

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT **S.B. 116**

SENATE BILL NO. 116—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

(ON BEHALF OF DEPARTMENT OF HUMAN RESOURCES—MENTAL
HEALTH AND DEVELOPMENTAL SERVICES)

FEBRUARY 13, 2001

Referred to Committee on Human Resources and Facilities

SUMMARY—Revises provisions governing use of restraints and interventions on persons with disabilities. (BDR 39-346)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to persons with disabilities; prescribing the circumstances under which a secure facility for mentally disordered offenders may use mechanical restraint on clients who have disabilities; revising provisions governing the duty of the board of trustees of a school district and the administrator of a private school in response to a report of the use of physical restraint or mechanical restraint on a pupil with a disability; revising provisions governing the reporting of certain violations involving pupils with disabilities; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 433 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 ***1. Except as otherwise provided in subsection 3, mechanical restraint***
4 ***may be used on a person with a disability who is a client of a forensic***
5 ***facility only if:***
6 ***(a) An emergency exists that necessitates the use of the mechanical***
7 ***restraint;***
8 ***(b) The client's behavior presents an imminent threat of causing***
9 ***physical injury to himself or to others or causing severe property damage***
10 ***and less restrictive measures have failed to modify the client's behavior;***
11 ***(c) The client is in the care of the facility but not on the premises of***
12 ***the facility and mechanical restraint is necessary to ensure security; or***
13 ***(d) The client is in the process of being transported to another***
14 ***location and mechanical restraint is necessary to ensure security.***



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- 1 2. If mechanical restraint is used pursuant to subsection 1, the
2 forensic facility shall ensure that:
- 3 (a) The mechanical restraint is applied by a member of the staff of the
4 facility who is trained and qualified to apply mechanical restraint;
- 5 (b) A member of the staff of the facility continuously monitors the
6 client during the time that mechanical restraint is used on the client;
- 7 (c) The record of the client contains a notation that indicates the time
8 period during which the restraint was used and the circumstances
9 warranting the restraint; and
- 10 (d) The mechanical restraint is used only for the period that is
11 necessary.
- 12 3. Mechanical restraint may be used on a person with a disability
13 who is a client of a forensic facility, and the provisions of subsections 1
14 and 2 do not apply if the mechanical restraint is used to:
- 15 (a) Treat the medical needs of a client;
- 16 (b) Protect a client who is known to be at risk of injury to himself
17 because he lacks coordination or suffers from frequent loss of
18 consciousness;
- 19 (c) Provide proper body alignment to a client; or
- 20 (d) Position a client who has physical disabilities in a manner
21 prescribed in the client's plan of services.
- 22 4. If mechanical restraint is used in an emergency on a person with a
23 disability who is a client of a forensic facility, the use of the procedure
24 must be reported as a denial of rights pursuant to NRS 433.534,
25 regardless of whether the use of the procedure is authorized by statute.
26 The report must be made not later than 1 working day after the
27 procedure is used.
- 28 5. As used in this section, "forensic facility" means a secure facility
29 of the division for mentally disordered offenders and defendants who are
30 ordered to the facility pursuant to chapter 178 of NRS.
- 31 Sec. 2. NRS 433.545 is hereby amended to read as follows:
- 32 433.545 As used in NRS 433.545 to 433.551, inclusive, *and section 1*
33 *of this act*, unless the context otherwise requires, the words and terms
34 defined in NRS 433.5453 to 433.548, inclusive, have the meanings
35 ascribed to them in those sections.
- 36 Sec. 3. NRS 433.547 is hereby amended to read as follows:
- 37 433.547 "Mechanical restraint" means the use of devices, including,
38 without limitation, mittens, straps, ~~and~~ restraint chairs, *handcuffs, belly*
39 *chains and four-point restraints* to limit a person's movement or hold a
40 person immobile.
- 41 Sec. 4. NRS 433.549 is hereby amended to read as follows:
- 42 433.549 A person employed by a facility or any other person shall not:
- 43 1. Except as otherwise provided in NRS 433.5493, use physical
44 restraint on a person with a disability who is a client.
- 45 2. Except as otherwise provided in NRS 433.5496 ~~and~~ *and section 1 of*
46 *this act*, use mechanical restraint on a person with a disability who is a
47 client.
- 48 3. Except as otherwise provided in NRS 433.5503, use chemical
49 restraint on a person with a disability who is a client.



