

HOUSE BILL No. 4255

February 10, 2005, Introduced by Reps. Lipsey, Lemmons, III, Tobocman and Alma Smith
and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1312 (MCL 380.1312), as amended by 2000 PA 461,
and by adding sections 1312a and 1531f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1312. (1) As used in this section, "corporal punishment"
2 means the deliberate infliction of physical pain by hitting,
3 paddling, spanking, slapping, or any other physical force used as a
4 means of discipline.

5 (2) Corporal punishment does not include physical pain caused
6 by reasonable physical activities associated with athletic
7 training.

8 (3) A person employed by or engaged as a volunteer or

1 contractor by a local or intermediate school board or public school
2 academy shall not inflict or cause to be inflicted corporal
3 punishment upon any pupil under any circumstances.

4 (4) A person employed by or engaged as a volunteer or
5 contractor by a local or intermediate school board or public school
6 academy may use reasonable physical force upon a pupil **ONLY** as
7 necessary ~~to maintain order and control in a school or school-~~
8 ~~related setting for the purpose of providing an environment~~
9 ~~conducive to safety and learning. In maintaining that order and~~
10 ~~control, the person may use physical force upon a pupil as may be~~
11 ~~necessary for 1 or more of the following:~~

12 ~~—— (a) To restrain or remove a pupil whose behavior is~~
13 ~~interfering with the orderly exercise and performance of school~~
14 ~~district or public school academy functions within a school or at a~~
15 ~~school related activity, if that pupil has refused to comply with a~~
16 ~~request to refrain from further disruptive acts.~~

17 ~~—— (b) For self defense or the defense of another.~~

18 ~~—— (c) To prevent a pupil from inflicting harm on himself or~~
19 ~~herself.~~

20 ~~—— (d) To quell a disturbance that threatens physical injury to~~
21 ~~any person.~~

22 ~~—— (e) To obtain possession of a weapon or other dangerous object~~
23 ~~upon or within the control of a pupil.~~

24 ~~—— (f) To protect property.~~ **IN AN EMERGENCY SITUATION WHEN A**
25 **PUPIL'S BEHAVIOR CAUSES A THREAT OF IMMINENT, SERIOUS PHYSICAL HARM**
26 **TO THE PUPIL OR OTHERS AND THE USE OF PHYSICAL FORCE IS NECESSARY**
27 **TO ENSURE THE SAFETY OF THE PUPIL OR OTHERS.**

1 (5) ~~A person employed by or engaged as a volunteer or~~
2 ~~contractor by a local or intermediate school board or public school~~
3 ~~academy who exercises necessary reasonable physical force upon a~~
4 ~~pupil, or upon another person of school age in a school-related~~
5 ~~setting, as described in subsection (4) is not liable in a civil~~
6 ~~action for damages arising from the use of that physical force and~~
7 ~~is presumed not to have violated subsection (3) by the use of that~~
8 ~~physical force.~~ This ~~subsection~~ **SECTION** does not alter or limit
9 a person's immunity from liability provided under 1964 PA 170, MCL
10 691.1401 to ~~691.1415~~ **691.1419**.

11 (6) A person who willfully or through gross negligence
12 violates subsection (3) or who willfully or through gross
13 negligence violates subsection (4) may be appropriately disciplined
14 by his or her school board or public school academy. This
15 subsection does not limit a school board's or public school
16 academy's authority to discipline an employee for a violation of
17 its own policies.

18 (7) In determining whether an employee, volunteer, or
19 contractor has acted in accordance with subsection (4), deference
20 shall be given to reasonable good-faith judgments made by that
21 person **IF HIS OR HER ACTIONS ARE CONSISTENT WITH A COMPREHENSIVE**
22 **PLAN REGARDING THE USE OF EMERGENCY INTERVENTIONS THAT HAS BEEN**
23 **ADOPTED AND IMPLEMENTED UNDER SUBSECTION (8) BY THE GOVERNING BOARD**
24 **OF THE LOCAL OR INTERMEDIATE SCHOOL DISTRICT OR PUBLIC SCHOOL**
25 **ACADEMY.**

26 (8) A local or intermediate school district or a public school
27 academy shall develop and implement a code of student conduct **AND A**

1 **COMPREHENSIVE PLAN REGARDING THE USE OF EMERGENCY INTERVENTIONS** and
2 shall enforce **AND COMPLY WITH** its provisions with regard to pupil
3 misconduct in a classroom, elsewhere on school premises, on a
4 school bus or other school-related vehicle, or at a school
5 sponsored activity or event whether or not it is held on school
6 premises.

