AND MUST PROVIDE
25 FOR ADEQUATE SPACE, LIGHTING, VENTILATION, VIEWING, AND THE SAFETY
26 AND DIGNITY OF THE PUPIL AND OTHERS, IN ACCORDANCE WITH DEPARTMENT
27 GUIDELINES. EMERGENCY SECLUSION DOES NOT INCLUDE THE CONFINEMENT OF

1 PRESCHOOL CHILDREN OR OF PUPILS WHO ARE SEVERELY SELF-INJURIOUS OR
2 SUICIDAL; SECLUSION THAT IS USED FOR THE CONVENIENCE OF SCHOOL
3 PERSONNEL, AS A SUBSTITUTE FOR AN EDUCATIONAL PROGRAM, AS A FORM OF
4 DISCIPLINE OR PUNISHMENT, AS A SUBSTITUTE FOR LESS RESTRICTIVE
5 ALTERNATIVES, AS A SUBSTITUTE FOR ADEQUATE STAFFING, OR AS A
6 SUBSTITUTE FOR SCHOOL PERSONNEL TRAINING IN POSITIVE BEHAVIORAL
7 INTERVENTION AND SUPPORT; OR A PRACTICE PROHIBITED UNDER SECTION
8 1307B. EMERGENCY SECLUSION DOES NOT INCLUDE SECLUSION WHEN
9 CONTRAINDICATED BASED ON A PUPIL'S DISABILITY, HEALTH CARE NEEDS,
10 OR MEDICAL OR PSYCHIATRIC CONDITION, AS DOCUMENTED IN A RECORD OR
11 RECORDS MADE AVAILABLE TO THE SCHOOL.

12 (F) "EMERGENCY SITUATION" MEANS A SITUATION IN WHICH A PUPIL'S
13 BEHAVIOR POSES IMMINENT RISK TO THE SAFETY OF THE INDIVIDUAL PUPIL
14 OR TO THE SAFETY OF OTHERS. AN EMERGENCY SITUATION REQUIRES AN
15 IMMEDIATE INTERVENTION.

16 (G) "FUNCTIONAL BEHAVIORAL ASSESSMENT" MEANS AN EVIDENCE- AND
17 RESEARCH-BASED SYSTEMATIC PROCESS FOR IDENTIFYING THE EVENTS THAT
18 TRIGGER AND MAINTAIN PROBLEM BEHAVIOR IN AN EDUCATIONAL SETTING. A
19 FUNCTIONAL BEHAVIORAL ASSESSMENT SHALL DESCRIBE SPECIFIC
20 PROBLEMATIC BEHAVIORS, REPORT THE FREQUENCY OF THE BEHAVIORS,
21 ASSESS ENVIRONMENTAL AND OTHER SETTING CONDITIONS WHERE PROBLEMATIC
22 BEHAVIORS OCCUR, AND IDENTIFY THE FACTORS THAT ARE MAINTAINING THE
23 BEHAVIORS OVER TIME.

24 (H) "KEY IDENTIFIED PERSONNEL" MEANS THOSE INDIVIDUALS WHO
25 HAVE RECEIVED THE MANDATORY TRAINING DESCRIBED IN SECTION
26 1307G(B) (i) TO (xvi) .

27 (I) "MECHANICAL RESTRAINT" MEANS THE USE OF ANY DEVICE,

1 ARTICLE, GARMENT, OR MATERIAL ATTACHED TO OR ADJACENT TO A PUPIL'S
2 BODY TO PERFORM RESTRAINT.

3 (J) "PHYSICAL RESTRAINT" MEANS RESTRAINT INVOLVING DIRECT
4 PHYSICAL CONTACT.

5 (K) "POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT" MEANS A
6 FRAMEWORK TO ASSIST SCHOOL PERSONNEL IN ADOPTING AND ORGANIZING
7 EVIDENCE-BASED BEHAVIORAL INTERVENTIONS INTO AN INTEGRATED
8 CONTINUUM OF INTENSIFYING SUPPORTS BASED ON PUPIL NEED THAT UNITES
9 EXAMINATION OF THE FUNCTION OF THE PROBLEM BEHAVIOR AND THE
10 TEACHING OF ALTERNATIVE SKILL REPERTOIRES TO ENHANCE ACADEMIC AND
11 SOCIAL BEHAVIOR OUTCOMES FOR ALL PUPILS.

12 (I) "POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT PLAN" MEANS
13 A PUPIL-SPECIFIC SUPPORT PLAN COMPOSED OF INDIVIDUALIZED,
14 FUNCTIONAL BEHAVIORAL ASSESSMENT-BASED INTERVENTION STRATEGIES,
15 INCLUDING, AS APPROPRIATE TO THE PUPIL, GUIDANCE OR INSTRUCTION FOR
16 THE PUPIL TO USE NEW SKILLS AS A REPLACEMENT FOR PROBLEM BEHAVIORS,
17 SOME REARRANGEMENT OF THE ANTECEDENT ENVIRONMENT SO THAT PROBLEMS
18 CAN BE PREVENTED AND DESIRABLE BEHAVIORS CAN BE ENCOURAGED, AND
19 PROCEDURES FOR MONITORING, EVALUATING, AND MODIFYING THE PLAN AS
20 NECESSARY.