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1 **Sec. 5.** NRS 433.5496 is hereby amended to read as follows:
2 433.5496 1. Except as otherwise provided in ~~{subsection 2,}~~
3 *subsections 2 and 4*, mechanical restraint may be used on a person with a
4 disability who is a client only if:
5 (a) An emergency exists that necessitates the use of mechanical
6 restraint;
7 (b) A medical order authorizing the use of mechanical restraint is
8 obtained from the client's treating physician before the application of the
9 mechanical restraint or not later than 15 minutes after the application of the
10 mechanical restraint;
11 (c) The physician who signed the order required pursuant to paragraph
12 (b) or the attending physician examines the client not later than 1 working
13 day immediately after the application of the mechanical restraint;
14 (d) The mechanical restraint is applied by a member of the staff of the
15 facility who is trained and qualified to apply mechanical restraint;
16 (e) The client is given the opportunity to move and exercise the parts of
17 his body that are restrained at least 10 minutes per every 60 minutes of
18 restraint;
19 (f) A member of the staff of the facility lessens or discontinues the
20 restraint every 15 minutes to determine whether the client will stop or
21 control his inappropriate behavior without the use of the restraint;
22 (g) The record of the client contains a notation that includes the time of
23 day that the restraint was lessened or discontinued pursuant to paragraph
24 (f), the response of the client and the response of the member of the staff of
25 the facility who applied the mechanical restraint;
26 (h) A member of the staff of the facility continuously monitors the
27 client during the time that mechanical restraint is used on the client; and
28 (i) The mechanical restraint is used only for the period that is necessary
29 to contain the behavior of the client so that the client is no longer an
30 immediate threat of causing physical injury to himself or others or causing
31 severe property damage.
32 2. Mechanical restraint may be used on a person with a disability who
33 is a client and the provisions of subsection 1 do not apply if the mechanical
34 restraint is used to:
35 (a) Treat the medical needs of a client;
36 (b) Protect a client who is known to be at risk of injury to himself
37 because he lacks coordination or suffers from frequent loss of
38 consciousness;
39 (c) Provide proper body alignment to a client; or
40 (d) Position a client who has physical disabilities in a manner prescribed
41 in the client's plan of services.
42 3. If mechanical restraint is used on a person with a disability who is a
43 client in an emergency, the use of the procedure must be reported as a
44 denial of rights pursuant to NRS 433.534, regardless of whether the use of
45 the procedure is authorized by statute. The report must be made not later
46 than 1 working day after the procedure is used.
47 4. *The provisions of this section do not apply to a forensic facility, as*
48 *that term is defined in subsection 5 of section 1 of this act.*



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1 **Sec. 6.** NRS 388.5275 is hereby amended to read as follows:

2 388.5275 1. Except as otherwise provided in subsection 2, physical
3 restraint may be used on a pupil with a disability only if:

4 (a) An emergency exists that necessitates the use of physical restraint;

5 (b) The physical restraint is used only for the period that is necessary to
6 contain the behavior of the pupil so that the pupil is no longer an
7 immediate threat of causing physical injury to himself or others or causing
8 severe property damage; and

9 (c) The use of force in the application of physical restraint does not
10 exceed the force that is reasonable and necessary under the circumstances
11 precipitating the use of physical restraint.

12 2. Physical restraint may be used on a pupil with a disability and the
13 provisions of subsection 1 do not apply if the physical restraint is used to:

14 (a) Assist the pupil in completing a task or response if the pupil does not
15 resist the application of physical restraint or if his resistance is minimal in
16 intensity and duration;

17 (b) Escort or carry a pupil to safety if the pupil is in danger in his
18 present location; or

19 (c) Conduct medical examinations or treatments on the pupil that are
20 necessary.