7 (9) The department shall develop a model list of alternatives
8 to the use of corporal punishment. This model list shall be
9 developed in consultation with organizations that represent the
10 interests of teachers, school employees, school boards, school
11 administrators, pupils, parents, and child advocates, plus any
12 other organization that the state board of education may wish to
13 consult. The department shall send this model list to each school
14 district, public school academy, and intermediate school district
15 in the state and to each nonpublic school in the state that
16 requests it. A local or intermediate school board or public school
17 academy shall approve and cause to be distributed to each employee,
18 volunteer, and contractor a list of alternatives to the use of
19 corporal punishment. Upon request, the department of education
20 shall provide assistance to schools in the development of programs
21 and materials to implement this section.

22 (10) Any resolution, bylaw, rule, policy, ordinance, or other
23 authority permitting corporal punishment is void.

24 **SEC. 1312A. (1) A SCHOOL EMPLOYEE OR SCHOOL OFFICIAL SHALL NOT**
25 **USE OR CONDONE THE USE OF, AND THE GOVERNING BOARD OF A SCHOOL**
26 **DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR**
27 **NONPUBLIC SCHOOL SHALL IMPOSE APPROPRIATE DISCIPLINE ON A SCHOOL**

1 EMPLOYEE OR OFFICIAL WHO USES OR CONDONES THE USE OF, ANY OF THE
2 FOLLOWING METHODS OF TREATING A PUPIL:

3 (A) PHYSICAL RESTRAINT. PHYSICAL RESTRAINT INCLUDES ANY
4 TOUCHING OR HOLDING OF A PUPIL BY ANOTHER PERSON CAUSING A PERSONAL
5 RESTRICTION THAT IMMOBILIZES OR REDUCES THE ABILITY OF A PUPIL'S
6 FREEDOM OF MOVEMENT AND THAT POSES A THREAT TO THE FUNCTIONING OF
7 THE PUPIL'S RESPIRATORY SYSTEM OR ABILITY TO SPEAK, INCLUDING, BUT
8 NOT LIMITED TO, PRONE RESTRAINT AND BASKET HOLD RESTRAINTS.
9 PHYSICAL RESTRAINT DOES NOT INCLUDE ANY OF THE FOLLOWING:

10 (i) A BRIEF, GENTLE, AND NONCOERCIVE HOLDING OF A PUPIL'S HAND
11 TO ESCORT THE PUPIL SAFELY TO ANOTHER LOCATION.

12 (ii) A DEVICE, SUCH AS AN ORTHOPEDICALLY PRESCRIBED DEVICE,
13 SURGICAL DRESSINGS OR BANDAGES, A PROTECTIVE HELMET, OR A SEAT BELT
14 USED FOR TRANSPORTATION, THAT INVOLVES THE PHYSICAL HOLDING OF AN
15 INDIVIDUAL TO PERMIT THE INDIVIDUAL TO PARTICIPATE IN ACTIVITIES
16 WITHOUT THE RISK OF PHYSICAL HARM TO THE INDIVIDUAL.

17 (B) CHEMICAL RESTRAINT. CHEMICAL RESTRAINT INCLUDES ANY DRUG
18 OR MEDICATION THAT IS USED AS A RESTRAINT TO CONTROL BEHAVIOR OR
19 RESTRICT AN INDIVIDUAL'S FREEDOM OF MOVEMENT. CHEMICAL RESTRAINT
20 DOES NOT INCLUDE USE OF A DRUG OR MEDICATION THAT IS STANDARD
21 TREATMENT FOR THE INDIVIDUAL'S MEDICAL OR PSYCHIATRIC CONDITION.

22 (C) MECHANICAL RESTRAINT. MECHANICAL RESTRAINT INCLUDES ANY
23 DEVICE, MATERIAL, OR EQUIPMENT ATTACHED OR ADJACENT TO AN
24 INDIVIDUAL'S BODY THAT HE OR SHE CANNOT EASILY REMOVE AND THAT
25 RESTRICTS FREEDOM OF MOVEMENT OR NORMAL ACCESS TO THE INDIVIDUAL'S
26 BODY. MECHANICAL RESTRAINT DOES NOT INCLUDE A DEVICE, SUCH AS AN
27 ORTHOPEDICALLY PRESCRIBED DEVICE, SURGICAL DRESSINGS OR BANDAGES,

1 OR A PROTECTIVE HELMET, THAT INVOLVES THE PHYSICAL RESTRICTING OF
2 AN INDIVIDUAL TO PERMIT THE INDIVIDUAL TO PARTICIPATE IN ACTIVITIES
3 WITHOUT THE RISK OF PHYSICAL HARM TO THE INDIVIDUAL.

