

Comparison of definitions related to restraint and seclusion

Restraint

Current Law	HB 3835	SB 1113	PRTF COP	Children's Health Act of 2000- Health Facility	Children's Health Act of 2000- Non-Medical, community based facilities
Restraint means the restriction of a child's actions or movements by holding the child or using pressure or other means.	Restraint means the physical restriction of a child's actions or movements by holding the child or using pressure or other means.	Restraint means the physical restriction of a child's actions by using physical force to hold the child or by using pressure or other means to restrict the ability of the child to move the child's head, limbs, torso, neck, hands or feet.	Restraint means a personal restraint, mechanical restraint or drug used as a restraint. Personal restraint means the application of physical force without the use of any device, for the purposes of restraining the free movement of a resident's body.	A personal restriction that immobilizes or reduces the ability of an individual to move his or her arms, legs, or head freely.	A personal restriction that immobilizes or reduces the ability of an individual to move his or her arms, legs or head freely.
			The term personal restraint does not include briefly holding without undue force a resident in order to calm or comfort him or her, or holding a resident's hand to safely escort a resident from one area to another.	Such term does not include a "physical escort". The term "physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a resident who is acting out to walk to a safe location.	Such a term does not include a physical escort. The term "physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a resident who is acting out to walk to a safe location.

Chemical Restraint

Current Law	HB 3835	SB 1113	PRTF COP	Children's Health Act of 2000- Health Facility	Children's Health Act of 2000- Non-Medical, community based facilities
<p>\ “Chemical restraint” means a drug or medication that is used on a student to control behavior or freedom of movement and that is not (A) prescribed by a licensed physician or other qualified health professional acting under the professional’s scope of practice for standard treatment of the students medical or psychiatric condition and (B) Administered as prescribed by a licensed physician or other qualified health professional acting under the professionals’ scope of practice.</p>	<p>"Chemical Restraint" means a medication that is administered to a child to control the child's behavior and restrict the child's freedom of movement, other than medication that is a standard treatment for the child's medical or psychiatric condition.</p>	<p>"Chemical restraint" means a drug or medication administered by any means that is used on a student to control behavior or restrict freedom of movement and that is not:</p> <p>(A) Prescribed by a licensed physician or other qualified health professional acting under the professional’s scope of practice for standard treatment of the student’s medical or psychiatric condition; and</p> <p>(B) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional’s scope of practice.</p>	<p>“Drug used as a restraint” means any drug that—</p> <p>(1) Is administered to manage a resident's behavior in a way that reduces the safety risk to the resident or others;</p> <p>(2) Has the temporary effect of restricting the resident's freedom of movement; and</p> <p>(3) Is not a standard treatment for the resident's medical or psychiatric condition.</p> <p>An order for restraint or seclusion must not be written as a standing order or on an as-needed basis.</p>	<p>["Chemical restraint"] is a drug or medication that is used as a restraint to control behavior or restrict the resident's freedom of movement that is not a standard treatment for the resident's medical or psychiatric condition.</p>	<p>The use of a drug or medication that is used as a restraint to control behavior or restrict the resident's freedom of movement that is not a standard treatment for the resident's medical or psychiatric condition in nonmedical community-based facilities for children and youth described in subsection (a)(1) is prohibited.</p>

Threshold for restraint or involuntary seclusion: General

Current Law	HB 3835	SB 1113	PRTF COP	Children's Health Act of 2000- Health Facility	Children's Health Act of 2000- Non-Medical, community based facilities
[Restraint or seclusion may only be used on a child] if the child in care's behavior poses a reasonable risk of imminent serious bodily injury to the child in care or others and less restrictive interventions would not effectively reduce that risk.	Restraint may be used on a child only if the student's behavior poses a risk of imminent serious physical harm to the student or others, including animals and a less restrictive intervention will not effectively reduce that risk.	Restraint (or seclusion) may be used on a child only if he child's current actions pose a reasonable risk of imminent serious bodily injury to the [child] or others; all other efforts to address the current actions have been unsuccessful; and a less restrictive intervention would not be effective at preventing the imminent serious bodily injury.	Restraint or seclusion must not result in harm or injury to the resident, and must be used only to ensure the safety of the resident or others during an emergency safety situation and only until the emergency safety situation has ceased and the resident's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired.	The restraint or seclusion is imposed to ensure the physical safety of the resident, a staff member or others and are imposed only upon the written order of a physician or other licensed practitioner permitted by the State and the facility to order such restrain or seclusion, that specifies the duration and circumstances under which the restraints are to be used.	Restraints or seclusion are imposed only in emergency circumstances and only to ensure the immediate physical safety of the resident, a staff member, or others and less restrictive interventions have been determined to be ineffective

