

HOUSE BILL No. 4796

June 20, 2017, Introduced by Reps. Faris, Lasinski, Sneller and Hoadley and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1973 PA 116, entitled

"An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,"

(MCL 722.111 to 722.128) by adding sections 2f, 2g, 2h, 2i, 2j, 2k, 2l, and 2m.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 2F. AS USED IN THIS SECTION AND SECTIONS 2G TO 2M:

(A) "CHEMICAL RESTRAINT" MEANS THE ADMINISTRATION OF MEDICATION FOR THE PURPOSE OF RESTRAINT.

(B) "CORPORAL PUNISHMENT" MEANS THE DELIBERATE INFLICTION OF PHYSICAL PAIN BY HITTING, PADDLING, SPANKING, SLAPPING, OR ANY

1 OTHER PHYSICAL FORCE USED AS A MEANS OF DISCIPLINE.

2 (C) "DE-ESCALATION TECHNIQUES" MEANS EVIDENCE- AND RESEARCH-
3 BASED STRATEGICALLY EMPLOYED VERBAL OR NONVERBAL INTERVENTIONS USED
4 TO REDUCE THE INTENSITY OF THREATENING BEHAVIOR BEFORE, DURING, AND
5 AFTER A CRISIS SITUATION OCCURS.

6 (D) "DOCUMENTATION" MEANS DOCUMENTATION DEVELOPED BY THE
7 DEPARTMENT THAT IS UNIFORM ACROSS THE STATE.

8 (E) "EMERGENCY PHYSICAL RESTRAINT" MEANS A LAST RESORT
9 EMERGENCY SAFETY INTERVENTION INVOLVING PHYSICAL RESTRAINT THAT IS
10 NECESSITATED BY AN ONGOING EMERGENCY SITUATION AND THAT PROVIDES AN
11 OPPORTUNITY FOR THE CHILD TO REGAIN SELF-CONTROL WHILE MAINTAINING
12 THE SAFETY OF THE CHILD AND OTHERS. EMERGENCY PHYSICAL RESTRAINT
13 DOES NOT INCLUDE PHYSICAL RESTRAINT THAT IS USED FOR THE
14 CONVENIENCE OF THE CHILD CARE CENTER'S, GROUP CHILD CARE HOME'S, OR
15 FAMILY CHILD CARE HOME'S STAFF, AS A SUBSTITUTE FOR AN EDUCATIONAL
16 PROGRAM, AS A FORM OF DISCIPLINE OR PUNISHMENT, AS A SUBSTITUTE FOR
17 LESS RESTRICTIVE ALTERNATIVES, AS A SUBSTITUTE FOR ADEQUATE
18 STAFFING, OR AS A SUBSTITUTE FOR STAFF TRAINING IN POSITIVE
19 BEHAVIORAL INTERVENTION AND SUPPORT. EMERGENCY PHYSICAL RESTRAINT
20 DOES NOT INCLUDE A PRACTICE PROHIBITED UNDER SECTION 2H. EMERGENCY
21 PHYSICAL RESTRAINT DOES NOT INCLUDE PHYSICAL RESTRAINT WHEN
22 CONTRAINDICATED BASED ON A CHILD'S DISABILITY, HEALTH CARE NEEDS,
23 OR MEDICAL OR PSYCHIATRIC CONDITION, AS DOCUMENTED IN A RECORD OR
24 RECORDS MADE AVAILABLE TO THE CHILD CARE CENTER, GROUP CHILD CARE
25 HOME, OR FAMILY CHILD CARE HOME.

26 (F) "EMERGENCY SECLUSION" MEANS A LAST RESORT EMERGENCY SAFETY
27 INTERVENTION INVOLVING SECLUSION THAT IS NECESSITATED BY AN ONGOING

1 EMERGENCY SITUATION AND THAT PROVIDES AN OPPORTUNITY FOR THE CHILD
2 TO REGAIN SELF-CONTROL WHILE MAINTAINING THE SAFETY OF THE CHILD
3 AND OTHERS. TO QUALIFY AS EMERGENCY SECLUSION, THERE MUST BE
4 CONTINUOUS OBSERVATION BY THE CHILD CARE CENTER, GROUP CHILD CARE
5 HOME, OR FAMILY CHILD CARE HOME STAFF OF THE CHILD IN SECLUSION,
6 AND THE ROOM OR AREA USED FOR CONFINEMENT MUST COMPLY WITH STATE
7 AND LOCAL FIRE AND BUILDING CODES; MUST NOT BE LOCKED; MUST NOT
8 PREVENT THE CHILD FROM EXITING THE AREA IF STAFF BECOME
9 INCAPACITATED OR LEAVE THAT AREA; AND MUST PROVIDE FOR ADEQUATE
10 SPACE, LIGHTING, VENTILATION, VIEWING, AND THE SAFETY AND DIGNITY
11 OF THE CHILD AND OTHERS, IN ACCORDANCE WITH DEPARTMENT GUIDELINES.
12 EMERGENCY SECLUSION DOES NOT INCLUDE THE CONFINEMENT OF CHILDREN
13 WHO ARE SEVERELY SELF-INJURIOUS OR SUICIDAL; SECLUSION THAT IS USED
14 FOR THE CONVENIENCE OF STAFF, AS A SUBSTITUTE FOR AN EDUCATIONAL
15 PROGRAM, AS A FORM OF DISCIPLINE OR PUNISHMENT, AS A SUBSTITUTE FOR
16 LESS RESTRICTIVE ALTERNATIVES, AS A SUBSTITUTE FOR ADEQUATE
17 STAFFING, OR AS A SUBSTITUTE FOR STAFF TRAINING IN POSITIVE
18 BEHAVIORAL INTERVENTION AND SUPPORT; OR A PRACTICE PROHIBITED UNDER
19 SECTION 2H. EMERGENCY SECLUSION DOES NOT INCLUDE SECLUSION WHEN
20 CONTRAINDICATED BASED ON A CHILD'S DISABILITY, HEALTH CARE NEEDS,
21 OR MEDICAL OR PSYCHIATRIC CONDITION, AS DOCUMENTED IN A RECORD OR
22 RECORDS MADE AVAILABLE TO THE CHILD CARE CENTER, GROUP CHILD CARE
23 HOME, OR FAMILY CHILD CARE HOME.