4 (D) LOCKED SECLUSION. LOCKED SECLUSION INCLUDES A BEHAVIOR
5 CONTROL TECHNIQUE INVOLVING CONFINEMENT OF AN INDIVIDUAL ALONE IN
6 AN AREA FROM WHICH THE INDIVIDUAL IS PHYSICALLY PREVENTED FROM
7 LEAVING. LOCKED SECLUSION DOES NOT INCLUDE A TIME OUT IF THE TIME
8 OUT IS USED AS A BEHAVIOR MANAGEMENT TECHNIQUE THAT IS PART OF A
9 PUPIL'S BEHAVIOR INTERVENTION PLAN AND INVOLVES THE TEMPORARY
10 SEPARATION FROM OTHER PUPILS FOR THE PURPOSE OF REGAINING SELF-
11 CONTROL IN A SETTING THAT HAS GREATER THAN 50 SQUARE FEET OF SPACE,
12 THAT IS NOT LOCKED, FROM WHICH THE PUPIL IS NOT PHYSICALLY OR
13 OTHERWISE PREVENTED FROM LEAVING, AND WHERE STAFF ARE FULLY VISIBLE
14 AND ACCESSIBLE TO THE PUPIL.

15 (2) ALL PUPILS HAVE THE RIGHT TO BE TREATED WITH DIGNITY AND
16 RESPECT. ALL PUPILS, REGARDLESS OF POSSIBLE PHYSICAL, MENTAL, OR
17 EMOTIONAL IMPAIRMENT, HAVE THE RIGHT TO BE PROVIDED WITH AN
18 APPROPRIATE, SAFE, AND HEALTHY EDUCATIONAL ENVIRONMENT. EVERY PUPIL
19 ATTENDING A PUBLIC SCHOOL OR NONPUBLIC SCHOOL IS ENTITLED TO BE
20 FREE FROM MENTAL AND PHYSICAL ABUSE AND FROM PHYSICAL, MECHANICAL,
21 AND CHEMICAL RESTRAINTS, UNLESS SPECIFICALLY ALLOWED UNDER THIS
22 SECTION.

23 (3) A PERSON EMPLOYED BY OR ENGAGED AS A VOLUNTEER OR
24 CONTRACTOR BY A LOCAL OR INTERMEDIATE SCHOOL BOARD, PUBLIC SCHOOL
25 ACADEMY, OR NONPUBLIC SCHOOL SHALL USE EMERGENCY INTERVENTION
26 TECHNIQUES TO PREVENT AN EMERGENCY ONLY IN INSTANCES IN WHICH A
27 PUPIL'S UNPREDICTABLE, SPONTANEOUS BEHAVIOR CAUSES A THREAT OF

1 SERIOUS, IMMINENT PHYSICAL HARM TO THE PUPIL OR OTHERS AND CANNOT
2 BE IMMEDIATELY PREVENTED BY ANY OTHER LESS RESTRICTIVE MEASURE
3 BECAUSE THE LESS RESTRICTIVE MEASURE HAS PROVED TO BE INEFFECTIVE
4 IN THAT INSTANCE. EMERGENCY INTERVENTION TECHNIQUES INCLUDE THE USE
5 OF PHYSICAL RESTRAINT, BUT PHYSICAL RESTRAINT SHALL ONLY BE USED ON
6 A PUPIL IN AN EMERGENCY TO CONTROL UNPREDICTABLE, SPONTANEOUS
7 BEHAVIOR BY THAT PUPIL THAT POSES A CLEAR AND PRESENT DANGER OF
8 SERIOUS PHYSICAL HARM TO THAT PUPIL OR OTHERS IN THE SCHOOL
9 COMMUNITY AND CANNOT BE IMMEDIATELY PREVENTED BY A RESPONSE LESS
10 RESTRICTIVE THAN THE TEMPORARY APPLICATION OF PHYSICAL RESTRAINT.
11 ALL OF THE FOLLOWING ALSO APPLY TO EMERGENCY INTERVENTIONS:

12 (A) IN AN EMERGENCY INTERVENTION, SCHOOL PERSONNEL SHALL ONLY
13 USE SUCH REASONABLE FORCE OR EMERGENCY INTERVENTION TECHNIQUES AS
14 ARE NECESSARY TO PROTECT THE PUPIL OR ANOTHER PERSON FROM IMMINENT,
15 SERIOUS PHYSICAL HARM. THE SAFETY AND COMFORT OF THE PUPIL SHALL BE
16 MAINTAINED DURING THE USE OF THE EMERGENCY INTERVENTION. THE
17 INTERVENTION SHALL BE DISCONTINUED AS SOON AS THE THREAT TO THE
18 SAFETY OF THE PUPIL OR ANOTHER NO LONGER EXISTS. AN INTERVENTION
19 SHOULD AT ALL TIMES BE CAREFULLY APPLIED AND MAY BE EASED BY
20 DEGREES AS THE PUPIL CALMS DOWN. THE PUPIL SHOULD BE ADVISED
21 THROUGHOUT THAT THE INTERVENTION WILL CEASE WHEN HE OR SHE NO
22 LONGER POSES A THREAT TO HIMSELF, HERSELF, OR OTHERS. SCHOOL
23 PERSONNEL SHOULD USE A CALM AND MEASURED APPROACH, AND SHOULD NEVER
24 GIVE THE IMPRESSION THAT THEY HAVE LOST THEIR TEMPERS, OR ARE
25 ACTING OUT OF ANGER OR FRUSTRATION, OR TO PUNISH THE PUPIL. AN
26 EMERGENCY INTERVENTION SHALL BE DISCONTINUED WHEN THE EMERGENCY NO
27 LONGER EXISTS.

1 (B) AN EMERGENCY INTERVENTION THAT IS OVER 30 MINUTES IN
2 DURATION IS CONSIDERED AN EXTENDED INTERVENTION. AN EXTENDED
3 INTERVENTION SHALL ONLY BE USED IN ACCORDANCE WITH THE ORDER OF A
4 PHYSICIAN OR A REGISTERED NURSE. ALL OF THE FOLLOWING APPLY TO AN
5 EXTENDED INTERVENTION:

6 (i) AN ORDER FOR USE OF AN EMERGENCY INTERVENTION SHALL NOT BE
7 WRITTEN AS A STANDING ORDER OR ON AN AS-NEEDED BASIS.

8 (ii) THE PUPIL SHALL BE CONTINUALLY MONITORED FACE-TO-FACE BY
9 AN ASSIGNED, TRAINED STAFF MEMBER WHO IS NOT OTHERWISE INVOLVED IN
10 THE ADMINISTRATION OF THE EXTENDED INTERVENTION, AND THE CONDITION
11 OF THE PUPIL SHALL CONTINUALLY BE ASSESSED, MONITORED, AND
12 REEVALUATED. IF, AT ANY TIME DURING A PHYSICAL RESTRAINT, THE PUPIL
13 DEMONSTRATES PHYSICAL DISTRESS, THE PUPIL SHALL BE RELEASED FROM
14 THE RESTRAINT IMMEDIATELY, AND SCHOOL PERSONNEL SHALL TAKE
15 APPROPRIATE STEPS TO SEEK MEDICAL ASSISTANCE.

16 (iii) WITHIN 30 MINUTES AFTER THE INITIATION OF THE EXTENDED
17 INTERVENTION, SCHOOL PERSONNEL SHALL ENSURE THAT A PHYSICIAN OR
18 OTHER LICENSED INDEPENDENT PRACTITIONER SEES THE PUPIL AND
19 EVALUATES THE NEED FOR THE EXTENDED INTERVENTION.

20 (C) AN EMERGENCY INTERVENTION SHOULD NOT BE USED ON A
21 PARTICULAR PUPIL UNTIL AFTER CONSULTATION OF AND AUTHORIZATION FROM
22 APPROPRIATE MEDICAL PERSONNEL TO ADVISE WHETHER THERE ARE MEDICAL
23 OR HEALTH CONTRAINDICATIONS FOR THE USE OF EMERGENCY INTERVENTION
24 ON THAT PUPIL.