21 (M) "PRONE RESTRAINT" MEANS THE RESTRAINT OF AN INDIVIDUAL
22 FACEDOWN.

23 (N) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS
24 THAT TERM AS DEFINED IN SECTION 1230.

25 (O) "RESTRAINT" MEANS AN ACTION THAT PREVENTS OR SIGNIFICANTLY
26 RESTRICTS A PUPIL'S MOVEMENT. RESTRAINT DOES NOT INCLUDE THE BRIEF
27 HOLDING OF A PUPIL IN ORDER TO CALM OR COMFORT, THE MINIMUM CONTACT

1 NECESSARY TO PHYSICALLY ESCORT A PUPIL FROM 1 AREA TO ANOTHER, THE
2 MINIMUM CONTACT NECESSARY TO ASSIST A PUPIL IN COMPLETING A TASK OR
3 RESPONSE IF THE PUPIL DOES NOT RESIST OR RESISTANCE IS MINIMAL IN
4 INTENSITY OR DURATION, OR THE HOLDING OF A PUPIL FOR A BRIEF TIME
5 IN ORDER TO PREVENT AN IMPULSIVE BEHAVIOR THAT THREATENS THE
6 PUPIL'S IMMEDIATE SAFETY, SUCH AS RUNNING IN FRONT OF A CAR.
7 RESTRAINT DOES NOT INCLUDE THE ADMINISTRATION OF MEDICATION
8 PRESCRIBED BY AND ADMINISTERED IN ACCORDANCE WITH THE DIRECTIONS OF
9 A PHYSICIAN, AN ADAPTIVE OR PROTECTIVE DEVICE RECOMMENDED BY A
10 PHYSICIAN OR THERAPIST WHEN IT IS USED AS RECOMMENDED, OR SAFETY
11 EQUIPMENT USED BY THE GENERAL PUPIL POPULATION AS INTENDED, SUCH AS
12 A SEAT BELT OR SAFETY HARNESS ON SCHOOL TRANSPORTATION. RESTRAINT
13 DOES NOT INCLUDE NECESSARY ACTIONS TAKEN TO BREAK UP A FIGHT, TO
14 STOP A PHYSICAL ASSAULT, AS DEFINED IN SECTION 1310, OR TO TAKE A
15 WEAPON FROM A PUPIL. RESTRAINT DOES NOT INCLUDE ACTIONS THAT ARE AN
16 INTEGRAL PART OF A SPORTING EVENT, SUCH AS A REFEREE PULLING
17 FOOTBALL PLAYERS OFF OF A PILE OR A SIMILAR ACTION.

18 (P) "RESTRAINT THAT NEGATIVELY IMPACTS BREATHING" MEANS ANY
19 RESTRAINT THAT INHIBITS BREATHING, INCLUDING FLOOR RESTRAINTS,
20 FACEDOWN POSITION, OR ANY POSITION IN WHICH AN INDIVIDUAL IS BENT
21 OVER IN SUCH A WAY THAT IT IS DIFFICULT TO BREATHE. THIS INCLUDES A
22 SEATED OR KNEELING POSITION IN WHICH AN INDIVIDUAL BEING RESTRAINED
23 IS BENT OVER AT THE WAIST AND RESTRAINT THAT INVOLVES SITTING OR
24 LYING ACROSS AN INDIVIDUAL'S BACK OR STOMACH.

25 (Q) "SCHOOL PERSONNEL" INCLUDES ALL INDIVIDUALS EMPLOYED IN A
26 PUBLIC SCHOOL OR ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK UNDER
27 CONTRACT OR UNDER AGREEMENT IN A PUBLIC SCHOOL, OR PUBLIC SCHOOL

1 PERSONNEL PROVIDING SERVICE AT A NONPUBLIC SCHOOL.

2 (R) "SECLUSION" MEANS THE CONFINEMENT OF A PUPIL IN A ROOM OR
3 OTHER SPACE FROM WHICH THE PUPIL IS PHYSICALLY PREVENTED FROM
4 LEAVING. SECLUSION DOES NOT INCLUDE THE GENERAL CONFINEMENT OF
5 PUPILS IF THAT CONFINEMENT IS AN INTEGRAL PART OF AN EMERGENCY
6 LOCKDOWN DRILL REQUIRED UNDER SECTION 19(5) OF THE FIRE PREVENTION
7 CODE, 1941 PA 207, MCL 29.19, OR OF ANOTHER EMERGENCY SECURITY
8 PROCEDURE THAT IS NECESSARY TO PROTECT THE SAFETY OF PUPILS.

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.

11 Enacting section 2. This amendatory act does not take effect
12 unless House Bill No. 5410 of the 98th Legislature is enacted into
13 law.