Threshold: Level of harm definitions

Current Law	HB 3835	SB 1113	PRTF COP	Children's Health Act of 2000- Health Facility	Children's Health Act of 2000- Non-Medical, community-based facilities
<p>"Serious bodily injury" means any significant impairment of the physical condition of an individual, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.</p>	<p>Imminent serious physical harm: Undefined in statute</p>	<p>Serious bodily injury: bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, unconsciousness, extreme pain or permanent protracted loss or impairment of the function of a bodily member, organ or mental faculty.</p>	<p>Serious injury means: any significant impairment of the physical condition of the resident as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.</p> <p>An "emergency safety situation" means unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no prevention occurs and that calls for an emergency safety intervention as defined in this section.</p>	<p>Physical safety: Undefined</p>	<p>Physical safety: Undefined</p>

Authorization of restraint

Current Law	HB 3835	SB 1113	PRTF COP	Children's Health Act of 2000- Health Facility	Children's Health Act of 2000- Non-Medical, community-based facilities
Current law is silent for schools and CCAs	Silent for schools and CCAs	Silent for schools and CCAs and PRTFs	Orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the State and the facility to order restraint or seclusion and trained in the use of emergency safety interventions. Federal regulations at 42 CFR 441.151 require that inpatient psychiatric services for beneficiaries under the age 21 be provided under the direction of a physician.	Restraint or seclusion are imposed only upon the written order of a physician, or other licensed practitioner permitted by the State and the facility to order such restraint or seclusion, that specifies the duration and circumstances under which the restraints are to be used.	
For SCIP or SAIP: The restraint is authorized by an order written at the time of and specifically for the current situation by a licensed medical practitioner or a licensed children's emergency safety intervention specialist;	For SCIP or SAIP: The restraint is authorized by an order written at the time of and specifically for the current situation by a licensed medical practitioner or a licensed children's emergency safety intervention specialist;		An order for restraint or seclusion must not be written as a standing order or on an as-needed basis. Each order must include the name of the ordering practitioner, date and time order was obtained, and specific intervention ordered.		

Child Rights

Current Law	HB 3835	SB 1113	PRTF COP	Children's Health Act of 2000- Health Facility	Children's Health Act of 2000- Non-Medical, community-based facilities
Silent	Silent	Silent	Each resident has the right to be free from restraint or seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation.	A public or private general hospital, nursing facility, intermediate care facility, or other health care facility, that receives support in any form from any program supported in whole or in part with funds appropriated to any Federal department or agency shall protect and promote the rights of each resident of the facility, including the right to be free from physical or mental abuse, corporal punishment, and any restraints or involuntary seclusions imposed for purposes of discipline or convenience.	A public or private non-medical, community-based facility for children and youth (as defined in regulations to be promulgated by the Secretary) that receives support in any form from any program supported in whole or in part with funds appropriated under this Act shall protect and promote the rights of each resident of the facility, including the right to be free from physical or mental abuse, corporal punishment, and any restraints or involuntary seclusions imposed for purposes of discipline or convenience.

Who can impose restraint?

Current Law	HB 3835	SB 1113	PRTF COP	Children's Health Act of 2000- Health Facility	Children's Health Act of 2000- Non-Medical, community-based facilities
Persons with current certification through one of three identified state training programs.	Persons with current certification through a program identified by the state.	<p>Persons with current certification through one of three identified state training programs.</p> <p>Explicit provisions to allow use to prevent suicide or unlawful use of force for ODHS staff and for foster parents.</p>	<p>Staff must be trained and demonstrate competency before participating in an emergency safety intervention.</p> <p>Staff must demonstrate the following competencies on a semiannual basis:</p> <ul style="list-style-type: none"> • Techniques to identify staff and resident behaviors, events and environmental factors that may trigger emergency safety situations; • The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening and 	Requires training to be completed through rules developed by collaboration between protection and advocacy organization (DRO), physicians, facilities and other health care professionals and patients.	Restraints or seclusion are imposed only by an individual trained and certified, by a State-recognized body and pursuant to a process determined appropriate by the State and approved by the Secretary, in the prevention and use of physical restraint and seclusion, including the needs and behaviors of the population served relationship building, alternatives to restraint and seclusion, de-escalation methods, avoiding power struggles, thresholds for restraints and seclusion, the physiological and psychological impact of restraint and seclusion, monitoring physical signs of distress and obtaining medical assistance legal issues, position asphyxia, escape and evasion techniques,

			<p>verbal and observational methods to prevent emergency safety situations; and</p> <ul style="list-style-type: none"> • The safe use of restraint and the safe use of seclusion, including the ability to recognize and respond to signs of physical distress in residents who are restrained or in seclusion <p>They must be certified in CPR and demonstrate their competency in CPR at least once each year.</p> <p>The facility must document in personnel records the training and demonstration of competency were successfully completed.</p>		<p>time limits, the process for obtaining approval for continued restraints, procedures to address problematic restraints, documentation, processing with children, and follow-up with staff, and investigations of injuries and complaints.</p>
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