25 (D) AN EMERGENCY INTERVENTION SHALL BE APPLIED ONLY BY
26 PERSONNEL WHO HAVE PARTICIPATED IN THE TRAINING UNDER SUBSECTION
27 (4) AND HAVE DEMONSTRATED COMPETENCE IN THE PROPER USE OF THESE

1 PROCEDURES AS WELL AS ALTERNATIVES TO THESE PROCEDURES.

2 (E) AN EMERGENCY INTERVENTION SHALL NOT BE USED UNLESS A
3 PARENT OR GUARDIAN HAS GIVEN ADVANCE PERMISSION FOR THE USE OF THAT
4 PARTICULAR MEANS OF INTERVENTION AND IT IS INCLUDED IN THE PUPIL'S
5 BEHAVIOR INTERVENTION PLAN. PRIOR TO GIVING THIS PERMISSION, A
6 PARENT OR GUARDIAN MUST BE PROVIDED WITH A COPY OF THE SCHOOL'S
7 WRITTEN POLICY ON THE USE OF EMERGENCY INTERVENTIONS.

8 (4) ALL SCHOOL PERSONNEL LIKELY TO PERFORM EMERGENCY
9 INTERVENTIONS, INCLUDING, BUT NOT LIMITED TO, TEACHERS, TEACHER'S
10 AIDES, AND SCHOOL ADMINISTRATORS, SHALL BE TRAINED IN THE USE OF
11 EMERGENCY INTERVENTIONS. ALL OF THE FOLLOWING APPLY TO THIS
12 TRAINING:

13 (A) THE TRAINING SHALL TAKE PLACE WITHIN THE FIRST 30 DAYS OF
14 EVERY SCHOOL YEAR OR WITHIN 30 DAYS OF HIRING FOR STAFF HIRED
15 DURING THE SCHOOL YEAR.

16 (B) INITIAL TRAINING OF SCHOOL PERSONNEL SHALL INCLUDE AT
17 LEAST 24 HOURS OF IN-DEPTH TRAINING. THE TRAINING SHALL COVER AT
18 LEAST ALL OF THE FOLLOWING:

19 (i) THE DANGERS OF USING PHYSICAL RESTRAINT, INCLUDING THE
20 PROHIBITION OF ANY POSITIONS AND TECHNIQUES THAT THREATEN OR LIMIT
21 THE FUNCTIONING OF THE SUBJECT'S RESPIRATORY SYSTEM OR ABILITY TO
22 SPEAK.

23 (ii) PREVENTION, INCLUDING POSITIVE BEHAVIOR SUPPORTS AND
24 RELATIONSHIP BUILDING, AND DE-ESCALATION TECHNIQUES.

25 (iii) ALTERNATIVES TO RESTRAINT.

26 (iv) PROPER USE OF TIME OUT.

27 (v) SIMULATED EXPERIENCE OF BEING PLACED IN A RESTRAINT.

1 (vi) DEMONSTRATION BY PARTICIPANTS OF PROFICIENCY IN
2 ADMINISTERING PHYSICAL RESTRAINTS.

3 (vii) PROPER METHOD OF DOCUMENTATION FOR USE OF EMERGENCY
4 INTERVENTIONS.

5 (viii) CARDIOPULMONARY RESUSCITATION AND FIRST AID.

6 (C) RETURNING SCHOOL PERSONNEL WHO HAVE PARTICIPATED IN THE
7 INITIAL TRAINING UNDER SUBDIVISION (B) SHALL ATTEND ANNUAL
8 REFRESHER TRAINING ON PHYSICAL RESTRAINT, CPR, AND FIRST AID. THE
9 ANNUAL REFRESHER TRAINING SHALL BE AT LEAST 8 HOURS IN DURATION.

10 (D) THE DEPARTMENT SHALL IDENTIFY APPROPRIATE NATIONALLY
11 RECOGNIZED TRAINING PROVIDERS AND AN APPROPRIATE TRAINING
12 CURRICULUM FOR ALL PUBLIC AND NONPUBLIC SCHOOLS WITHIN 30 DAYS
13 AFTER THE EFFECTIVE DATE OF THIS SECTION.