24 (G) "EMERGENCY SITUATION" MEANS A SITUATION IN WHICH A CHILD'S
25 BEHAVIOR POSES IMMINENT RISK TO THE SAFETY OF THE INDIVIDUAL CHILD
26 OR TO THE SAFETY OF OTHERS. AN EMERGENCY SITUATION REQUIRES AN
27 IMMEDIATE INTERVENTION.

1 (H) "FUNCTIONAL BEHAVIORAL ASSESSMENT" MEANS AN EVIDENCE- AND
2 RESEARCH-BASED SYSTEMATIC PROCESS FOR IDENTIFYING THE EVENTS THAT
3 TRIGGER AND MAINTAIN PROBLEM BEHAVIOR IN AN EDUCATIONAL SETTING. A
4 FUNCTIONAL BEHAVIORAL ASSESSMENT SHALL DESCRIBE SPECIFIC
5 PROBLEMATIC BEHAVIORS, REPORT THE FREQUENCY OF THE BEHAVIORS,
6 ASSESS ENVIRONMENTAL AND OTHER SETTING CONDITIONS WHERE PROBLEMATIC
7 BEHAVIORS OCCUR, AND IDENTIFY THE FACTORS THAT ARE MAINTAINING THE
8 BEHAVIORS OVER TIME.

9 (I) "KEY IDENTIFIED PERSONNEL" MEANS THOSE INDIVIDUALS WHO
10 HAVE RECEIVED THE MANDATORY TRAINING DESCRIBED IN SECTION 2M(B) (i)
11 TO (xvi) .

12 (J) "MECHANICAL RESTRAINT" MEANS THE USE OF ANY DEVICE,
13 ARTICLE, GARMENT, OR MATERIAL ATTACHED TO OR ADJACENT TO A CHILD'S
14 BODY TO PERFORM RESTRAINT.

15 (K) "PHYSICAL RESTRAINT" MEANS RESTRAINT INVOLVING DIRECT
16 PHYSICAL CONTACT.

17 (l) "POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT" MEANS A
18 FRAMEWORK TO ASSIST STAFF IN ADOPTING AND ORGANIZING EVIDENCE-BASED
19 BEHAVIORAL INTERVENTIONS INTO AN INTEGRATED CONTINUUM OF
20 INTENSIFYING SUPPORTS BASED ON CHILD NEED THAT UNITES EXAMINATION
21 OF THE FUNCTION OF THE PROBLEM BEHAVIOR AND THE TEACHING OF
22 ALTERNATIVE SKILL REPERTOIRES TO ENHANCE ACADEMIC AND SOCIAL
23 BEHAVIOR OUTCOMES FOR ALL CHILDREN.

24 (M) "POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT PLAN" MEANS
25 A CHILD-SPECIFIC SUPPORT PLAN COMPOSED OF INDIVIDUALIZED,
26 FUNCTIONAL BEHAVIORAL ASSESSMENT-BASED INTERVENTION STRATEGIES,
27 INCLUDING, AS APPROPRIATE TO THE CHILD, GUIDANCE OR INSTRUCTION FOR

1 THE CHILD TO USE NEW SKILLS AS A REPLACEMENT FOR PROBLEM BEHAVIORS,
2 SOME REARRANGEMENT OF THE ANTECEDENT ENVIRONMENT SO THAT PROBLEMS
3 CAN BE PREVENTED AND DESIRABLE BEHAVIORS CAN BE ENCOURAGED, AND
4 PROCEDURES FOR MONITORING, EVALUATING, AND MODIFYING THE PLAN AS
5 NECESSARY.

6 (N) "PRONE RESTRAINT" MEANS THE RESTRAINT OF AN INDIVIDUAL
7 FACEDOWN.

8 (O) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS ANY
9 OF THE FOLLOWING:

10 (i) TO WORK AT A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR
11 FAMILY CHILD CARE HOME ON A MORE THAN INTERMITTENT OR SPORADIC
12 BASIS AS AN OWNER OR EMPLOYEE OF AN ENTITY THAT HAS A CONTRACT WITH
13 THE CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE
14 HOME TO PROVIDE FOOD, CUSTODIAL, TRANSPORTATION, COUNSELING, OR
15 ADMINISTRATIVE SERVICES, OR TO PROVIDE INSTRUCTIONAL SERVICES TO
16 CHILDREN OR RELATED AND AUXILIARY SERVICES.

