



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4575

Introduced 1/21/2022, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.192 new
105 ILCS 5/10-20.33
105 ILCS 5/10-20.83 new
105 ILCS 5/34-18.20
105 ILCS 5/34-18.78 new

Amends the School Code. If the Governor has declared a disaster due to a public health emergency related to COVID-19 pursuant to the Illinois Emergency Management Agency Act, prohibits the State Board of Education from (i) revoking or removing a school district's recognition status, (ii) revoking a person's educator license, or (iii) prohibiting a school district or student from participating in interscholastic athletics or other activities or events for failing to comply with COVID-19 mitigation efforts, policies, rules, and guidance adopted by the State Board of Education and the Department of Public Health. In provisions concerning the use of isolated time out and time out, makes changes to the definitions of "isolated time out" and "time out". Sets forth procedures concerning the use of isolated time out and time out if the Governor has declared a disaster due to a public health emergency related to COVID-19 pursuant to the Illinois Emergency Management Agency Act. Adds provisions related to disciplinary actions imposed on students who refuse to comply with COVID-19 mitigation efforts in policies, rules, and guidance adopted by the State Board of Education and the Department of Public Health. Effective immediately.

LRB102 21342 CMG 30454 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 1. This Act may be referred to as Emmett's Law.

5 Section 5. The School Code is amended by adding Sections
6 2-3.192, 10-20.83, and 34-18.78 and by changing Sections
7 10-20.33 and 34-18.20 as follows:

8 (105 ILCS 5/2-3.192 new)

9 Sec. 2-3.192. Prohibitions during COVID-19 public health
10 emergency. Notwithstanding any other provision of law or rule
11 to the contrary, if the Governor has declared a disaster due to
12 a public health emergency related to COVID-19 pursuant to
13 Section 7 of the Illinois Emergency Management Agency Act:

14 (1) The State Board of Education shall have no
15 authority to revoke or remove a school district's
16 recognition status for failing to comply with COVID-19
17 mitigation efforts, policies, rules, and guidance adopted
18 by the State Board of Education or the Department of
19 Public Health.

20 (2) The State Board shall have no authority to revoke
21 a person's license issued under Article 21B of this Code
22 for failing to comply with COVID-19 mitigation efforts,

1 policies, rules, and guidance adopted by the State Board
2 of Education or the Department of Public Health.

3 (3) No school district or any of its students may be
4 prohibited from participating in interscholastic athletics
5 or other educational or noneducational activities or
6 events for failing to comply with COVID-19 mitigation
7 efforts, policies, rules, and guidance adopted by the
8 State Board of Education or the Department of Public
9 Health.

10 (105 ILCS 5/10-20.33)

11 Sec. 10-20.33. Time out, isolated time out, restraint, and
12 necessities; limitations and prohibitions.

13 (a) The General Assembly finds and declares that the use
14 of isolated time out, time out, and physical restraint on
15 children and youth carries risks to the health and safety of
16 students and staff; therefore, the ultimate goal is to reduce
17 and eventually eliminate the use of those interventions. The
18 General Assembly also finds and declares that the State Board
19 of Education must take affirmative action to lead and support
20 schools in transforming the school culture to reduce and
21 eliminate the use of all such interventions over time.

22 (b) In this Section:

23 "Chemical restraint" means the use of medication to
24 control a student's behavior or to restrict a student's
25 freedom of movement. "Chemical restraint" does not include

1 medication that is legally prescribed and administered as part
2 of a student's regular medical regimen to manage behavioral
3 symptoms and treat medical symptoms.

4 "Isolated time out" means the involuntary confinement of a
5 student alone in a time out room or other enclosure outside of
6 the classroom without a supervising adult in the time out room
7 or enclosure. A supervising adult is not considered to be in a
8 time out room or other enclosure if the supervising adult
9 appears in the time out room or enclosure only through an
10 electronic medium or screen. "Isolated time out" includes the
11 isolation or confinement of a physically healthy student if
12 the isolation or confinement is stated to be for the purpose of
13 COVID-19 mitigation efforts.

14 "Isolated time out" or "time out" does not include a
15 student-initiated or student-requested break, a
16 student-initiated sensory break or a teacher-initiated sensory
17 break that may include a sensory room containing sensory tools
18 to assist a student to calm and de-escalate, an in-school
19 suspension or detention, or any other appropriate disciplinary
20 measure, including the student's brief removal to the hallway
21 or similar environment.

22 "Mechanical restraint" means the use of any device or
23 equipment to limit a student's movement or to hold a student
24 immobile. "Mechanical restraint" does not include any
25 restraint used to (i) treat a student's medical needs; (ii)
26 protect a student who is known to be at risk of injury

1 resulting from a lack of coordination or frequent loss of
2 consciousness; (iii) position a student with physical
3 disabilities in a manner specified in the student's
4 individualized education program, federal Section 504 plan, or
5 other plan of care; (iv) provide a supplementary aid, service,
6 or accommodation, including, but not limited to, assistive
7 technology that provides proprioceptive input or aids in
8 self-regulation; or (v) promote student safety in vehicles
9 used to transport students.