14 (5) A SCHOOL EMPLOYEE OR SCHOOL OFFICIAL SHALL NOT USE
15 RESTRAINT AS A BEHAVIOR SUPPORT TECHNIQUE OR AS A RESPONSE TO
16 PROPERTY DESTRUCTION. RESTRAINT DOES NOT INCLUDE ANY OF THE
17 FOLLOWING:

18 (A) BRIEF, GENTLE, AND NONCOERCIVE HOLDING OF A PUPIL'S HAND
19 TO ESCORT THE PUPIL SAFELY TO ANOTHER LOCATION.

20 (B) SEAT BELTS OR OTHER SAFETY EQUIPMENT THAT SECURES PUPILS
21 DURING TRANSPORTATION.

22 (C) MEDICALLY PRESCRIBED ADAPTIVE EQUIPMENT.

23 (6) A SCHOOL EMPLOYEE OR SCHOOL OFFICIAL MAY USE TIME OUT ONLY
24 IN A LIGHTED, VENTILATED SPACE FREE OF OBJECTS AND FIXTURES WITH
25 WHICH A PUPIL COULD CAUSE BODILY HARM AND ONLY IF THE USE OF TIME
26 OUT DOES NOT DENY A PUPIL SLEEP, FOOD, WATER, SHELTER, BEDDING,
27 PHYSICAL COMFORT, OR THE USE OF A BATHROOM. ALL OF THE FOLLOWING

1 APPLY TO USE OF TIME OUT:

2 (A) A PUPIL MUST ENTER TIME OUT VOLUNTARILY. PHYSICAL FORCE,
3 THREAT OF PHYSICAL FORCE, OR OTHER THREATS MAY NOT BE USED TO PLACE
4 A PUPIL IN TIME OUT.

5 (B) TIME OUT MAY NOT EXCEED 15 MINUTES IN LENGTH.

6 (C) TIME OUT SHOULD BE USED IN CONJUNCTION WITH POSITIVE
7 BEHAVIOR SUPPORTS, AND THE USE OF TIME OUT SHOULD BE INCLUDED IN
8 THE PUPIL'S INDIVIDUALIZED EDUCATION PROGRAM OR THE PUPIL'S
9 BEHAVIOR INTERVENTION PLAN IF IT IS UTILIZED ON A RECURRENT BASIS
10 TO INCREASE OR DECREASE A TARGETED BEHAVIOR.

11 (D) THE USE OF TIME OUT SHALL NOT BE IMPLEMENTED IN A FASHION
12 THAT PRECLUDES THE ABILITY OF THE PUPIL TO BE INVOLVED IN AND
13 PROGRESS IN THE GENERAL CURRICULUM AND ADVANCE THE OPPORTUNITY
14 TOWARD ATTAINING THE ANNUAL GOALS SPECIFIED IN THE PUPIL'S
15 INDIVIDUALIZED EDUCATION PLAN.

16 (7) TRAINING ON THE USE OF TIME OUT SHALL BE PROVIDED FOR
17 SCHOOL EMPLOYEES, VOLUNTEERS, OR INDEPENDENT CONTRACTORS AND SHALL
18 BE PROVIDED ACCORDING TO THE FOLLOWING REQUIREMENTS:

19 (A) TRAINING FOR CURRENT STAFF SHALL OCCUR NOT LATER THAN 90
20 DAYS AFTER THE DEPARTMENT IDENTIFIES APPROPRIATE TRAINING
21 PROVIDERS.

22 (B) NEWLY IDENTIFIED PERSONNEL CALLED UPON TO IMPLEMENT TIME
23 OUT BASED ON REQUIREMENTS ESTABLISHED IN A PUPIL'S INDIVIDUALIZED
24 EDUCATION PLAN OR BEHAVIOR INTERVENTION PLAN SHALL BE PROVIDED WITH
25 THE TRAINING IN THE USE OF TIME OUT WITHIN 30 DAYS OF BEING
26 ASSIGNED THE RESPONSIBILITY FOR TIME OUT.

27 (C) TRAINING ON THE USE OF TIME OUT SHALL BE PROVIDED AS PART

1 OF A PROGRAM THAT ADDRESSES A FULL CONTINUUM OF POSITIVE BEHAVIORAL
2 INTERVENTION STRATEGIES, AND SHALL ADDRESS THE IMPACT OF TIME OUT
3 ON THE ABILITY OF THE PUPIL TO BE INVOLVED IN AND PROGRESS IN THE
4 GENERAL CURRICULUM AND ADVANCE APPROPRIATELY TOWARD ATTAINING THE
5 ANNUAL GOALS SPECIFIED IN THE INDIVIDUALIZED EDUCATION PLAN.

