

By: Zaffirini

S.B. No. 751

A BILL TO BE ENTITLED

AN ACT

relating to the use of restraints in state schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 592, Health and Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. USE OF RESTRAINTS IN STATE SCHOOLS

Sec. 592.101. DEFINITION. In this subchapter, "executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 592.102. USE OF RESTRAINTS. (a) The executive commissioner shall adopt rules to ensure that:

(1) a mechanical or physical restraint is not administered to a resident of a state school unless the restraint is:

(A) necessary to prevent imminent physical injury to the resident or another; and

(B) the least restrictive restraint effective to prevent imminent physical injury;

(2) the administration of a mechanical or physical restraint to a resident of a state school ends immediately once the imminent risk of physical injury abates; and

(3) a mechanical or physical restraint is not administered to a resident of a state school as punishment or as part of a behavior plan.

1 (b) The executive commissioner shall adopt rules to
2 prohibit the use of prone and supine holds on a resident of a state
3 school except as transitional holds.

4 Sec. 592.103. STANDING ORDERS FOR RESTRAINTS PROHIBITED.

5 (a) A person may not issue a standing order to administer on an
6 as-needed basis mechanical or physical restraints to a resident of
7 a state school.

8 (b) A person may not administer mechanical or physical
9 restraints to a resident of a state school pursuant to a standing
10 order to administer restraints on an as-needed basis.

11 Sec. 592.104. STRAITJACKETS PROHIBITED. A person may not
12 use a straitjacket to restrain a resident of a state school.

13 Sec. 592.105. DUTY TO REPORT. A state school shall report
14 to the executive commissioner each incident in which a physical or
15 mechanical restraint is administered to a resident of a state
16 school. The report must contain information and be in the form
17 required by rules of the executive commissioner.

18 Sec. 592.106. CONFLICT WITH OTHER LAW. To the extent of a
19 conflict between this subchapter and Chapter 322, this subchapter
20 controls.

21 SECTION 2. Not later than January 1, 2010, the executive
22 commissioner of the Health and Human Services Commission shall
23 adopt rules required under Sections 592.102 and 592.105, Health and
24 Safety Code, as added by this Act.

25 SECTION 3. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2009.