

Restraint and Seclusion

JAN 2018

What Is the Issue and Why Does It Matter?

The practice of seclusion generally refers to procedures that isolate a student from others, while restraint refers to the physical holding or mechanical restriction of a student's movement.² While these practices are typically utilized as tools for addressing imminent safety concerns, the use of restraint or seclusion on students who are exhibiting problematic behaviors has been prone to misapplication and abuse — possibly placing students in even more unsafe situations.³ Additionally, students with disabilities are restrained or secluded at much higher rates than students without disabilities. According to the Office for Civil Rights, more than 100,000 students, including almost 69,000 students with disabilities, were placed in seclusion or physically restrained at school in 2013-14.⁴

In 2013-14, students with disabilities made up 12 percent of the public school student population, yet comprised 67 percent of those who experienced restraint or seclusion in school.¹

The disproportionate use of these practices on students with disabilities has garnered much attention from the federal government in recent years. A 2009 report from the U.S. Government Accountability Office found no federal laws restricting the use of restraint and seclusion in public and private schools, and widely divergent laws at the state level.⁵ Since then, the U.S. Department of Education has released several guidance documents outlining the potential legal issues with these practices and providing states with alternative frameworks for approaching discipline and school safety.⁶

At the state level, legislation to regulate restraint and seclusion practices generally seeks to:

- Limit the use of these procedures, except in cases of immediate danger.
- Mandate reporting when restraint and seclusion are used.
- Ensure school personnel are properly trained.
- Establish commissions to study the use of these practices.

DON'T MISS THESE RELATED POLICY SNAPSHOTS:

[Suspension and Expulsion](#)

[Alternative School Discipline Strategies](#)

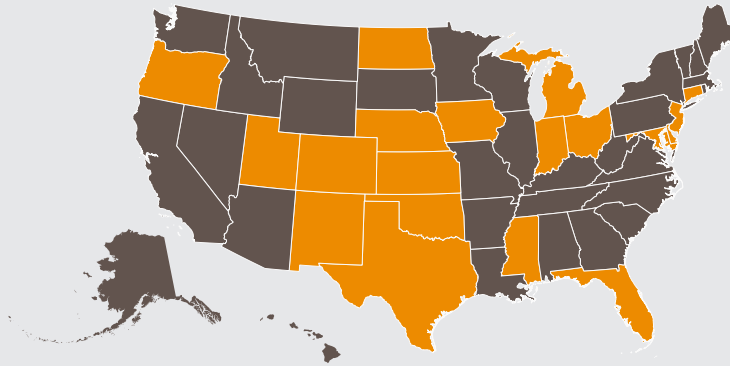


How Many States Considered Legislation in 2017?

Based on a review of 2017 legislative activity concerning restraint and seclusion:

- Approximately 19 states introduced legislation and seven states enacted legislation related to restraint and seclusion.
- At least 36 bills were proposed.
- Of those, eight were enacted.

Which States Considered Legislation in 2017?





State	Legislation	Status
Colorado	H.B. 1276	Enacted
Connecticut	H.B. 5479 H.B. 6792 H.B. 7111 H.B. 7276 S.B. 405 S.B. 658 S.B. 706	Failed Failed Failed Enacted Failed Failed Failed
Delaware	H.B. 142	Enacted
Florida	H.B. 233 S.B. 810 S.B. 1418	Failed Failed Failed
Iowa	H.F. 598 S.F. 204	Pending Pending
Indiana	S.B. 61	Enacted
Kansas	H.B. 2243	Pending
Maryland	H.B. 174 H.B. 331 S.B. 710 S.B. 786	Vetoed Failed Enacted Enacted


State	Legislation	Status
Michigan	H.B. 5126	Pending
Mississippi	H.B. 188/H.B. 869	Failed
North Dakota	S.B. 2275	Failed
Nebraska	L.B. 595	Failed
New Jersey	A 503/S 553 S 551 S 1163	Pending Pending Pending
New Mexico	H.B. 75 S.B. 397	Enacted Failed
Ohio	S.B. 104	Pending
Oklahoma	H.B. 1520	Pending
Oregon	H.B. 3266	Failed
Texas	S.B. 1753	Failed
Utah	H.B. 92	Enacted


Note: Mississippi and New Jersey introduced companion bills.