17 (ii) TO WORK AT A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR
18 FAMILY CHILD CARE HOME ON A MORE THAN INTERMITTENT OR SPORADIC
19 BASIS AS AN INDIVIDUAL UNDER A CONTRACT WITH A CHILD CARE CENTER,
20 GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME TO PROVIDE FOOD,
21 CUSTODIAL, TRANSPORTATION, COUNSELING, OR ADMINISTRATIVE SERVICES,
22 OR TO PROVIDE INSTRUCTIONAL SERVICES TO CHILDREN OR RELATED AND
23 AUXILIARY SERVICES.

24 (P) "RESTRAINT" MEANS AN ACTION THAT PREVENTS OR SIGNIFICANTLY
25 RESTRICTS A CHILD'S MOVEMENT. RESTRAINT DOES NOT INCLUDE THE BRIEF
26 HOLDING OF A CHILD IN ORDER TO CALM OR COMFORT, THE MINIMUM CONTACT
27 NECESSARY TO PHYSICALLY ESCORT A CHILD FROM 1 AREA TO ANOTHER, THE

1 MINIMUM CONTACT NECESSARY TO ASSIST A CHILD IN COMPLETING A TASK OR
2 RESPONSE IF THE CHILD DOES NOT RESIST OR RESISTANCE IS MINIMAL IN
3 INTENSITY OR DURATION, OR THE HOLDING OF A CHILD FOR A BRIEF TIME
4 IN ORDER TO PREVENT AN IMPULSIVE BEHAVIOR THAT THREATENS THE
5 CHILD'S IMMEDIATE SAFETY, SUCH AS RUNNING IN FRONT OF A CAR.
6 RESTRAINT DOES NOT INCLUDE THE ADMINISTRATION OF MEDICATION
7 PRESCRIBED BY AND ADMINISTERED IN ACCORDANCE WITH THE DIRECTIONS OF
8 A PHYSICIAN, AN ADAPTIVE OR PROTECTIVE DEVICE RECOMMENDED BY A
9 PHYSICIAN OR THERAPIST WHEN IT IS USED AS RECOMMENDED, OR SAFETY
10 EQUIPMENT USED BY THE GENERAL CHILD POPULATION AS INTENDED, SUCH AS
11 A SEAT BELT OR SAFETY HARNESS ON SCHOOL TRANSPORTATION. RESTRAINT
12 DOES NOT INCLUDE NECESSARY ACTIONS TAKEN TO BREAK UP A FIGHT, TO
13 STOP A PHYSICAL ASSAULT, AS DEFINED IN SECTION 1310 OF THE REVISED
14 SCHOOL CODE, 1976 PA 451, MCL 380.1310, OR TO TAKE A WEAPON FROM A
15 CHILD. RESTRAINT DOES NOT INCLUDE ACTIONS THAT ARE AN INTEGRAL PART
16 OF A SPORTING EVENT, SUCH AS A REFEREE PULLING FOOTBALL PLAYERS OFF
17 OF A PILE OR A SIMILAR ACTION.

18 (Q) "RESTRAINT THAT NEGATIVELY IMPACTS BREATHING" MEANS ANY
19 RESTRAINT THAT INHIBITS BREATHING, INCLUDING FLOOR RESTRAINTS,
20 FACEDOWN POSITION, OR ANY POSITION IN WHICH AN INDIVIDUAL IS BENT
21 OVER IN SUCH A WAY THAT IT IS DIFFICULT TO BREATHE. THIS INCLUDES A
22 SEATED OR KNEELING POSITION IN WHICH AN INDIVIDUAL BEING RESTRAINED
23 IS BENT OVER AT THE WAIST AND RESTRAINT THAT INVOLVES SITTING OR
24 LYING ACROSS AN INDIVIDUAL'S BACK OR STOMACH.

25 (R) "SECLUSION" MEANS THE CONFINEMENT OF A CHILD IN A ROOM OR
26 OTHER SPACE FROM WHICH THE CHILD IS PHYSICALLY PREVENTED FROM
27 LEAVING. SECLUSION DOES NOT INCLUDE THE GENERAL CONFINEMENT OF

1 CHILDREN IF THAT CONFINEMENT IS AN INTEGRAL PART OF AN EMERGENCY
2 LOCKDOWN DRILL OR OF ANOTHER EMERGENCY SECURITY PROCEDURE THAT IS
3 NECESSARY TO PROTECT THE SAFETY OF CHILDREN.

4 (S) "STAFF" OR "STAFF MEMBER" INCLUDES ALL INDIVIDUALS
5 EMPLOYED IN A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY
6 CHILD CARE HOME OR ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK
7 UNDER CONTRACT OR UNDER AGREEMENT IN A CHILD CARE CENTER, GROUP
8 CHILD CARE HOME, OR FAMILY CHILD CARE HOME OR CHILD CARE CENTER,
9 GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME PERSONNEL
10 PROVIDING SERVICE AT A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR
11 FAMILY CHILD CARE HOME.