21 3. If physical restraint is used on a pupil with a disability in an
22 emergency, the use of the procedure must be reported in the pupil's
23 cumulative record and a confidential file maintained for the pupil not later
24 than 1 working day after the procedure is used. A copy of the report must
25 be provided to the board of trustees of the school district, the pupil's
26 individualized education program team and the parent or guardian of the
27 pupil. *The board of trustees shall review the report during a closed*
28 *meeting to determine whether a denial of the pupil's rights has occurred.*

29 *The board of trustees shall:*

30 (a) *At least 5 school days before the date of the meeting, provide*
31 *notice of the meeting to the pupil's individualized education program*
32 *team and the parent or legal guardian of the pupil; and*

33 (b) *Allow the pupil's individualized education program team, or*
34 *members thereof, and the parent or legal guardian of the pupil to attend*
35 *and participate in the meeting.*

36 If the board of trustees determines that a denial of the pupil's rights has
37 occurred, the board of trustees ~~may~~ *shall* submit a *confidential* report to
38 the department in accordance with NRS 388.5315.

39 4. *The provisions of chapter 241 of NRS do not apply to a meeting*
40 *held by the board of trustees of a school district pursuant to subsection 3.*

41 **Sec. 7.** NRS 388.528 is hereby amended to read as follows:

42 388.528 1. Except as otherwise provided in subsection 2, mechanical
43 restraint may be used on a pupil with a disability only if:

44 (a) An emergency exists that necessitates the use of mechanical
45 restraint;

46 (b) A medical order authorizing the use of mechanical restraint is
47 obtained from the pupil's treating physician before the application of the
48 mechanical restraint or not later than 15 minutes after the application of the
49 mechanical restraint;



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- 1 (c) The physician who signed the order required pursuant to paragraph
2 (b) or the attending physician examines the pupil as soon as practicable;
3 (d) The mechanical restraint is applied by a member of the staff of the
4 school who is trained and qualified to apply mechanical restraint;
5 (e) The pupil is given the opportunity to move and exercise the parts of
6 his body that are restrained at least 10 minutes per every 60 minutes of
7 restraint, unless otherwise prescribed by the physician who signed the
8 order;
9 (f) A member of the staff of the school lessens or discontinues the
10 restraint every 15 minutes to determine whether the pupil will stop or
11 control his inappropriate behavior without the use of the restraint;
12 (g) The record of the pupil contains a notation that includes the time of
13 day that the restraint was lessened or discontinued pursuant to paragraph
14 (f), the response of the pupil and the response of the member of the staff of
15 the school who applied the mechanical restraint;
16 (h) A member of the staff of the school continuously monitors the pupil
17 during the time that mechanical restraint is used on the pupil; and
18 (i) The mechanical restraint is used only for the period that is necessary
19 to contain the behavior of the pupil so that the pupil is no longer an
20 immediate threat of causing physical injury to himself or others or causing
21 severe property damage.
- 22 2. Mechanical restraint may be used on a pupil with a disability and
23 the provisions of subsection 1 do not apply if the mechanical restraint is
24 used to:
- 25 (a) Treat the medical needs of the pupil;
26 (b) Protect a pupil who is known to be at risk of injury to himself
27 because he lacks coordination or suffers from frequent loss of
28 consciousness;
29 (c) Provide proper body alignment to a pupil; or
30 (d) Position a pupil who has physical disabilities in a manner prescribed
31 in the pupil's individualized education program.
- 32 3. If mechanical restraint is used on a pupil with a disability in an
33 emergency, the use of the procedure must be reported in the pupil's
34 cumulative record and a confidential file maintained for the pupil not later
35 than 1 working day after the procedure is used. A copy of the report must
36 be provided to the board of trustees of the school district, the pupil's
37 individualized education program team and the parent or guardian of the
38 pupil. *The board of trustees shall review the report during a closed*
39 *meeting to determine whether a denial of the pupil's rights has occurred.*
40 *The board of trustees shall:*
41 *(a) At least 5 school days before the date of the meeting, provide*
42 *notice of the meeting to the pupil's individualized education program*
43 *team and the parent or legal guardian of the pupil; and*
44 *(b) Allow the pupil's individualized education program team, or*
45 *members thereof, and the parent or legal guardian of the pupil to attend*
46 *and participate in the meeting.*
47 If the board of trustees determines that a denial of the pupil's rights has
48 occurred, the board of trustees ~~may~~ *shall* submit a *confidential* report to
49 the department in accordance with NRS 388.5315.