Examples of Enacted State Legislation in 2017

 **Colorado:** [H.B. 1276](#) prohibits the use of restraint on a public school student with certain exceptions, and mandates a written incident report when restraint is used. The bill requires school districts to establish a review process and the state board of education to establish a formal complaint process related to incidents of seclusion or restraint. This bill also requires each school district and charter school to include in its code of conduct and discipline code information concerning the district's policies for the use of restraint and seclusion.

 **Indiana:** [S.B. 61](#) requires all school districts, accredited private schools and charter schools to report all instances of seclusion and restraint involving a school resource officer to the state department of education. Additionally, the bill adds a member of the Indiana School Resource Officers Association to the state's Commission on Seclusion and Restraint in Schools, and directs the commission to develop, maintain and revise a model restraint and seclusion plan.

 **Maryland:** [S.B. 786](#) requires the state department of education to convene a task force to examine policies and practices related to behavioral interventions in schools, including the use of restraint and seclusion. Under this bill, all schools must report annually on the use of physical restraint and seclusion, and on professional development provided to school personnel related to positive behavior interventions.

 **New Mexico:** [H.B. 75](#) prohibits schools from using restraint or seclusion techniques, unless the student's behavior presents imminent danger of physical harm and if other interventions prove to be insufficient. This bill also outlines training requirements for staff members and includes reporting requirements.

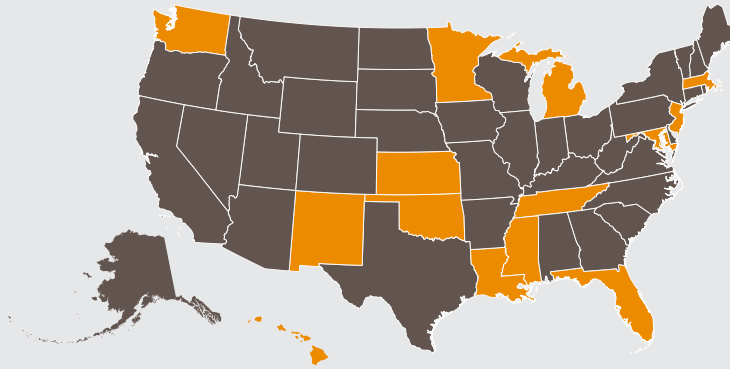


How Many States Considered Legislation in 2016?

Based on a review of 2016 legislative activity concerning restraint and seclusion:

- At least 14 states introduced legislation and four states enacted legislation related to restraint and seclusion.
- Approximately 30 bills were proposed.
- Of those, 13 were enacted.


Which States Considered Legislation in 2016?





State	Legislation	Status
Florida	S.B. 452	Failed
Hawaii	H.B. 1814 S.B. 2611	Enacted Failed
Kansas	H.B. 2534 S.B. 193	Failed Enacted
Louisiana	S.B. 310 S.B. 317	Enacted Enacted
Massachusetts	H 3397	Failed
Maryland	S.B. 950	Failed
Michigan	H.B. 5409-5417 S.B. 835-838	Enacted Failed
Minnesota	H.F. 3041	Failed
Mississippi	H.B. 972	Failed
New Jersey	A 501/S 551	Pending
New Mexico	H.B. 190	Failed
Oklahoma	H.B. 3127	Failed
Tennessee	H.B. 37	Failed
Washington	S.B. 5850	Failed

Note: New Jersey introduced companion bills.

Examples of Enacted State Legislation in 2016


 **Kansas: [S.B. 193](#)** changes the term “the use of seclusion or physical restraint” to “emergency safety intervention” and requires each local board to develop policies governing the use of ESI in schools. This bill prohibits the use of ESI if the student is known to have a medical condition that could place them in physical or mental danger if used. The bill provides for exceptions in cases where physical harm to the student or others is at play. Additionally, the bill prohibits specific types of restraints, including prone, supine, chemical and certain types of mechanical restraint.