12 SEC. 2G. NOT LATER THAN DECEMBER 1, 2018, THE DEPARTMENT SHALL
13 DEVELOP A STATE POLICY REGARDING THE USE OF SECLUSION AND RESTRAINT
14 IN CHILD CARE CENTERS, GROUP CHILD CARE HOMES, AND FAMILY CHILD
15 CARE HOMES THAT INCLUDES ALL OF THE ELEMENTS UNDER SECTIONS 2G TO
16 2M, ALONG WITH GUIDELINES AS THE DEPARTMENT CONSIDERS APPROPRIATE.
17 NOT LATER THAN JUNE 1, 2019, A CHILD CARE CENTER, GROUP CHILD CARE
18 HOME, AND FAMILY CHILD CARE HOME SHALL ADOPT AND IMPLEMENT A POLICY
19 REGARDING THE USE OF SECLUSION AND RESTRAINT THAT IS CONSISTENT
20 WITH THE STATE POLICY UNDER THIS SECTION. A PERSON THAT FAILS TO
21 COMPLY WITH THIS SECTION OR THAT FAILS TO COMPLY WITH ANY OF THE
22 REQUIREMENTS OF THE STATE POLICY DEVELOPED UNDER THIS SECTION IS
23 CONSIDERED TO HAVE FAILED TO COMPLY WITH AND TO HAVE VIOLATED THIS
24 ACT.

25 SEC. 2H. THE STATE POLICY DEVELOPED UNDER SECTION 2G SHALL
26 INCLUDE A CLEAR STATEMENT THAT ALL OF THE FOLLOWING PRACTICES ARE
27 PROHIBITED FOR STAFF IN THE CHILD CARE CENTERS, GROUP CHILD CARE

1 HOMES, OR FAMILY CHILD CARE HOMES OF THIS STATE UNDER ALL
2 CIRCUMSTANCES, INCLUDING EMERGENCY SITUATIONS:

3 (A) CORPORAL PUNISHMENT.

4 (B) THE DEPRIVATION OF BASIC NEEDS.

5 (C) CHILD ABUSE.

6 (D) SECLUSION, OTHER THAN EMERGENCY SECLUSION.

7 (E) THE INTENTIONAL APPLICATION OF ANY NOXIOUS SUBSTANCE OR
8 STIMULUS THAT RESULTS IN PHYSICAL PAIN OR EXTREME DISCOMFORT. A
9 NOXIOUS SUBSTANCE OR STIMULUS IS PROHIBITED WHETHER IT IS GENERALLY
10 ACKNOWLEDGED OR IS SPECIFIC TO THE CHILD.

11 (F) MECHANICAL RESTRAINT.

12 (G) CHEMICAL RESTRAINT.

13 (H) ANY RESTRAINT THAT NEGATIVELY IMPACTS BREATHING.

14 (I) PRONE RESTRAINT.

15 (J) PHYSICAL RESTRAINT, OTHER THAN EMERGENCY PHYSICAL
16 RESTRAINT.

17 (K) ANY OTHER TYPE OF RESTRAINT.

18 SEC. 2I. THE STATE POLICY DEVELOPED UNDER SECTION 2G SHALL
19 INCLUDE AT LEAST ALL OF THE FOLLOWING PROVISIONS CONCERNING USE OF
20 EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT:

21 (A) EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT MAY
22 BE USED ONLY UNDER EMERGENCY SITUATIONS AND ONLY IF ESSENTIAL TO
23 PROVIDING FOR THE SAFETY OF THE CHILD OR SAFETY OF ANOTHER.

24 (B) EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT MAY
25 NOT BE USED IN PLACE OF APPROPRIATE LESS RESTRICTIVE INTERVENTIONS.

26 (C) EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT SHALL
27 BE PERFORMED IN A MANNER THAT, BASED ON RESEARCH AND EVIDENCE, IS

1 SAFE, APPROPRIATE, AND PROPORTIONATE TO AND SENSITIVE TO THE
2 CHILD'S SEVERITY OF BEHAVIOR, CHRONOLOGICAL AND DEVELOPMENTAL AGE,
3 PHYSICAL SIZE, GENDER, PHYSICAL CONDITION, MEDICAL CONDITION,
4 PSYCHIATRIC CONDITION, AND PERSONAL HISTORY, INCLUDING ANY HISTORY
5 OF PHYSICAL OR SEXUAL ABUSE OR OTHER TRAUMA.

6 (D) A REQUIREMENT THAT STAFF SHALL SEEK HELP FROM KEY
7 IDENTIFIED PERSONNEL FROM WITHIN THE CHILD CARE CENTER, GROUP CHILD
8 CARE HOME, OR FAMILY CHILD CARE HOME EITHER IMMEDIATELY AT THE
9 ONSET OF AN EMERGENCY SITUATION OR, IF IT IS REASONABLE UNDER THE
10 PARTICULAR CIRCUMSTANCES FOR STAFF TO BELIEVE THAT DIVERTING THEIR
11 ATTENTION TO CALLING FOR HELP WOULD INCREASE THE RISK TO THE SAFETY
12 OF THE CHILD OR TO THE SAFETY OF OTHERS, AS SOON AS POSSIBLE ONCE
13 THE CIRCUMSTANCES NO LONGER SUPPORT THAT BELIEF.

14 (E) A REQUIREMENT THAT THE CHILD CARE CENTER, GROUP CHILD CARE
15 HOME, OR FAMILY CHILD CARE HOME MUST ENSURE THAT SUBSTITUTE STAFF
16 ARE INFORMED OF AND UNDERSTAND THE PROCEDURES REGARDING USE OF
17 EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT. THIS
18 REQUIREMENT MAY BE SATISFIED USING ONLINE TRAINING AND AN ONLINE
19 ACKNOWLEDGMENT OF UNDERSTANDING DEVELOPED OR APPROVED BY THE
20 DEPARTMENT AND COMPLETED BY THE SUBSTITUTE STAFF MEMBER.