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1 4. *The provisions of chapter 241 of NRS do not apply to a meeting*
2 *held by the board of trustees of a school district pursuant to subsection 3.*

3 **Sec. 8.** NRS 388.5295 is hereby amended to read as follows:

4 388.5295 1. A school where a violation of NRS 388.521 to
5 388.5315, inclusive, occurs shall report the violation to the board of
6 trustees of the school district ~~not~~, *the parent or legal guardian of the*
7 *pupil against whom the action was taken and the pupil's individualized*
8 *education program team. The report must be made:*

9 (a) *Not* later than 24 hours after the violation occurred, or as soon
10 thereafter as the violation is discovered.

11 (b) *To the parent or legal guardian of the pupil and the pupil's*
12 *individualized education program team in a manner that does not violate*
13 *the confidentiality of any other pupil involved in the incident.*

14 2. The board of trustees of the school district where the violation
15 occurred shall develop, in cooperation with the superintendent of schools
16 of the school district, a corrective plan to ensure that within 30 calendar
17 days after the violation occurred, appropriate action is taken by the school
18 and the board of trustees to prevent future violations.

19 3. The superintendent of schools of the school district shall submit the
20 plan to the department. The department shall review the plan to ensure that
21 it complies with applicable federal law and the statutes and regulations of
22 this state. The department may require appropriate revision of the plan to
23 ensure compliance.

24 4. If the school where the violation occurred does not meet the
25 requirements of the plan to the satisfaction of the department, the
26 department may appoint a licensed administrator to oversee the school to
27 ensure that the school meets the requirements of the plan. An administrator
28 serves at the pleasure of the superintendent of public instruction and is
29 entitled to receive such compensation as may be set by the superintendent.
30 A school district that contains a school for which an administrator is
31 appointed pursuant to this subsection shall reimburse the department for
32 any expenses incurred by the department pursuant to this subsection.

33 **Sec. 9.** NRS 388.5315 is hereby amended to read as follows:

34 388.5315 1. A denial of rights of a pupil with a disability pursuant to
35 NRS 388.521 to 388.5315, inclusive, must be entered in the pupil's
36 cumulative record and a confidential file maintained for that pupil. Notice
37 of the denial must be provided to the board of trustees of the school district
38 ~~not~~, *the parent or legal guardian of the pupil and the pupil's*
39 *individualized education program team.*

40 2. If the board of trustees of a school district receives notice of a denial
41 of rights pursuant to subsection 1, it shall cause a full report to be prepared
42 which must set forth in detail the factual circumstances surrounding the
43 denial. A copy of the report must be provided to the department.

44 3. The department:

45 (a) Shall receive reports made pursuant to subsection 2;

46 (b) May investigate apparent violations of the rights of pupils with
47 disabilities; and

48 (c) May act to resolve disputes relating to apparent violations.



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1 **Sec. 10.** NRS 394.368 is hereby amended to read as follows:
2 394.368 1. Except as otherwise provided in subsection 2, physical
3 restraint may be used on a pupil with a disability only if:

4 (a) An emergency exists that necessitates the use of physical restraint;
5 (b) The physical restraint is used only for the period that is necessary to
6 contain the behavior of the pupil so that the pupil is no longer an
7 immediate threat of causing physical injury to himself or others or causing
8 severe property damage; and

9 (c) The use of force in the application of physical restraint does not
10 exceed the force that is reasonable and necessary under the circumstances
11 precipitating the use of physical restraint.

