

HOUSE BILL No. 5417

March 2, 2016, Introduced by Rep. Greig and referred to the Committee on Education.

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. CHEMICAL RESTRAINT DOES
4 NOT INCLUDE THE ADMINISTRATION OF MEDICATION PRESCRIBED BY AND
5 ADMINISTERED IN ACCORDANCE WITH THE DIRECTIONS OF A PHYSICIAN.

6 (B) "CONTINGENT OBSERVATION" MEANS THE EVIDENCE- AND RESEARCH-
7 BASED SITUATING OF A PUPIL IN A POSITION TO OBSERVE OTHER PUPILS
8 WITHOUT PARTICIPATING OR RECEIVING REINFORCEMENT FOR A SPECIFIED
9 PERIOD OF TIME.

10 (C) "DE-ESCALATION TECHNIQUES" MEANS EVIDENCE- AND RESEARCH-

1 BASED STRATEGICALLY EMPLOYED VERBAL OR NONVERBAL INTERVENTIONS USED
2 TO REDUCE THE INTENSITY OF THREATENING BEHAVIOR BEFORE A CRISIS
3 SITUATION OCCURS.

4 (D) "DOCUMENTATION" MEANS DOCUMENTATION DEVELOPED BY THE
5 DEPARTMENT THAT IS UNIFORM ACROSS THE STATE.

6 (E) "EMERGENCY PHYSICAL RESTRAINT" MEANS A LAST RESORT
7 EMERGENCY SAFETY INTERVENTION INVOLVING PHYSICAL RESTRAINT THAT IS
8 NECESSITATED BY AN EMERGENCY SITUATION AND THAT PROVIDES AN
9 OPPORTUNITY FOR THE PUPIL TO REGAIN SELF-CONTROL. EMERGENCY
10 PHYSICAL RESTRAINT INCLUDES NECESSARY ACTIONS TAKEN TO BREAK UP A
11 FIGHT OR TAKE A WEAPON AWAY FROM A PUPIL. EMERGENCY PHYSICAL
12 RESTRAINT DOES NOT INCLUDE PHYSICAL RESTRAINT THAT IS USED FOR THE
13 CONVENIENCE OF STAFF, AS A SUBSTITUTE FOR AN EDUCATIONAL PROGRAM,
14 AS A FORM OF DISCIPLINE OR PUNISHMENT, AS A SUBSTITUTE FOR LESS
15 RESTRICTIVE ALTERNATIVES, AS A SUBSTITUTE FOR ADEQUATE STAFFING, OR
16 AS A SUBSTITUTE FOR STAFF TRAINING IN POSITIVE BEHAVIORAL SUPPORTS
17 AND CRISIS PREVENTION AND INTERVENTION. EMERGENCY PHYSICAL
18 RESTRAINT DOES NOT INCLUDE A PRACTICE PROHIBITED UNDER SECTION
19 1307B.

20 (F) "EMERGENCY SECLUSION" MEANS A LAST RESORT EMERGENCY SAFETY
21 INTERVENTION INVOLVING SECLUSION THAT IS NECESSITATED BY AN
22 EMERGENCY SITUATION AND THAT PROVIDES AN OPPORTUNITY FOR THE PUPIL
23 TO REGAIN SELF-CONTROL. TO QUALIFY AS EMERGENCY SECLUSION, THERE
24 MUST BE CONTINUOUS ADULT OBSERVATION OF THE PUPIL IN SECLUSION, AND
25 THE ROOM OR AREA USED FOR CONFINEMENT MUST NOT BE LOCKED, MUST NOT
26 PREVENT THE PUPIL FROM EXITING THE AREA IF SCHOOL PERSONNEL BECOME
27 INCAPACITATED OR LEAVE THAT AREA, AND MUST PROVIDE FOR ADEQUATE

1 SPACE, LIGHTING, VENTILATION, VIEWING, AND THE SAFETY OF THE PUPIL.
2 EMERGENCY SECLUSION DOES NOT INCLUDE CONFINEMENT THAT OCCURS IN A
3 SENSORY DEPRIVATION ROOM, SECLUSION ROOM, QUIET ROOM, PADDED
4 ISOLATION ROOM, OR ANY OTHER ROOM THAT IS OUTSIDE THE USUAL
5 TEACHING ENVIRONMENT; THE CONFINEMENT OF PRESCHOOL CHILDREN OR OF
6 PUPILS WHO ARE SEVERELY SELF-INJURIOUS OR SUICIDAL; SECLUSION THAT
7 IS USED FOR THE CONVENIENCE OF STAFF, AS A SUBSTITUTE FOR AN
8 EDUCATIONAL PROGRAM, AS A FORM OF DISCIPLINE OR PUNISHMENT, AS A
9 SUBSTITUTE FOR LESS RESTRICTIVE ALTERNATIVES, AS A SUBSTITUTE FOR
10 ADEQUATE STAFFING, OR AS A SUBSTITUTE FOR STAFF TRAINING IN
11 POSITIVE BEHAVIORAL SUPPORTS AND CRISIS PREVENTION AND
12 INTERVENTION; OR A PRACTICE PROHIBITED UNDER SECTION 1307B.

