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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 120

**SHORT TITLE:** Limiting Student Restraint and Seclusion

**SPONSOR:** Gurrola, Torres-Velásquez, Figueroa

**LAST UPDATE:** \_\_\_\_\_ **ORIGINAL DATE:** 01/27/2026 **ANALYST:** Chilton

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Public school districts and charter schools		Up to \$1,000.0	Up to \$1,000.0	Up to \$2,000.0	Recurring	Other state funds

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

Department of Public Safety

Public Education Department

Public Schools Insurance Authority

Regional Education Cooperatives

Early Childhood Education and Care Department

Indian Affairs Department

#### Agency or Agencies That Declined to Respond

Department of Health

## SUMMARY

### Synopsis of House Bill 120

House Bill 120 (HB120) would expand and change many aspects of Section 22-5-4.12 NMSA 1978, which deals with allowable and prohibited types of responses that school personnel might use when dealing with student behavior. These changes would affect both public schools and publicly-chartered charter schools.

Subsection A defines terms, replacing definitions previously at the end of this section of statute. Definitions include chemical restraint, (use of a medication not prescribed by the student's medical provider), mechanical restraint, physical restraint and physical escort, prone restraint, seclusion, time out, and de-escalation.

Subsection B specifically prohibits the use of seclusion, chemical restraint (unless accompanied by continuous line-of-sight observation), mechanical restraint, and prone restraint in public schools.

Subsection C indicates that a public school may allow physical restraint only if the student is endangering themselves or others and lesser interventions are insufficient. If the student is eloping (leaving the scene without permission) but the two previous criteria for the use of physical restraint are not met, physical escort (moving with the student with a hand on their back, arm, or shoulder) may be appropriate.

Subsection D indicates that school boards or governing bodies should plan in advance for disruptive behavior, using guidance provided by the Public Education Department (PED), and should train schools specifically in positive behavior interventions such as physical restraint, seclusion, and de-escalation. The school plan is to be drafted by a team including at least one person trained and certified in positive reinforcement techniques. The plan must include techniques to return a student to the classroom, and strategies to deal with elopement. The plan must be approved by PED.

Subsection E discusses the required components of training for designated school personnel and requires that it be done biannually.

Subsection F makes the following specifications regarding the use of physical restraint:

- 1) Students must be observed by school employees throughout the restraint application,
- 2) Restraint should end as soon as the danger of physical harm to the student or others is over,
- 3) Restraint should be used only by personnel trained in its safe use,
- 4) There can be no interference with a student's breathing or communication, and
- 5) The intervention should be proportional to the student's age and condition.

Subsection G prohibits the use of time-out as a punishment; Subsection H requires reporting of physical restraint used the same day or within 24 hours to parents/guardians, and, using a PED-issued form within three days, including precursors to and a description of the behavior, the reasons physical restraint or seclusion were used and the location, techniques and duration, and the staff person's name and most recent training in the technique. Schools must review the record of the event if it has happened more than once with a given student and determine methods of avoiding similar incidents, including evaluation for special education if appropriate. If the student has an individualized educational plan (IEP), his/her IEP team must meet within two weeks to write out recommendations. Parents can request an IEP team, behavioral intervention plan team, or student assistance team meeting after physical restraint has been used.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

## **FISCAL IMPLICATIONS**

There is no appropriation in House Bill 120. Costs for training school personnel and for meetings to determine policy both before and after incidents had occurred are likely to be substantial.

As Public Education Department (PED) points out, “The proposed new training requirements may result in additional expenditures for public schools. However, regular professional training, as well as the additional restrictions proposed by the bill, may result in lower potential insurance or liability costs for school districts and charter schools arising from misapplication of restraint or seclusion.” Consistent with prior versions of the bill, up-front training costs of up to \$1 million for school districts and charter schools are reflected in the operating budget impact table.

The Early Childhood Education and Care Department (ECECD) points out that “HB 120 proposes to impose extensive training, documentation, and safety-plan requirements on schools and educators without providing additional resources to support the additional requirements.” The New Mexico Public Schools Insurance Agency (NMPSIA) states that “NMPSIA may be well positioned to develop training programs and to participate in or deliver school personnel training programs and updates. If NMPSIA and Poms & Associates Insurance Brokers were to develop and deliver training programs, additional funding would be needed.”

## SIGNIFICANT ISSUES

PED has presented statistics indicating that although techniques to prevent or to treat improper behavior may need to be used with all types of students, they are especially likely to be used with children with developmental disabilities and minority students, especially African American students.