12 2. Physical restraint may be used on a pupil with a disability and the
13 provisions of subsection 1 do not apply if the physical restraint is used to:

14 (a) Assist the pupil in completing a task or response if the pupil does not
15 resist the application of physical restraint or if his resistance is minimal in
16 intensity and duration;

17 (b) Escort or carry a pupil to safety if the pupil is in danger in his
18 present location; or

19 (c) Conduct medical examinations or treatments on the pupil that are
20 necessary.

21 3. If physical restraint is used on a pupil with a disability in an
22 emergency, the use of the procedure must be reported in the pupil's
23 cumulative record not later than 1 working day after the procedure is used.

24 A copy of the report must be provided to the superintendent, the
25 administrator of the private school, the pupil's individualized education
26 program team, if applicable, and the parent or guardian of the pupil. *The*

27 *administrator of the private school shall hold a meeting with the pupil's*
28 *individualized education program team, if applicable, and the parent or*
29 *legal guardian of the pupil to review the report and consider whether a*

30 *denial of the pupil's rights has occurred. The administrator of the private*
31 *school shall provide notice of the meeting to the pupil's individualized*
32 *education program team, if applicable, and the parent or legal guardian*

33 *of the pupil at least 5 school days before the meeting. The meeting must*
34 *be conducted in a manner that does not violate the confidentiality of the*
35 *pupil. The administrator of the private school shall review the report and*

36 *determine whether a violation of the pupil's rights has occurred,*
37 *regardless of whether the pupil's individualized education program team*
38 *or the parent or legal guardian of the pupil attend or participate in the*

39 *meeting.* If the administrator of the private school determines that a denial
40 of the pupil's rights has occurred, the administrator shall submit a
41 *confidential* report to the superintendent in accordance with NRS 394.378.

42 **Sec. 11.** NRS 394.369 is hereby amended to read as follows:

43 394.369 1. Except as otherwise provided in subsection 2, mechanical
44 restraint may be used on a pupil with a disability only if:

45 (a) An emergency exists that necessitates the use of mechanical
46 restraint;

47 (b) A medical order authorizing the use of mechanical restraint is
48 obtained from the pupil's treating physician before the application of the



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- 1 mechanical restraint or not later than 15 minutes after the application of the
2 mechanical restraint;
- 3 (c) The physician who signed the order required pursuant to paragraph
4 (b) or the attending physician examines the pupil as soon as practicable
5 after the application of the mechanical restraint;
- 6 (d) The mechanical restraint is applied by a member of the staff of the
7 private school who is trained and qualified to apply mechanical restraint;
- 8 (e) The pupil is given the opportunity to move and exercise the parts of
9 his body that are restrained at least 10 minutes per every 60 minutes of
10 restraint, unless otherwise prescribed by the physician who signed the
11 order;
- 12 (f) A member of the staff of the private school lessens or discontinues
13 the restraint every 15 minutes to determine whether the pupil will stop or
14 control his inappropriate behavior without the use of the restraint;
- 15 (g) The record of the pupil contains a notation that includes the time of
16 day that the restraint was lessened or discontinued pursuant to paragraph
17 (f), the response of the pupil and the response of the member of the staff of
18 the private school who applied the mechanical restraint;
- 19 (h) A member of the staff of the private school continuously monitors
20 the pupil during the time that mechanical restraint is used on the pupil; and
- 21 (i) The mechanical restraint is used only for the period that is necessary
22 to contain the behavior of the pupil so that the pupil is no longer an
23 immediate threat of causing physical injury to himself or others or causing
24 severe property damage.
- 25 2. Mechanical restraint may be used on a pupil with a disability and
26 the provisions of subsection 1 do not apply if the mechanical restraint is
27 used to:
- 28 (a) Treat the medical needs of the pupil;
- 29 (b) Protect a pupil who is known to be at risk of injury to himself
30 because he lacks coordination or suffers from frequent loss of
31 consciousness;
- 32 (c) Provide proper body alignment to a pupil; or
- 33 (d) Position a pupil who has physical disabilities in a manner prescribed
34 in the pupil's service plan developed pursuant to 34 C.F.R. § 300.455 or
35 the pupil's individualized education program, whichever is appropriate.
- 36 3. If mechanical restraint is used on a pupil with a disability in an
37 emergency, the use of the procedure must be reported in the pupil's
38 cumulative record not later than 1 working day after the procedure is used.
39 A copy of the report must be provided to the superintendent, the
40 administrator of the private school, the pupil's individualized education
41 program team, if applicable, and the parent or guardian of the pupil. *The*
42 *administrator of the private school shall hold a meeting with the pupil's*
43 *individualized education program team, if applicable, and the parent or*
44 *legal guardian of the pupil to review the report and consider whether a*
45 *denial of the pupil's rights has occurred. The administrator of the private*
46 *school shall provide notice of the meeting to the pupil's individualized*
47 *education program team, if applicable, and the parent or legal guardian*
48 *of the pupil at least 5 school days before the meeting. The meeting must*
49 *be conducted in a manner that does not violate the confidentiality of the*