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

17 (H) "EXCLUSIONARY TIME-OUT" MEANS AN EVIDENCE- AND RESEARCH-
18 BASED BEHAVIORAL INTERVENTION INVOLVING THE REMOVAL OF A PUPIL FROM
19 THE IMMEDIATE INSTRUCTIONAL SETTING FOR A LIMITED AND SPECIFIED
20 TIME IN RESPONSE TO BEHAVIOR THAT REQUIRES IMMEDIATE AND DIRECT
21 CESSATION. AN EXCLUSIONARY TIME-OUT MUST BE SUPERVISED BY AN ADULT
22 AND CAN TAKE PLACE WITHIN THE SAME CLASSROOM OR IN A NEARBY
23 LOCATION THAT IS PART OF THE USUAL TEACHING ENVIRONMENT. IN AN
24 EXCLUSIONARY TIME-OUT, A PUPIL'S MOVEMENT IS NOT PHYSICALLY
25 RESTRICTED. EXCLUSIONARY TIME-OUT LIES WITHIN A CONTINUUM OF
26 PROCEDURES THAT HELP PUPILS SELF-REGULATE AND CONTROL THEIR
27 BEHAVIOR. THE TIME-OUT CONTINUUM IS PLANNED IGNORING, WITHDRAWAL OF

1 MATERIALS, CONTINGENT OBSERVATION, AND EXCLUSIONARY TIME-OUT.

2 (I) "FUNCTIONAL BEHAVIORAL ASSESSMENT" MEANS AN EVIDENCE- AND
3 RESEARCH-BASED SYSTEMATIC PROCESS FOR IDENTIFYING THE EVENTS THAT
4 TRIGGER AND MAINTAIN PROBLEM BEHAVIOR IN AN EDUCATIONAL SETTING. A
5 FUNCTIONAL BEHAVIOR ASSESSMENT SHALL DESCRIBE SPECIFIC PROBLEMATIC
6 BEHAVIORS, REPORT THE FREQUENCY OF THE BEHAVIORS, ASSESS
7 ENVIRONMENTAL AND OTHER SETTING CONDITIONS WHERE PROBLEMATIC
8 BEHAVIORS OCCUR, AND IDENTIFY THE FACTORS THAT ARE MAINTAINING THE
9 BEHAVIORS OVER TIME.

10 (J) "KEY IDENTIFIED PERSONNEL" MEANS THOSE INDIVIDUALS WHO
11 HAVE RECEIVED THE MANDATORY TRAINING DESCRIBED IN SECTION
12 1307G(B) (i) TO (xv) .

13 (K) "MECHANICAL RESTRAINT" MEANS THE USE OF ANY DEVICE,
14 ARTICLE, GARMENT, OR MATERIAL ATTACHED TO OR ADJACENT TO A PUPIL'S
15 BODY THAT RESTRICTS NORMAL FREEDOM OF MOVEMENT AND THAT CANNOT BE
16 EASILY REMOVED BY A PUPIL. MECHANICAL RESTRAINT DOES NOT INCLUDE AN
17 ADAPTIVE OR PROTECTIVE DEVICE RECOMMENDED BY A PHYSICIAN OR
18 THERAPIST WHEN IT IS USED AS RECOMMENDED, OR SAFETY EQUIPMENT USED
19 BY THE GENERAL PUPIL POPULATION AS INTENDED, SUCH AS SEAT BELTS ON
20 SCHOOL TRANSPORTATION.

21 (L) "PHYSICAL RESTRAINT" MEANS DIRECT PHYSICAL CONTACT THAT
22 PREVENTS OR SIGNIFICANTLY RESTRICTS A PUPIL'S MOVEMENT.

23 (M) "PLANNED IGNORING" MEANS THE EVIDENCE- AND RESEARCH-BASED
24 SYSTEMATIC WITHDRAWAL OF SOCIAL ATTENTION FOR A PREDETERMINED TIME
25 PERIOD UPON THE ONSET OF MILD LEVELS OF PROBLEM BEHAVIOR.

26 (N) "POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT" MEANS AN
27 EVIDENCE- AND RESEARCH-BASED SYSTEM THAT ADDRESSES CHALLENGING

1 BEHAVIORS IN A COLLABORATIVE, COMPREHENSIVE, RESEARCH-VALIDATED,
2 AND HUMANE MANNER AND RESULTS IN LASTING POSITIVE CHANGES.
3 INTERVENTIONS MAY INCLUDE POSITIVE STRATEGIES, PROGRAM OR
4 CURRICULAR MODIFICATIONS, OR SUPPLEMENTARY AIDS AND SUPPORTS
5 REQUIRED TO ADDRESS THE DISRUPTIVE BEHAVIORS IN QUESTION.

