



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5326

by Rep. Fred Crespo

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.182 new

Amends the School Code. Requires Equip for Equality, a State protection and advocacy system, to establish a monitoring team to work in collaboration with the State Board of Education to: (1) conduct monitoring of time out and physical restraint in schools and programs; (2) develop criteria for selecting schools and programs where onsite monitoring shall be conducted; (3) develop protocols for monitoring activity, including frequency and methods for gathering information and data; and (4) determine the frequency and format of reporting by the investigation unit to the State Board of Education. Requires Equip for Equity to submit an annual report to the Governor, General Assembly, and the State Superintendent of Education. Effective immediately.

LRB101 19189 CMG 68652 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by adding Section  
5 2-3.182 as follows:

6 (105 ILCS 5/2-3.182 new)

7 Sec. 2-3.182. State oversight and independent monitoring  
8 of the use of time out and physical restraint.

9 (a) The General Assembly finds and declares that:

10 (1) Isolated time out and physical restraint are  
11 inherently dangerous interventions that may exacerbate  
12 existing mental health conditions and cause long-lasting  
13 emotional trauma, serious physical harm, and even death.

14 (2) Despite existing law and rules prohibiting the use  
15 of isolated time out or physical restraint in schools for  
16 any reason other than safety, these interventions are  
17 routinely used as a means of punishment or discipline or to  
18 compel compliance in non-emergency situations when there  
19 is no imminent threat of serious harm to the student or  
20 others.

21 (3) Until recently adopted emergency rules by the State  
22 Board of Education, there was no requirement that schools  
23 report incidents of isolated time out or physical restraint

1 to the State Board of Education, and oversight and  
2 monitoring of these practices was minimal at best. This  
3 system of self-policing has been wholly ineffective in  
4 protecting vulnerable children and youth from the  
5 widespread, abusive use of these interventions.

6 (4) To protect students from further misuse of these  
7 practices, it is essential that the State Board establish a  
8 strong system of school oversight and accountability that  
9 includes independent monitoring of these practices in  
10 schools.

11 (5) The Governor-designated, federally-mandated  
12 protection and advocacy system for the State of Illinois,  
13 Equip for Equality, has broad authority under State and  
14 federal law to investigate suspected abuse or neglect,  
15 including the misuse of restraint and seclusion, and  
16 monitor for safety and protection of individual rights in  
17 covered facilities, including in public and private  
18 schools.

19 (6) In 2002, with direct funding from the Centers for  
20 Medicare and Medicaid Services as a result of a  
21 congressional earmark to Equip for Equality for this  
22 purpose, an independent monitoring and abuse and neglect  
23 investigations unit was established, with matching funds  
24 from the Department of Human Services and Department of  
25 Public Health. The goal of this new program was to enhance  
26 safety, care, and treatment, improve the quality of life

1 for children and adults with disabilities, and improve  
2 State investigatory systems working in collaboration with  
3 the State of Illinois.

4 (7) Equip for Equality has conducted independent  
5 facility monitoring and abuse and neglect investigations  
6 in partnership with State agencies that has led to reforms  
7 and system-wide improvements.

8 (8) The facility monitoring and abuse and neglect  
9 investigations unit at Equip for Equality includes  
10 professionals with legal, investigative, and clinical  
11 backgrounds.

12 (9) The unit has conducted monitoring of troubled  
13 programs and facilities and has developed tools to  
14 effectively examine compliance with the laws governing the  
15 use of restraints and seclusion.

16 (10) For several decades, Equip for Equality has  
17 conducted in depth reviews of restraint and seclusion  
18 practices, including:

19 (A) review of restraint and seclusion incident  
20 reports at State-operated mental health and  
21 developmental centers, finding a systemic failure to  
22 comply with State law and widespread, punitive uses of  
23 these practices;

24 (B) psychiatric units at general hospitals,  
25 documenting wide-spread non-compliance with federal  
26 and State standards; and

1           (C) a national examination of restraint-related  
2           deaths of children and adults in a wide array of  
3           settings, including schools, camps, hospitals,  
4           emergency rooms, and nursing homes.

5           (11) Equip for Equality is uniquely qualified and  
6           positioned to assist with the State Board of Education's  
7           oversight of these practices by serving as an independent  
8           monitor.

9           (b) With funding appropriated by the General Assembly for  
10          this purpose, Equip for Equality shall establish a monitoring  
11          team that will work in collaboration with the State Board of  
12          Education to:

13           (1) conduct monitoring of time out and physical  
14           restraint in schools and programs;

15           (2) develop criteria for selecting schools and  
16           programs where onsite monitoring will be conducted;

17           (3) develop protocols for monitoring activity,  
18           including frequency and methods for gathering information  
19           and data; and

20           (4) determine the frequency and format of reporting by  
21           the investigation unit to the State Board of Education.

22          (c) Equip for Equality shall submit an annual report to the  
23          Governor, General Assembly, and the State Superintendent of  
24          Education.

25          Section 99. Effective date. This Act takes effect upon  
26          becoming law.