21 (F) A REQUIREMENT THAT EMERGENCY SECLUSION SHALL NOT BE USED
22 LONGER THAN NECESSARY, BASED ON RESEARCH AND EVIDENCE, TO ALLOW A
23 CHILD TO REGAIN CONTROL OF HIS OR HER BEHAVIOR TO THE POINT THAT
24 THE EMERGENCY SITUATION NECESSITATING THE USE OF EMERGENCY
25 SECLUSION HAS ENDED AND GENERALLY NO LONGER THAN 10 MINUTES FOR A
26 CHILD WHO IS YOUNGER THAN A SCHOOL-AGE CHILD, 15 MINUTES FOR AN
27 ELEMENTARY SCHOOL CHILD, OR 20 MINUTES FOR A MIDDLE SCHOOL OR HIGH

1 SCHOOL CHILD. IF AN EMERGENCY SECLUSION LASTS LONGER THAN 10
2 MINUTES FOR A CHILD WHO IS YOUNGER THAN A SCHOOL-AGE CHILD, 15
3 MINUTES FOR AN ELEMENTARY SCHOOL CHILD, OR 20 MINUTES FOR A MIDDLE
4 SCHOOL OR HIGH SCHOOL CHILD, THE STATE POLICY SHALL REQUIRE BOTH OF
5 THE FOLLOWING:

6 (i) ADDITIONAL SUPPORT, WHICH MAY INCLUDE A CHANGE OF STAFF,
7 OR INTRODUCING A NURSE, SPECIALIST, OR ADDITIONAL KEY IDENTIFIED
8 PERSONNEL.

9 (ii) DOCUMENTATION TO EXPLAIN THE USE OF EMERGENCY SECLUSION
10 BEYOND THE TIME LIMIT ALLOWED IN THE STATE POLICY.

11 (G) A REQUIREMENT THAT EMERGENCY PHYSICAL RESTRAINT SHALL NOT
12 BE USED LONGER THAN NECESSARY, BASED ON RESEARCH AND EVIDENCE, TO
13 ALLOW A CHILD TO REGAIN CONTROL OF HIS OR HER BEHAVIOR TO THE POINT
14 THAT THE EMERGENCY SITUATION NECESSITATING THE USE OF EMERGENCY
15 PHYSICAL RESTRAINT HAS ENDED AND GENERALLY NO LONGER THAN 10
16 MINUTES. IF AN EMERGENCY PHYSICAL RESTRAINT LASTS LONGER THAN 10
17 MINUTES, THE STATE POLICY SHALL REQUIRE BOTH OF THE FOLLOWING:

18 (i) ADDITIONAL SUPPORT, THAT MAY INCLUDE A CHANGE OF STAFF, OR
19 INTRODUCING A NURSE, SPECIALIST, OR ADDITIONAL KEY IDENTIFIED
20 PERSONNEL.

21 (ii) DOCUMENTATION TO EXPLAIN THE USE OF EMERGENCY PHYSICAL
22 RESTRAINT BEYOND THE TIME LIMIT ALLOWED IN THE STATE POLICY.

23 (H) WHILE USING EMERGENCY SECLUSION OR EMERGENCY PHYSICAL
24 RESTRAINT, STAFF MUST DO ALL OF THE FOLLOWING:

25 (i) INVOLVE KEY IDENTIFIED PERSONNEL TO PROTECT THE CARE,
26 WELFARE, DIGNITY, AND SAFETY OF THE CHILD.

27 (ii) CONTINUALLY OBSERVE THE CHILD IN EMERGENCY SECLUSION OR

1 EMERGENCY PHYSICAL RESTRAINT FOR INDICATIONS OF PHYSICAL DISTRESS
2 AND SEEK MEDICAL ASSISTANCE IF THERE IS A CONCERN.

3 (iii) DOCUMENT OBSERVATIONS.

4 (iv) ENSURE TO THE EXTENT PRACTICABLE, IN LIGHT OF THE ONGOING
5 EMERGENCY SITUATION, THAT THE EMERGENCY PHYSICAL RESTRAINT DOES NOT
6 INTERFERE WITH THE CHILD'S ABILITY TO COMMUNICATE USING THE CHILD'S
7 PRIMARY MODE OF COMMUNICATION.

8 (v) ENSURE THAT AT ALL TIMES DURING THE USE OF EMERGENCY
9 SECLUSION OR EMERGENCY PHYSICAL RESTRAINT THERE IS STAFF PRESENT
10 WHO CAN COMMUNICATE WITH THE CHILD USING THE CHILD'S PRIMARY MODE
11 OF COMMUNICATION.

