

SB 179 - AS AMENDED BY THE SENATE

03/09/2023 0642s

2023 SESSION

23-0577

06/05

SENATE BILL **179**

AN ACT relative to eliminating the use of seclusion as a form of punishment or discipline on children in schools and treatment facilities.

SPONSORS: Sen. Altschiller, Dist 24; Sen. Carson, Dist 14; Sen. Chandley, Dist 11; Rep. Long, Hills. 23; Rep. Grossman, Rock. 11

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits the use of seclusion as a form of punishment or discipline on children in schools and treatment facilities.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to eliminating the use of seclusion as a form of punishment or discipline on children in schools and treatment facilities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Limiting the Use of Child Restraint Practices in Schools and Treatment Facilities; Prohibiting
2 the Use of Seclusion. Amend RSA 126-U:5-a to read as follows:

3 126-U:5-a Limitation on the Use of Seclusion.

4 I. Seclusion ~~[may not be used as a form of punishment or discipline]~~ ***shall never be used***
5 ***explicitly or implicitly as punishment or discipline for the behavior of a child.*** It may only
6 be used when a child's behavior poses a substantial and imminent risk of physical harm to the child
7 or to others, and may only continue until that danger has dissipated.

8 II. Seclusion shall only be used by trained personnel after other approaches to the control of
9 behavior have been attempted and been unsuccessful, or are reasonably concluded to be unlikely to
10 succeed based on the history of actual attempts to control the behavior of a particular child.

11 III. Seclusion shall not be used in a manner that ~~[that]~~ unnecessarily subjects the child to
12 the risk of ridicule, humiliation, or emotional or physical harm.

13 2 Limiting the Use of Child Restraint Practices in Schools and Treatment Facilities; Definitions.
14 RSA 126-U:1, V-a is repealed and reenacted to read as follows:

15 V-a.(a) "Seclusion" means: the involuntary confinement of a child alone in any room or area
16 from which the child is unable to exit, either due to physical manipulation by a person, a lock, or
17 other mechanical device or barrier, or from which the child reasonably believes they are not free to
18 leave; or, the involuntary confinement of a child to a room or area, separate from their peers, with
19 one or more adults who are using their physical presence to prevent egress.

20 (b) The term shall not include: the voluntary separation of a child from a stressful
21 environment for the purpose of allowing the child to regain self-control, when such separation is to
22 an area which a child is able to leave; circumstances in which there is no physical barrier, and the
23 child is physically able to leave; or involuntary confinement of a child to a room or area with an adult
24 who is actively engaging in a therapeutic intervention. A circumstance may be considered seclusion
25 even if a window or other device for visual observation is present, if the other elements of this
26 definition are satisfied.

27 3 New Paragraph; Limiting the Use of Child Restraint Practices in Schools and Treatment
28 Facilities; Conditions of Seclusion. Amend RSA 126-U:5-b by inserting after paragraph II the
29 following new paragraph:

1 III. When seclusion is used, school or facility staff shall designate a co-regulator to monitor
2 the child and develop a plan to help the child manage their state of regulation and their return to a
3 less restrictive setting. The co-regulator shall check the child at regular intervals not to exceed 30
4 minutes between any one interval. The co-regulator shall be selected and designated in the
5 following order of preference:

- 6 (a) A trusted adult selected by the child.
7 (b) A clinician or counselor trained in trauma informed practices.
8 (c) A staff member known to have a positive relationship with the child.
9 (d) A staff member who was not involved in the incident leading to seclusion.

10 4 Notice and Record-Keeping Requirements. Amend the introductory paragraph of RSA 126-
11 U:7, II to read as follows:

12 II. A facility employee or school employee who uses seclusion or restraint, or if the facility
13 employee or school employee is unavailable, a supervisor of such employee, shall, within 5 business
14 days after the occurrence, submit a written notification, ***on a form developed by the department***
15 ***of education and department of health and human services, in consultation with the office***
16 ***of the child advocate***, containing the following information to the director or his or her designee:

17 5 Effective Date. This act shall take effect 60 days after its passage.