6 (D) ALL PERSONNEL INVOLVED IN THE TRAINING SHALL RECEIVE
7 INSTRUCTION IN CURRENT PROFESSIONALLY ACCEPTED PRACTICES AND
8 STANDARDS REGARDING BEHAVIOR MANAGEMENT AND THE USE OF TIME OUT.
9 NECESSARY DOCUMENTATION OR DATA COLLECTION REGARDING THE USE OF
10 TIME OUT, IF ANY, SHALL BE ADDRESSED IN THE PUPIL'S INDIVIDUALIZED
11 EDUCATION PROGRAM OR THE PUPIL'S BEHAVIOR INTERVENTION PLAN. THE
12 PUPIL'S INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE SHALL USE ANY
13 COLLECTED DATA TO JUDGE THE EFFECTIVENESS OF THE INTERVENTION AND
14 PROVIDE A BASIS FOR MAKING DETERMINATIONS REGARDING ITS CONTINUED
15 USE.

16 (8) A SCHOOL EMPLOYEE OR VOLUNTEER INVOLVED IN AN EMERGENCY
17 INTERVENTION OR TIME OUT SHALL REPORT THE EMERGENCY INTERVENTION OR
18 TIME OUT AS FOLLOWS AND IN ACCORDANCE WITH SUBSECTIONS (9) AND
19 (10):

20 (A) VERBAL NOTIFICATION TO THE PUPIL'S PARENT OR GUARDIAN AS
21 SOON AS POSSIBLE.

22 (B) WRITTEN NOTIFICATION WITHIN 24 HOURS TO THE FOLLOWING
23 INDIVIDUALS:

24 (i) THE PUPIL'S PARENT OR GUARDIAN.

25 (ii) THE SCHOOL ADMINISTRATOR.

26 (iii) THE PUPIL'S RESIDENTIAL CARE PROVIDER, IF APPLICABLE.

27 (iv) THE DEPARTMENT.

1 (9) IF AN EMERGENCY INTERVENTION IS AN EXTENDED INTERVENTION
2 OR IF SERIOUS INJURY OCCURS AS A RESULT OF AN EMERGENCY
3 INTERVENTION OR TIME OUT, THE SCHOOL ADMINISTRATOR IN CHARGE OF THE
4 PUPIL'S SCHOOL SHALL PROVIDE THE DEPARTMENT AND THE DESIGNATED
5 PROTECTION AND ADVOCACY SYSTEM FOR THE STATE WITH WRITTEN
6 DOCUMENTATION OF THE INCIDENT, AND SHALL KEEP THAT INFORMATION
7 CONFIDENTIAL IN ACCORDANCE WITH STATE AND FEDERAL PRIVACY
8 PROTECTIONS. AS USED IN THIS SUBSECTION, "SERIOUS INJURY" INCLUDES
9 ANY SIGNIFICANT IMPAIRMENT TO THE PHYSICAL CONDITION OF THE PUPIL
10 AS DETERMINED BY QUALIFIED MEDICAL PERSONNEL, INCLUDING, BUT NOT
11 LIMITED TO, BURNS, LACERATIONS, BONE FRACTURES, SUBSTANTIAL
12 HEMATOMA, AND INJURIES TO INTERNAL ORGANS.

13 (10) EACH SCHOOL EMPLOYEE OR VOLUNTEER INVOLVED IN AN INCIDENT
14 IN WHICH AN EMERGENCY INTERVENTION IS USED SHALL INDEPENDENTLY
15 SUBMIT WRITTEN DOCUMENTATION OF THE INCIDENT. EACH REPORT SHALL BE
16 PLACED IN THE PUPIL'S FILE. THE WRITTEN DOCUMENTATION AND
17 NOTIFICATION SHALL INCLUDE ALL OF THE FOLLOWING:

18 (A) NAME OF THE PUPIL.

19 (B) NAME OF ALL PERSONNEL INVOLVED IN EMERGENCY INTERVENTION.

20 (C) TYPE OF EMERGENCY INTERVENTION USED.

21 (D) DATE OF INTERVENTION AND THE TIME INTERVENTION BEGAN AND
22 TIME IT ENDED.

23 (E) DESCRIPTION OF EVENTS LEADING TO EMERGENCY INTERVENTION,
24 INCLUDING THE BEHAVIOR THAT PROMPTED THE INTERVENTION.