12 SEC. 2J. THE STATE POLICY DEVELOPED UNDER SECTION 2G SHALL
13 INCLUDE AT LEAST ALL OF THE FOLLOWING PROVISIONS CONCERNING
14 DOCUMENTATION AND REPORTING OF SECLUSION AND RESTRAINT:

15 (A) EACH USE OF SECLUSION OR RESTRAINT AND THE REASON FOR EACH
16 USE SHALL BE DOCUMENTED IN WRITING AND REPORTED IMMEDIATELY IN
17 WRITING OR ORALLY TO THE CHILD CARE CENTER, GROUP CHILD CARE HOME,
18 OR FAMILY CHILD CARE HOME AND THE CHILD'S PARENT OR GUARDIAN. EACH
19 USE OF SECLUSION OR RESTRAINT SHALL BE DOCUMENTED IN A WRITTEN
20 REPORT, INCLUDING MULTIPLE USES WITHIN A GIVEN DAY. THIS WRITTEN
21 REPORT MUST BE PROVIDED TO THE CHILD'S PARENT OR GUARDIAN WITHIN 1
22 WEEKDAY OF THE USE OF SECLUSION OR RESTRAINT.

23 (B) AFTER ANY USE OF SECLUSION OR RESTRAINT, STAFF MUST MAKE
24 REASONABLE EFFORTS TO DEBRIEF AND CONSULT WITH THE PARENT OR
25 GUARDIAN, OR WITH THE PARENT OR GUARDIAN AND THE CHILD, AS
26 APPROPRIATE, REGARDING DETERMINING FUTURE ACTIONS. THE DEBRIEFING
27 AND CONSULTATION SHALL BE DONE IN ACCORDANCE WITH DEPARTMENT

1 GUIDELINES AND DOCUMENTED ON FORMS DEVELOPED BY THE DEPARTMENT.

2 (C) IF A CHILD EXHIBITS A PATTERN OF BEHAVIOR THAT POSES A
3 SUBSTANTIAL RISK OF CREATING AN EMERGENCY SITUATION IN THE FUTURE
4 THAT COULD RESULT IN THE USE OF EMERGENCY SECLUSION OR EMERGENCY
5 PHYSICAL RESTRAINT, STAFF ARE ENCOURAGED TO DO ALL OF THE
6 FOLLOWING:

7 (i) CONDUCT A FUNCTIONAL BEHAVIORAL ASSESSMENT.

8 (ii) DEVELOP OR REVISE A POSITIVE BEHAVIORAL INTERVENTION AND
9 SUPPORT PLAN TO FACILITATE ELIMINATING THE USE OF SECLUSION AND
10 RESTRAINT.

11 (iii) DEVELOP AN ASSESSMENT AND PLANNING PROCESS CONDUCTED BY
12 A TEAM KNOWLEDGEABLE ABOUT THE CHILD, INCLUDING AT LEAST THE PARENT
13 OR GUARDIAN; THE CHILD, IF APPROPRIATE; THE INDIVIDUALS RESPONSIBLE
14 FOR IMPLEMENTATION OF THE POSITIVE BEHAVIORAL INTERVENTION AND
15 SUPPORT PLAN; AND INDIVIDUALS KNOWLEDGEABLE IN POSITIVE BEHAVIORAL
16 INTERVENTION AND SUPPORT.

17 SEC. 2K. THE STATE POLICY DEVELOPED UNDER SECTION 2G SHALL
18 INCLUDE AT LEAST ALL OF THE FOLLOWING PROVISIONS CONCERNING
19 DEVELOPMENT AND IMPLEMENTATION OF AN EMERGENCY INTERVENTION PLAN:

20 (A) IF A CHILD EXHIBITS A PATTERN OF BEHAVIOR THAT POSES A
21 SUBSTANTIAL RISK OF CREATING AN EMERGENCY SITUATION IN THE FUTURE
22 THAT COULD RESULT IN THE USE OF EMERGENCY SECLUSION OR EMERGENCY
23 PHYSICAL RESTRAINT, STAFF SHOULD DEVELOP A WRITTEN EMERGENCY
24 INTERVENTION PLAN TO PROTECT THE HEALTH, SAFETY, AND DIGNITY OF THE
25 CHILD. THE EMERGENCY INTERVENTION PLAN MUST BE DEVELOPED IN
26 PARTNERSHIP WITH THE PARENT OR GUARDIAN BY A TEAM THAT INCLUDES A
27 STAFF MEMBER, AN INDIVIDUAL KNOWLEDGEABLE ABOUT THE LEGALLY

1 PERMISSIBLE USE OF EMERGENCY SECLUSION AND EMERGENCY PHYSICAL
2 RESTRAINT, AND AN INDIVIDUAL KNOWLEDGEABLE ABOUT THE USE OF
3 POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT TO ELIMINATE THE USE
4 OF SECLUSION AND RESTRAINT. THE EMERGENCY INTERVENTION PLAN MUST BE
5 DEVELOPED AND IMPLEMENTED BY TAKING ALL OF THE FOLLOWING DOCUMENTED
6 STEPS:

7 (i) DESCRIBE IN DETAIL THE PROCEDURES TO BE FOLLOWED IN AN
8 EMERGENCY SITUATION.

9 (ii) DESCRIBE IN DETAIL THE LEGAL LIMIT ON THE USE OF
10 EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT, INCLUDING
11 EXAMPLES OF LEGALLY PERMISSIBLE AND PROHIBITED USE.

12 (iii) MAKE INQUIRY TO THE CHILD'S MEDICAL PERSONNEL, WITH
13 PARENTAL CONSENT, REGARDING ANY KNOWN MEDICAL OR HEALTH
14 CONTRAINDICATIONS FOR THE USE OF EMERGENCY SECLUSION OR EMERGENCY
15 PHYSICAL RESTRAINT.