6 (O) "POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT PLAN" MEANS
7 AN EVIDENCE- AND RESEARCH-BASED PLAN INVOLVING POSITIVE BEHAVIORAL
8 INTERVENTION AND SUPPORT THAT PROVIDES A FULL CONTINUUM OF METHODS
9 TO SUPPORT APPROPRIATE BEHAVIOR, TO PROMOTE SAFETY, TO DISCOURAGE
10 VIOLATIONS OF A PUBLIC SCHOOL'S CODE OF STUDENT CONDUCT, AND TO
11 FOSTER DIGNITY AND SELF-ESTEEM IN PUPILS. SUCH A PLAN SHALL
12 EMPHASIZE BEHAVIOR THAT ENCOURAGES LEARNING BY FOCUSING ON BUILDING
13 RELATIONSHIPS; CREATING ROUTINES; TEACHING SKILLS, RULES, AND
14 EXPECTATIONS; IDENTIFYING REPLACEMENT BEHAVIORS FOR BEHAVIORS THAT
15 INTERFERE WITH LEARNING; MAKING PROBLEM BEHAVIOR LESS EFFECTIVE,
16 EFFICIENT, AND RELEVANT; AND MAKING THE DESIRED BEHAVIOR MORE
17 FUNCTIONAL AND ADAPTIVE.

18 (P) "PRONE RESTRAINT" MEANS THE RESTRAINT OF AN INDIVIDUAL
19 FACEDOWN.

20 (Q) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS
21 THAT TERM AS DEFINED IN SECTION 1230.

22 (R) "RESTRAINT" MEANS AN ACTION THAT PREVENTS OR SIGNIFICANTLY
23 RESTRICTS A PUPIL'S MOVEMENT. RESTRAINT DOES NOT INCLUDE THE BRIEF
24 HOLDING BY AN ADULT IN ORDER TO CALM OR COMFORT, THE MINIMUM
25 CONTACT NECESSARY TO PHYSICALLY ESCORT A PUPIL FROM 1 AREA TO
26 ANOTHER, THE MINIMUM CONTACT NECESSARY TO ASSIST A PUPIL IN
27 COMPLETING A TASK OR RESPONSE IF THE PUPIL DOES NOT RESIST OR

1 RESISTANCE IS MINIMAL IN INTENSITY OR DURATION, OR THE HOLDING OF A
2 PUPIL FOR A BRIEF TIME IN ORDER TO PREVENT AN IMPULSIVE BEHAVIOR
3 THAT THREATENS THE PUPIL'S IMMEDIATE SAFETY, SUCH AS RUNNING IN
4 FRONT OF A CAR.

5 (S) "RESTRAINT THAT NEGATIVELY IMPACTS BREATHING" MEANS ANY
6 RESTRAINT THAT INHIBITS BREATHING, INCLUDING FLOOR RESTRAINTS,
7 FACEDOWN POSITION, OR ANY POSITION IN WHICH AN INDIVIDUAL IS BENT
8 OVER IN SUCH A WAY THAT IT IS DIFFICULT TO BREATHE. THIS INCLUDES A
9 SEATED OR KNEELING POSITION IN WHICH AN INDIVIDUAL BEING RESTRAINED
10 IS BENT OVER AT THE WAIST AND RESTRAINT THAT INVOLVES SITTING OR
11 LYING ACROSS AN INDIVIDUAL'S BACK OR STOMACH.

12 (T) "SCHOOL PERSONNEL" INCLUDES ALL INDIVIDUALS EMPLOYED IN A
13 PUBLIC SCHOOL OR ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK UNDER
14 CONTRACT OR UNDER AGREEMENT IN A PUBLIC SCHOOL, OR PUBLIC SCHOOL
15 PERSONNEL PROVIDING SERVICE AT A NONPUBLIC SCHOOL.

16 (U) "SECLUSION" MEANS THE CONFINEMENT OF A PUPIL IN A ROOM OR
17 OTHER SPACE FROM WHICH THE PUPIL IS PREVENTED FROM LEAVING.
18 SECLUSION DOES NOT INCLUDE AN EXCLUSIONARY TIME-OUT OR EMERGENCY
19 SECLUSION.

20 (V) "USUAL TEACHING ENVIRONMENT" MEANS A CLASSROOM, HALLWAY,
21 LUNCHROOM, GYMNASIUM, ADMINISTRATIVE OFFICE, OR OTHER ROOM THAT IS
22 REGULARLY USED OR ACCESSED BY THE GENERAL STUDENT BODY.

23 (W) "WITHDRAWAL OF MATERIALS" MEANS THE EVIDENCE- AND
24 RESEARCH-BASED REMOVAL OF MATERIALS THAT THE PUPIL IS USING UPON
25 THE OCCURRENCE OF INAPPROPRIATE BEHAVIOR.

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

1 Enacting section 2. This amendatory act does not take effect
2 unless Senate Bill No.____ or House Bill No. 5410 (request no.
3 04860'15) of the 98th Legislature is enacted into law.