10 "Physical restraint" or "restraint" means holding a
11 student or otherwise restricting a student's movements.

12 "Physical restraint" or "restraint" does not include momentary
13 periods of physical restriction by direct person to person
14 contact, without the aid of material or mechanical devices,
15 that are accomplished with limited force and that are designed
16 to prevent a student from completing an act that would result
17 in potential physical harm to himself, herself, or another or
18 damage to property.

19 "Prone physical restraint" means a physical restraint in
20 which a student is held face down on the floor or other surface
21 and physical pressure is applied to the student's body to keep
22 the student in the prone position.

23 "Time out" means a behavior management technique for the
24 purpose of calming or de-escalation that involves the
25 involuntary monitored separation of a student from classmates
26 with a trained adult for part of the school day, only for a

1 brief time, in a nonlocked setting. "Time out" includes the
2 isolation or confinement of a physically healthy student if
3 the isolation or confinement is stated to be for the purpose of
4 COVID-19 mitigation efforts.

5 (c) Isolated time out, time out, and physical restraint,
6 other than prone physical restraint, may be used only if (i)
7 the student's behavior presents an imminent danger of serious
8 physical harm to the student or to others; (ii) other less
9 restrictive and intrusive measures have been tried and have
10 proven to be ineffective in stopping the imminent danger of
11 serious physical harm; (iii) there is no known medical
12 contraindication to its use on the student; and (iv) the
13 school staff member or members applying the use of time out,
14 isolated time out, or physical restraint on a student have
15 been trained in its safe application, as established by rule
16 by the State Board of Education. Isolated time out is allowed
17 only under limited circumstances as set forth in this Section.
18 If all other requirements under this Section are met, isolated
19 time out may be used only if the adult in the time out room or
20 enclosure is in imminent danger of serious physical harm
21 because the student is unable to cease actively engaging in
22 extreme physical aggression.

23 (c-5) If the Governor has declared a disaster due to a
24 public health emergency related to COVID-19 pursuant to
25 Section 7 of the Illinois Emergency Management Agency Act or
26 the Governor or any State agency has taken action related to

1 COVID-19 and if the State Board of Education and the
2 Department of Public Health have adopted policies, rules, and
3 guidance concerning COVID-19 mitigation efforts, then isolated
4 time out and time out may not be used by a school district as a
5 disciplinary action if a student refuses to comply with the
6 adopted COVID-19 mitigation efforts, including a student's
7 refusal to wear a face covering at school. However, isolated
8 time out and time out may be used by a school district if the
9 Department of Public Health or the local health department
10 determines, in accordance with rules and policies of the
11 Department of Public Health, that there are specific facts and
12 circumstances that (i) apply to an individual student, (ii)
13 necessitate placing the student under quarantine, and (iii)
14 demonstrate that the student is currently positive for or
15 believed to be positive for COVID-19. Any decision to place a
16 student in isolated time out or time out for a purpose related
17 to COVID-19 must be documented, and the underlying facts and
18 data used to justify the isolation must be specifically
19 listed, cited, and explained as to why the underlying facts
20 and data are applicable only to the specific student in
21 question.

22 If isolated time out or time out is used on a student for
23 refusing to comply with the adopted COVID-19 mitigation
24 efforts, the student shall be readmitted into the regular
25 classroom following the presentation of a negative COVID-19
26 test or other written documentation from a physician licensed

1 to practice medicine in all of its branches in this State
2 recommending that the student return to the classroom. No
3 isolated time out or time out may be used on a student for a
4 purpose related to COVID-19 without the prior consent of the
5 student's parent or guardian or a court order.

6 If exigent circumstances exist that cause the court system
7 to be unavailable in a timely manner or that make it impossible
8 to obtain consent from a parent or guardian or to file a
9 petition within 48 hours after notice of a student's refusal
10 to comply with the adopted COVID-19 mitigation efforts, the
11 school board must file a petition requesting a court order
12 before the commencement of the next scheduled school week or
13 as soon as reasonably possible, whichever is earlier. Failure
14 by the school board to file such a petition shall constitute a
15 waiver of the imposition of discipline for refusal by the
16 student to comply with the adopted COVID-19 mitigation
17 efforts.

18 No court order may be issued unless the school district
19 seeking the court order has proven, by clear and convincing
20 evidence, that the public's health and welfare are
21 significantly endangered by the student because the student
22 has been exposed to or is reasonably believed to have been
23 exposed to COVID-19. The school district seeking the order
24 must also prove that all other reasonable means of correcting
25 the problem have been exhausted and no less restrictive
26 alternatives to the use of isolated time out or time out exist.