16 (iv) CONDUCT A PEER REVIEW BY KNOWLEDGEABLE STAFF.

17 (v) PROVIDE THE PARENT OR GUARDIAN WITH ALL OF THE FOLLOWING,
18 IN WRITING AND ORALLY:

19 (A) A DETAILED EXPLANATION OF THE POSITIVE BEHAVIORAL
20 INTERVENTION AND SUPPORT STRATEGIES THAT WILL BE UTILIZED TO REDUCE
21 THE RISK OF THE CHILD'S BEHAVIOR CREATING AN EMERGENCY SITUATION.

22 (B) AN EXPLANATION OF WHAT CONSTITUTES AN EMERGENCY SITUATION,
23 INCLUDING EXAMPLES OF SITUATIONS THAT ARE CONSIDERED EMERGENCY
24 SITUATIONS AND EXAMPLES OF SITUATIONS THAT ARE NOT CONSIDERED
25 EMERGENCY SITUATIONS.

26 (C) A DETAILED EXPLANATION OF THE PROCEDURES TO BE FOLLOWED IN
27 AN EMERGENCY SITUATION UNDER THE EMERGENCY INTERVENTION PLAN,

1 INCLUDING THE POTENTIAL USE OF EMERGENCY SECLUSION AND EMERGENCY
2 PHYSICAL RESTRAINT.

3 (D) A DETAILED EXPLANATION OF THE LEGAL LIMIT ON THE USE OF
4 EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT, INCLUDING
5 EXAMPLES OF LEGALLY PERMISSIBLE AND PROHIBITED USE.

6 (E) A DESCRIPTION OF POSSIBLE DISCOMFORTS OR RISKS ASSOCIATED
7 WITH THE USE OF EMERGENCY SECLUSION AND EMERGENCY PHYSICAL
8 RESTRAINT.

9 (F) ANSWERS TO THE PARENT'S QUESTIONS.

10 (B) A CHILD WHO IS THE SUBJECT OF AN EMERGENCY INTERVENTION
11 PLAN SHOULD BE TOLD OR SHOWN THE CIRCUMSTANCES UNDER WHICH
12 EMERGENCY SECLUSION OR EMERGENCY PHYSICAL RESTRAINT COULD BE USED.

13 (C) EMERGENCY SECLUSION OR EMERGENCY PHYSICAL RESTRAINT MUST
14 ONLY BE USED IN RESPONSE TO AN ONGOING EMERGENCY SITUATION AND NOT
15 AS A PLANNED RESPONSE FOR THE CONVENIENCE OF STAFF, AS DISCIPLINE
16 OR PUNISHMENT, OR AS A SUBSTITUTE FOR AN APPROPRIATE EDUCATIONAL
17 PROGRAM. THE DEVELOPMENT OF AN EMERGENCY INTERVENTION PLAN SHALL BE
18 SOLELY FOR THE PURPOSE OF PROTECTING THE HEALTH, SAFETY, AND
19 DIGNITY OF THE CHILD AND DOES NOT EXPAND THE LEGALLY PERMISSIBLE
20 USE OF EMERGENCY SECLUSION OR EMERGENCY PHYSICAL RESTRAINT.

21 SEC. 2/. THE STATE POLICY DEVELOPED UNDER SECTION 2G SHALL
22 INCLUDE AT LEAST ALL OF THE FOLLOWING PROVISIONS CONCERNING DATA
23 COLLECTION:

24 (A) A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY
25 CHILD CARE HOME, IN ACCORDANCE WITH DEPARTMENT GUIDELINES, SHALL
26 COLLECT AND REPORT DATA ON AND RELATED TO THE USE OF RESTRAINT AND
27 SECLUSION IN THE CHILD CARE CENTER, GROUP CHILD CARE HOME, OR

1 FAMILY CHILD CARE HOME. IN COLLECTING AND REPORTING THIS DATA, A
2 CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME
3 SHALL USE EXISTING DATA COLLECTION AND REPORTING SYSTEMS WHENEVER
4 POSSIBLE. INCIDENTS OF USE OF RESTRAINT OR SECLUSION SHALL, AT A
5 MINIMUM, BE REPORTED BY RACE, AGE, GRADE, GENDER, DISABILITY
6 STATUS, MEDICAL CONDITION, IDENTITY OF THE STAFF MEMBER INITIATING
7 THE USE OF THE SECLUSION OR RESTRAINT, AND IDENTITY OF THE CHILD
8 CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME WHERE
9 THE USE OF SECLUSION OR RESTRAINT OCCURRED.

10 (B) ALL OF THE FOLLOWING MUST OCCUR WITH RESPECT TO THE DATA
11 COLLECTED UNDER SUBDIVISION (A) :

12 (i) THE DATA MUST BE ANALYZED BY THE CHILD CARE CENTER, GROUP
13 CHILD CARE HOME, OR FAMILY CHILD CARE HOME IN WHICH THE CHILD IS
14 PROVIDED CARE TO DETERMINE THE EFFICACY OF THE SYSTEM OF BEHAVIORAL
15 SUPPORT.

16 (ii) THE DATA MUST BE ANALYZED BY THE CHILD CARE CENTER, GROUP
17 CHILD CARE HOME, OR FAMILY CHILD CARE HOME FOR THE PURPOSES OF
18 CONTINUOUS IMPROVEMENT OF TRAINING AND TECHNICAL ASSISTANCE TOWARD
19 THE ELIMINATION OF SECLUSION AND RESTRAINT.

