

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1096

S.P. 407

In Senate, March 25, 2009

An Act To Protect School Children from Dangerous or Abusive Restraint and Seclusion

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ALFOND of Cumberland.
Cosponsored by Representative STRANG BURGESS of Cumberland and
Representatives: CASAVANT of Biddeford, PETERSON of Rumford.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §4009, sub-§1-A** is enacted to read:

3 **1-A. Unreasonable force.** Notwithstanding subsection 3, a teacher, administrator or
4 other person entrusted with the care or supervision of a person for special or limited
5 purposes may be held civilly liable for the use of an unreasonable degree of force against
6 the person if that teacher, administrator or other person violates any rule of the
7 department regulating the use of time-out rooms or areas, therapeutic restraints and
8 aversive therapy.

9 **Sec. 2. 20-A MRSA §7211** is enacted to read:

10 **§7211. Physical restraint or seclusion**

11 **1. Grounds for due process hearing.** An alleged violation against a child with a
12 disability of any rule of the department regulating the use of time-out rooms or areas,
13 therapeutic restraints and aversive therapy may be grounds to initiate a due process
14 hearing under section 7207-B.

15 **2. Prohibited restraint.** A teacher, administrator or other person entrusted with the
16 care or supervision of a child with a disability may not use a means of physical restraint
17 against the child in which the child's face contacts the floor while a person applies
18 pressure to the child's back.

19

SUMMARY

20 This bill addresses the use of physical restraint or isolation. The bill amends the law
21 that suspends civil liability for anyone in the educational system entrusted with the care
22 or supervision of a person for special or limited purposes using a reasonable degree of
23 force. The bill adds a provision that allows civil liability for an unreasonable degree of
24 force evidenced by a violation of rules of the Department of Education regulating the use
25 of time-out rooms, therapeutic restraints and aversive therapy. The bill also establishes a
26 violation of such a rule as grounds for a due process hearing if the action is against a child
27 with a disability. The bill further prohibits a physical restraint against a child with a
28 disability in which the child's face contacts the floor while a person applies pressure to
29 the child's back.