

# HOUSE BILL No. 6513

November 27, 2018, Introduced by Rep. Calley and referred to the Committee on Education Reform.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending section 1307h (MCL 380.1307h), as amended by 2017 PA  
260.

## 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

1 department that is uniform across the state.

2 (d) "Emergency physical restraint" means a last resort  
3 emergency safety intervention involving physical restraint that is  
4 necessitated by an ongoing emergency situation and that provides an  
5 opportunity for the pupil to regain self-control while maintaining  
6 the safety of the pupil and others. Emergency physical restraint  
7 does not include physical restraint that is used for the  
8 convenience of school personnel, as a substitute for an educational  
9 program, as a form of discipline or punishment, as a substitute for  
10 less restrictive alternatives, as a substitute for adequate  
11 staffing, or as a substitute for school personnel training in  
12 positive behavioral intervention and support. Emergency physical  
13 restraint does not include a practice prohibited under section  
14 1307b. Emergency physical restraint does not include physical  
15 restraint when contraindicated based on a pupil's disability,  
16 health care needs, or medical or psychiatric condition, as  
17 documented in a record or records made available to the school.

18 (e) "Emergency seclusion" means a last resort emergency safety  
19 intervention involving seclusion that is necessitated by an ongoing  
20 emergency situation and that provides an opportunity for the pupil  
21 to regain self-control while maintaining the safety of the pupil  
22 and others. To qualify as emergency seclusion, there must be  
23 continuous observation by school personnel of the pupil in  
24 seclusion, and the room or area used for confinement must comply  
25 with state and local fire and building codes; must not be locked;  
26 must not prevent the pupil from exiting the area if school  
27 personnel become incapacitated or leave that area; and must provide

1 for adequate space, lighting, ventilation, viewing, and the safety  
2 and dignity of the pupil and others, in accordance with department  
3 guidelines. Emergency seclusion does not include the confinement of  
4 preschool children or of pupils who are severely self-injurious or  
5 suicidal; seclusion that is used for the convenience of school  
6 personnel, as a substitute for an educational program, as a form of  
7 discipline or punishment, as a substitute for less restrictive  
8 alternatives, as a substitute for adequate staffing, or as a  
9 substitute for school personnel training in positive behavioral  
10 intervention and support; or a practice prohibited under section  
11 1307b. Emergency seclusion does not include seclusion when  
12 contraindicated based on a pupil's disability, health care needs,  
13 or medical or psychiatric condition, as documented in a record or  
14 records made available to the school.

15 (f) "Emergency situation" means a situation in which a pupil's  
16 behavior poses **AN** imminent risk. ~~to the safety of the individual~~  
17 ~~pupil or to the safety of others.~~ An emergency situation requires  
18 an immediate intervention.

19 (g) "Functional behavioral assessment" means an evidence- and  
20 research-based systematic process for identifying the events that  
21 trigger and maintain problem behavior in an educational setting. A  
22 functional behavioral assessment ~~shall~~ **MUST** describe specific  
23 problematic behaviors, report the frequency of the behaviors,  
24 assess environmental and other setting conditions where problematic  
25 behaviors occur, and identify the factors that are maintaining the  
26 behaviors over time.

27 **(H) "IMMINENT RISK" MEANS AN IMMEDIATE AND IMPENDING THREAT BY**

1   **A PUPIL TO CAUSE SUBSTANTIAL PHYSICAL INJURY TO SELF OR OTHERS.**

2           **(I)** ~~(h)~~—"Key identified personnel" means those individuals who  
3 have received the mandatory training described in section  
4 1307g(b) (i) to (xvi) .

5           **(J)** ~~(i)~~—"Law enforcement officer" means an individual licensed  
6 under the Michigan commission on law enforcement standards act,  
7 1965 PA 203, MCL 28.601 to 28.615.

8           **(K)** ~~(j)~~—"Mechanical restraint" means the use of any device,  
9 article, garment, or material attached to or adjacent to a pupil's  
10 body to perform restraint.

11           **(L)** ~~(k)~~—"Physical restraint" means restraint involving direct  
12 physical contact.

13           **(M)** ~~(l)~~—"Positive behavioral intervention and support" means a  
14 framework to assist school personnel in adopting and organizing  
15 evidence-based behavioral interventions into an integrated  
16 continuum of intensifying supports based on pupil need that unites  
17 examination of the function of the problem behavior and the  
18 teaching of alternative skill repertoires to enhance academic and  
19 social behavior outcomes for all pupils.

20           **(N)** ~~(m)~~—"Positive behavioral intervention and support plan"  
21 means a pupil-specific support plan composed of individualized,  
22 functional behavioral assessment-based intervention strategies,  
23 including, as appropriate to the pupil, guidance or instruction for  
24 the pupil to use new skills as a replacement for problem behaviors,  
25 some rearrangement of the antecedent environment so that problems  
26 can be prevented and desirable behaviors can be encouraged, and  
27 procedures for monitoring, evaluating, and modifying the plan as

1 necessary.

2       **(O)** ~~(n)~~—"Prone restraint" means the restraint of an individual  
3 facedown.

4       **(P)** ~~(e)~~—"Regularly and continuously work under contract" means  
5 that term as defined in section 1230.

6       **(Q)** ~~(p)~~—"Restraint" means an action that prevents or  
7 significantly restricts a pupil's movement. Restraint does not  
8 include the brief holding of a pupil in order to calm or comfort,  
9 the minimum contact necessary to physically escort a pupil from 1  
10 area to another, the minimum contact necessary to assist a pupil in  
11 completing a task or response if the pupil does not resist or  
12 resistance is minimal in intensity or duration, or the holding of a  
13 pupil for a brief time in order to prevent an impulsive behavior  
14 that threatens the pupil's immediate safety, such as running in  
15 front of a car. Restraint does not include the administration of  
16 medication prescribed by and administered in accordance with the  
17 directions of a physician, an adaptive or protective device  
18 recommended by a physician or therapist when it is used as  
19 recommended, or safety equipment used by the general pupil  
20 population as intended, such as a seat belt or safety harness on  
21 school transportation. Restraint does not include necessary actions  
22 taken to break up a fight, to stop a physical assault, as defined  
23 in section 1310, or to take a weapon from a pupil. Restraint does  
24 not include actions that are an integral part of a sporting event,  
25 such as a referee pulling football players off of a pile or a  
26 similar action.

27       **(R)** ~~(q)~~—"Restraint that negatively impacts breathing" means

1 any restraint that inhibits breathing, including floor restraints,  
2 facedown position, or any position in which an individual is bent  
3 over in such a way that it is difficult to breathe. This includes a  
4 seated or kneeling position in which an individual being restrained  
5 is bent over at the waist and restraint that involves sitting or  
6 lying across an individual's back or stomach.

7 **(S)** ~~(r)~~ "School personnel" includes all individuals employed  
8 in a public school or assigned to regularly and continuously work  
9 under contract or under agreement in a public school, or public  
10 school personnel providing service at a nonpublic school. Except  
11 for sections 1307d and 1307f, school personnel does not include a  
12 law enforcement officer assigned to regularly and continuously work  
13 under contract or under agreement in a public school.

14 **(T)** ~~(s)~~ "Seclusion" means the confinement of a pupil in a room  
15 or other space from which the pupil is physically prevented from  
16 leaving. Seclusion does not include the general confinement of  
17 pupils if that confinement is an integral part of an emergency  
18 lockdown drill required under section 19(5) of the fire prevention  
19 code, 1941 PA 207, MCL 29.19, or of another emergency security  
20 procedure that is necessary to protect the safety of pupils.

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