 **Louisiana: [S.B. 317](#)** requires that school master plans for student behavior and discipline address the use of seclusion and physical restraint. This bill establishes the Advisory Council on Student Behavior and Discipline, revises the definition of actions that do not constitute physical restraint, and provides responsibilities of special education directors or designees if the challenging behavior from a student with disabilities continues or escalates, thereby requiring repeated use of seclusion or physical restraint.


 **Michigan: [H.B. 5409-5417](#)** address several issues related to seclusion and restraint. Primarily, these bills require the department of education to develop a uniform state policy regarding the use of seclusion and restraint in public schools. They also require that state policy prohibit specified seclusion and restraint practices and include provisions concerning the use of emergency seclusion and emergency physical restraint, documentation and reporting of seclusion and restraint, development and implementation of an emergency intervention plan, and training. Additionally, the bills require that each school district and public school adopt and implement a local policy consistent with state policy.

Previous Legislative and Policy Activity

This section provides a sampling of enacted legislation from the 2015 and 2014 sessions.

 **Arizona: [S.B. 1459](#)** (2015) permits the use of restraint or seclusion techniques if a student’s behavior presents an immediate danger to others and if less restrictive measures are insufficient. The bill also permits a school to establish policies and procedures for the use of restraint or seclusion techniques, and allows those policies and procedures to be incorporated into a school safety or crisis intervention plan if the plan is not specific to an individual student.

 **Alaska: [H.B. 210](#)** (2014) permits the use of seclusion if the student is continually monitored with face-to-face contact or continuous direct visual contact, and requires that seclusion be discontinued immediately when the student no longer poses an imminent danger of physical injury or when a less restrictive intervention is effective. The bill prohibits use of chemical restraint, mechanical restraint or placing the student on their back or stomach in a manner that restricts breathing.

 **Hawaii: [H.B. 1796](#)** (2014) prohibits the use of seclusion, chemical restraint or mechanical restraint unless a student’s behavior poses an imminent threat to the student, school personnel or others, and less intrusive interventions failed or were deemed inappropriate for the student. The bill also establishes limits on the type and duration of restraint allowed, and specifies required reporting to parents. Finally, the bill requires the department of education to review data on numerous topics, including the frequency of use for student populations — categorized by individual students, groups of students, gender, race, national origin, disability status and type of disability, and limited English proficiency.

Resources

[Summary of Seclusion and Restraint Statutes, Regulations, Policies and Guidance, by State and Territory](#)

[Fact Sheet: Restraint and Seclusion of Students with Disabilities](#)

ENDNOTES

1. *2013-2014 Civil Rights Data Collection: A First Look* (Washington: U.S. Department of Education Office for Civil Rights, December 2016), <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>.
2. *Restraint and Seclusion: Resource Document* (Washington: U.S. Department of Education, May 2012), <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>.
3. *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers, Hearing Before the House Committee on Education and Labor*, 111th Cong. (2009), (statement of Gregory D. Kutz, Managing Director of Forensic Audits and Special Investigations at the U.S. Government Accountability Office), <http://www.gao.gov/assets/130/122526.pdf>.
4. *2013-2014 Civil Rights Data Collection: A First Look* (Washington, D.C.: U.S. Department of Education, December 2016), <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>.
5. *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers, Hearing Before the House Committee on Education and Labor*, 111th Cong. (2009), (statement of Gregory D. Kutz, Managing Director of Forensic Audits and Special Investigations at the U.S. Government Accountability Office), <http://www.gao.gov/assets/130/122526.pdf>.
6. *Restraint and Seclusion: Resource Document* (Washington: U.S. Department of Education, May 2012), <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>.

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About Education Commission of the States Legislative Tracking

Education Commission of the States tracks legislation on education issues from early learning through postsecondary and workforce. The team follows the bill's status from introduction through its final action, summarizes key provisions and assigns topics. The policy tracking helps keep an eye on trends, innovative policy approaches and the overall landscape of education-focused legislative activity. This information is leveraged for several purposes, including Policy Snapshots that offer a brief background on a topic, a visual take on recent bills and summaries of selected state legislation.

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