20 (iii) THE DATA MUST BE ANALYZED BY THE CHILD CARE CENTER,
21 GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME ON A SCHEDULE
22 DETERMINED BY THE DEPARTMENT.

23 (iv) THE DATA MUST BE REPORTED ELECTRONICALLY BY THE CHILD
24 CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME TO
25 THE DEPARTMENT IN ACCORDANCE WITH DEPARTMENT GUIDELINES.

26 (C) THE DEPARTMENT SHALL MAKE AVAILABLE REDACTED, AGGREGATE
27 DATA ON THE REPORTED USE OF SECLUSION AND RESTRAINT, COMPILED BY

1 THE CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE
2 HOME ON A QUARTERLY BASIS.

3 SEC. 2M. THE STATE POLICY DEVELOPED UNDER SECTION 2G SHALL
4 INCLUDE AT LEAST ALL OF THE FOLLOWING TRAINING PROVISIONS
5 CONCERNING SECLUSION AND RESTRAINT, THAT MAY INCLUDE ONLINE
6 TRAINING DEVELOPED OR APPROVED BY THE DEPARTMENT:

7 (A) IN ACCORDANCE WITH DEPARTMENT GUIDELINES, A CHILD CARE
8 CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME SHALL
9 IMPLEMENT A COMPREHENSIVE TRAINING FRAMEWORK THAT INCLUDES
10 AWARENESS TRAINING FOR ALL STAFF WHO HAVE REGULAR CONTACT WITH
11 CHILDREN AND COMPREHENSIVE TRAINING FOR KEY IDENTIFIED PERSONNEL AS
12 DESCRIBED IN SUBDIVISION (B).

13 (B) A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY
14 CHILD CARE HOME SHALL IDENTIFY SUFFICIENT KEY PERSONNEL TO ENSURE
15 THAT TRAINED PERSONNEL ARE GENERALLY AVAILABLE FOR AN EMERGENCY
16 SITUATION. BEFORE USING EMERGENCY SECLUSION OR EMERGENCY PHYSICAL
17 RESTRAINT WITH CHILDREN, KEY IDENTIFIED PERSONNEL WHO MAY BE
18 REQUIRED TO RESPOND TO AN EMERGENCY SITUATION SHALL BE TRAINED IN
19 ALL OF SUBPARAGRAPHS (i) TO (xvi) AS FOLLOWS AND SHOULD BE TRAINED
20 IN ALL OF SUBPARAGRAPHS (xvii) TO (xx) AS FOLLOWS:

21 (i) PROACTIVE PRACTICES AND STRATEGIES THAT ENSURE THE DIGNITY
22 OF CHILDREN.

23 (ii) DE-ESCALATION TECHNIQUES.

24 (iii) TECHNIQUES TO IDENTIFY CHILD BEHAVIOR THAT MAY TRIGGER
25 AN EMERGENCY SITUATION.

26 (iv) RELATED SAFETY CONSIDERATIONS, INCLUDING INFORMATION
27 REGARDING THE INCREASED RISK OF INJURY TO A CHILD OR STAFF WHEN

1 SECLUSION OR RESTRAINT IS USED.

2 (v) INSTRUCTION IN THE USE OF EMERGENCY SECLUSION AND
3 EMERGENCY PHYSICAL RESTRAINT.

4 (vi) IDENTIFICATION OF EVENTS AND ENVIRONMENTAL FACTORS THAT
5 MAY TRIGGER AN EMERGENCY SITUATION.

6 (vii) INSTRUCTION ON THE STATE POLICY ON THE USE OF SECLUSION
7 AND RESTRAINT.

8 (viii) DESCRIPTION AND IDENTIFICATION OF DANGEROUS BEHAVIORS.

9 (ix) METHODS FOR EVALUATING THE RISK OF HARM TO DETERMINE
10 WHETHER THE USE OF EMERGENCY SECLUSION OR EMERGENCY PHYSICAL
11 RESTRAINT IS WARRANTED.

12 (x) TYPES OF SECLUSION.

13 (xi) TYPES OF RESTRAINT.

14 (xii) THE RISK OF USING SECLUSION OR RESTRAINT IN
15 CONSIDERATION OF A CHILD'S KNOWN AND UNKNOWN PHYSICAL OR MENTAL
16 HEALTH CONDITION OR PSYCHOLOGICAL LIMITATION.

17 (xiii) THE EFFECTS OF SECLUSION AND RESTRAINT ON ALL CHILDREN.

18 (xiv) HOW TO MONITOR FOR AND IDENTIFY THE PHYSICAL SIGNS OF
19 DISTRESS AND THE IMPLICATIONS FOR CHILDREN GENERALLY AND FOR
20 CHILDREN WITH PARTICULAR PHYSICAL OR MENTAL HEALTH CONDITIONS OR
21 PSYCHOLOGICAL LIMITATIONS.

22 (xv) HOW TO OBTAIN APPROPRIATE MEDICAL ASSISTANCE.

23 (xvi) CARDIOPULMONARY RESUSCITATION AND FIRST AID.

24 (xvii) CONFLICT RESOLUTION.

25 (xviii) MEDIATION.

26 (xix) SOCIAL SKILLS TRAINING.

27 (xx) POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT STRATEGIES.

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.