PED commented on a similar, previous bill in 2023 Senate Bill 387:

A 2018 report by the [Education Commission of the States](#) noted that, though practices of restraint and seclusion 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.” New Mexico legislation, such as [2017 House Bill 75](#) (HB75), which was enacted and codified as Section 22-5-4.12 NMSA 1978, has followed national trends in the past decade to limit the use of these procedures except in cases of immediate danger, to mandate reporting when restraint and seclusion are used, and to ensure school personnel are properly trained.

Provisions of SB387 would better align statute to the 15 principles outlined by the United States Department of Education (USDE) in 2012 guiding the use of restraint and seclusion in schools. Those 15 principles, detailed in a report from the federal DOE (The entire report is available as an attachment to this FIR), are as follows:

1. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
2. Schools should never use mechanical restraints to restrict a child’s freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).
3. Physical restraint or seclusion should not be used except in situations where the child’s behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated.

4. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.
5. Any behavioral intervention must be consistent with the child's right to be treated with dignity and to be free from abuse.
6. Restraint or seclusion should never be used as punishment or discipline (e.g., placing in seclusion for out-of-seat behavior), as a means of coercion or retaliation, or as a convenience.
7. Restraint or seclusion should never be used in a manner that restricts a child's breathing or harms the child.
8. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, revision of strategies currently in place to address dangerous behavior; if positive behavioral strategies are not in place, staff should consider developing them.
9. Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior.
10. Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.
11. Every instance in which restraint or seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers, and other personnel.
12. Parents should be informed of the policies on restraint and seclusion at their child's school or other educational setting, as well as applicable Federal, State, or local laws.
13. Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.
14. Policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate.
15. Policies regarding the use of restraint and seclusion should provide that each incident involving the use of restraint or seclusion should be documented in writing and provide for the collection of specific data that would enable teachers, staff, and other personnel to understand and implement the preceding principles.

According to the USDE<sup>1</sup>:

These principles stress that every effort should be made to prevent the need for the use of restraint and seclusion and that any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse. The principles make clear that restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others, and restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff.

As noted by PED, “This amended bill reinforces proper training requirements for school staff to be able to more effectively address student behavior and de-escalation strategies benefiting

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<sup>1</sup> <https://www.ed.gov/sites/ed/files/policy/seclusion/restraints-and-seclusion-resources.pdf>

students who require immediate intervention.” PED makes note of a [Brookings report](#) that indicates that federal guidelines on restraint and seclusion have failed to curtail use of dangerous disciplinary tactics in schools, further emphasizing the need for adequate training as to when such techniques may be indicated and how to use them safely, as well as how not to apply them disproportionately to minority children and children with disabilities.

Furthermore, PED notes that “The bill maintains requirements that if a school summons law enforcement in place of restraining or secluding a student, the incident would still be subject to the same reporting and documentation requirements.” Likewise, the Department of Public Safety states that it “supports the enactment of this bill because it establishes clear protocols for when schools should summon law enforcement, improving coordination between school personnel and first responders, and potentially reducing unnecessary law enforcement responses to student behavioral incidents that can be effectively managed using trained de-escalation techniques.”

## **ADMINISTRATIVE IMPLICATIONS**

ECED notes that it has administrative control of pre-kindergartens in New Mexico, and that the bill does not make clear what its responsibilities under this law would be.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill relates to 2023 Senate Memorial 68, which would have asked the Developmental Disabilities Council to set up a working group to address seclusion and restraint techniques used in New Mexico schools. Similar to many parts of 2023 Senate Bill 387 and 2025 House Bill 260. None of these pieces of legislation passed, nor did 2020 House Bill 354, 2021 Senate Bill 233, or 2021 Senate Bill 319, all of which dealt with similar issues.

## **TECHNICAL ISSUES**

The notification of parents in cases of use of the techniques of restraint and seclusion is mandated, but the words “or guardian” have been deleted. For students with guardians, for example grandparents serving in lieu of parents, no notification is mandated.

NMPSIA proposes that PED might be asked “to develop guidance, training and forms, in NMSA §9-24-1 et. seq. since the bill only places requirements on School Boards and Governing Bodies. Also consider adding a time period for PED to approve or reject and provide clear response to correct deficiencies in safety plans and training programs. It would be unfair to the schools and complicated for insurer NMPSIA if an event occurred after a school submitted their plans but before PED approved the plan.” NMPSIA also suggests that the bill define which school personnel are to be trained, and that the term “imminent danger” (as an indication for allowable use of restraint or seclusion) be replaced with “actual danger,” since that would not require a judgement made by possible untrained staff.