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1 *pupil. The administrator of the private school shall review the report and*
2 *determine whether a violation of the pupil's rights has occurred,*
3 *regardless of whether the pupil's individualized education program team*
4 *or the parent or legal guardian of the pupil attend or participate in the*
5 *meeting.* If the administrator of the private school determines that a denial
6 of the pupil's rights has occurred, the administrator shall submit a
7 *confidential* report to the superintendent in accordance with NRS 394.378.
8 4. As used in this section, "individualized education program" has the
9 meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).
10 **Sec. 12.** NRS 394.376 is hereby amended to read as follows:
11 394.376 1. A private school where a violation of NRS 394.353 to
12 394.378, inclusive, occurs shall report the violation to the superintendent
13 ~~to the~~, *the parent or legal guardian of the pupil against whom the action*
14 *was taken and the pupil's individualized education program team, if*
15 *applicable. The report must be made:*
16 (a) *Not* later than 24 hours after the violation occurred, or as soon
17 thereafter as the violation is discovered.
18 (b) *To the parent or legal guardian of the pupil and the pupil's*
19 *individualized education program team in a manner that does not violate*
20 *the confidentiality of any other pupil involved in the incident.*
21 2. The private school where a violation occurred shall develop, in
22 cooperation with the superintendent, a corrective plan to ensure that within
23 30 calendar days after the violation occurred, appropriate action is taken by
24 the private school to prevent future violations.
25 3. The superintendent shall submit the plan to the department. The
26 department shall review the plan to ensure that it complies with applicable
27 federal law and the statutes and regulations of this state. The department
28 may require appropriate revision of the plan to ensure compliance.
29 **Sec. 13.** NRS 394.378 is hereby amended to read as follows:
30 394.378 1. A denial of rights of a pupil with a disability pursuant to
31 NRS 394.353 to 394.378, inclusive, must be entered in the pupil's
32 cumulative record. Notice of the denial must be provided to the
33 administrator of the private school ~~to the~~, *the parent or legal guardian of the*
34 *pupil and the pupil's individualized education program team, if*
35 *applicable.*
36 2. If the administrator of a private school receives notice of a denial of
37 rights pursuant to subsection 1, he shall cause a full report to be prepared
38 which must set forth in detail the factual circumstances surrounding the
39 denial. A copy of the report must be provided to the superintendent.
40 3. The superintendent:
41 (a) Shall receive reports made pursuant to subsection 2;
42 (b) May investigate apparent violations of the rights of pupils with
43 disabilities; and
44 (c) May act to resolve disputes relating to apparent violations.
45 **Sec. 14.** This act becomes effective upon passage and approval.