25 (F) EFFORTS MADE TO DE-ESCALATE THE SITUATION AND ALTERNATIVES
26 TO INTERVENTION THAT WERE IMPLEMENTED PRIOR TO THE INTERVENTION.

27 (G) INFORMATION DOCUMENTING PARENT CONTACT AND NOTIFICATION OF

1 INTERVENTION.

2 (H) NAME OF INDIVIDUAL WRITING REPORT.

3 (I) FOR PUPILS RECEIVING SPECIAL EDUCATION SERVICES,
4 DOCUMENTATION THAT AN INDIVIDUALIZED EDUCATION PROGRAM MEETING WAS
5 HELD TO ADDRESS THE PUPIL'S BEHAVIORAL NEEDS AFTER THE USE OF THE
6 EMERGENCY INTERVENTION.

7 (11) IF BEHAVIOR INTERVENTIONS ARE USED ON A PUPIL, THEY
8 SHOULD BE USED IN CONSIDERATION OF THE PUPIL'S PHYSICAL FREEDOM AND
9 SOCIAL INTERACTION, AND ADMINISTERED IN A WAY THAT RESPECTS HUMAN
10 DIGNITY AND PERSONAL PRIVACY AND THAT ENSURES A PUPIL'S RIGHT TO BE
11 PLACED IN THE LEAST RESTRICTIVE EDUCATIONAL ENVIRONMENT. A PERSON
12 EMPLOYED BY OR ENGAGED AS A VOLUNTEER OR CONTRACTOR BY A PUBLIC
13 SCHOOL SHALL USE POSITIVE BEHAVIOR INTERVENTIONS AS RECOMMENDED BY
14 THE DEPARTMENT.

15 (12) THE GOVERNING BOARD OF A PUBLIC OR NONPUBLIC SCHOOL SHALL
16 ENSURE THAT ALL REPORTS OF INCIDENTS OF EMERGENCY INTERVENTION ARE
17 SUBMITTED TO THE DEPARTMENT EVERY MONTH. AFTER PERSONAL INFORMATION
18 HAS BEEN REMOVED, THE DEPARTMENT SHALL POST THE REPORTS ON THE
19 DEPARTMENT'S WEBSITE. THE DEPARTMENT SHALL DETERMINE IF ADDITIONAL
20 ACTION ON THE PART OF THE SCHOOL IS WARRANTED, AND IF SO, SHALL
21 NOTIFY THE SCHOOL OF ANY REQUIRED ACTIONS WITHIN 30 CALENDAR DAYS
22 OF RECEIPT OF THE REPORT. IN ADDITION, THE MONTHLY REPORTS SHALL BE
23 SUBMITTED TO THE GOVERNING BOARD AND THE DESIGNATED PROTECTION AND
24 ADVOCACY SYSTEM.

25 (13) THE STATE BOARD AND SCHOOL DISTRICTS, INTERMEDIATE SCHOOL
26 DISTRICTS, AND PUBLIC SCHOOL ACADEMIES ARE ENCOURAGED TO CREATE
27 POLICIES AND PROCEDURES GOVERNING THE USE OF BEHAVIOR INTERVENTIONS

1 CONSISTENT WITH THIS SECTION.

2 (14) THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE
3 PROTECTION AFFORDED TO PUPILS UNDER OTHER STATE OR FEDERAL LAW,
4 INCLUDING THOSE LAWS THAT PROVIDE FOR THE RIGHTS OF PUPILS WHO HAVE
5 BEEN FOUND ELIGIBLE TO RECEIVE SPECIAL EDUCATION SERVICES.

6 (15) AS USED IN THIS SECTION, "NONPUBLIC SCHOOL" MEANS A
7 NONPUBLIC SCHOOL THAT RECEIVES STATE FUNDING FOR AUXILIARY
8 SERVICES.

9 SEC. 1531F. IN ADDITION TO OTHER REQUIREMENTS FOR A TEACHING
10 CERTIFICATE, AN INITIAL TEACHING CERTIFICATE SHALL NOT BE ISSUED TO
11 AN INDIVIDUAL UNLESS THE INDIVIDUAL HAS RECEIVED TRAINING MEETING
12 THE REQUIREMENTS OF SECTION 1312A(4).

13 Enacting section 1. This amendatory act shall be known as the
14 Michael Renner Lewis III law.