1 For the purposes of this subsection, in determining whether no
2 less restrictive alternatives exist, the court shall consider
3 evidence showing that, under the specific circumstances
4 presented by the case for which an order is sought, isolated
5 time out or time out is the only reasonably protective
6 measure.

7 Any student who has been or is about to be ordered to be
8 subject to disciplinary measures under this subsection shall
9 have the right to counsel, and no order may be issued without
10 the court appointing counsel if no counsel has otherwise
11 appeared on behalf of the student.

12 (c-10) Mechanical restraint and chemical restraint are
13 prohibited.

14 (c-15) Prone restraint is prohibited except when all of
15 the following conditions are satisfied:

16 (1) The student's Behavior Intervention Plan
17 specifically allows for prone restraint of the student.

18 (2) The Behavior Intervention Plan was put into place
19 before January 1, 2021.

20 (3) The student's Behavior Intervention Plan has been
21 approved by the IEP team.

22 (4) The school staff member or staff members applying
23 the use of prone restraint on a student have been trained
24 in its safe application as established by rule by the
25 State Board of Education.

26 (5) The school must be able to document and

1 demonstrate to the IEP team that the use of other
2 de-escalation techniques provided for in the student's
3 Behavior Intervention Plan were ineffective.

4 (6) The use of prone restraint occurs within the
5 2021-2022 school year.

6 All instances of the utilization of prone restraint must be
7 reported in accordance with the provisions of this amendatory
8 Act of the 102nd General Assembly. Nothing in this Section
9 shall prohibit the State Board of Education from adopting
10 administrative rules that further restrict or disqualify the
11 use of prone restraint.

12 (d) The use of any of the following rooms or enclosures for
13 an isolated time out or time out purposes is prohibited:

14 (1) a locked room or a room in which the door is
15 obstructed, prohibiting it from opening;

16 (2) a confining space such as a closet or box;

17 (3) a room where the student cannot be continually
18 observed; or

19 (4) any other room or enclosure or time out procedure
20 that is contrary to current rules adopted by the State
21 Board of Education.

22 (e) The deprivation of necessities needed to sustain the
23 health of a person, including, without limitation, the denial
24 or unreasonable delay in the provision of the following, is
25 prohibited:

26 (1) food or liquid at a time when it is customarily

1 served;

2 (2) medication; or

3 (3) the use of a restroom.

4 (f) (Blank).

5 (g) Following each incident of isolated time out, time
6 out, or physical restraint, but no later than 2 school days
7 after the incident, the principal or another designated
8 administrator shall notify the student's parent or guardian
9 that he or she may request a meeting with appropriate school
10 personnel to discuss the incident. This meeting shall be held
11 separate and apart from meetings held in accordance with the
12 student's individualized education program or from meetings
13 held in accordance with the student's plan for services under
14 Section 504 of the federal Rehabilitation Act of 1973. If a
15 parent or guardian requests a meeting, the meeting shall be
16 convened within 2 school days after the request, provided that
17 the 2-school day limitation shall be extended if requested by
18 the parent or guardian. The parent or guardian may also
19 request that the meeting be convened via telephone or video
20 conference.

21 The meeting shall include the student, if appropriate, at
22 least one school staff member involved in the incident of
23 isolated time out, time out, or physical restraint, the
24 student's parent or guardian, and at least one appropriate
25 school staff member not involved in the incident of isolated
26 time out, time out, or physical restraint, such as a social

1 worker, psychologist, nurse, or behavioral specialist. During
2 the meeting, the school staff member or members involved in
3 the incident of isolated time out, time out, or physical
4 restraint, the student, and the student's parent or guardian,
5 if applicable, shall be provided an opportunity to describe
6 (i) the events that occurred prior to the incident of isolated
7 time out, time out, or physical restraint and any actions that
8 were taken by school personnel or the student leading up to the
9 incident; (ii) the incident of isolated time out, time out, or
10 physical restraint; and (iii) the events that occurred or the
11 actions that were taken following the incident of isolated
12 time out, time out, or physical restraint and whether the
13 student returned to regular school activities and, if not, how
14 the student spent the remainder of the school day. All parties
15 present at the meeting shall have the opportunity to discuss
16 what school personnel could have done differently to avoid the
17 incident of isolated time out, time out, or physical restraint
18 and what alternative courses of action, if any, the school can
19 take to support the student and to avoid the future use of
20 isolated time out, time out, or physical restraint. At no
21 point may a student be excluded from school solely because a
22 meeting has not occurred.

23 A summary of the meeting and any agreements or conclusions
24 reached during the meeting shall be documented in writing and
25 shall become part of the student's school record. A copy of the
26 documents shall be provided to the student's parent or

1 guardian. If a parent or guardian does not request a meeting
2 within 10 school days after the school has provided the
3 documents to the parent or guardian or if a parent or guardian
4 fails to attend a requested meeting, that fact shall be
5 documented as part of the student's school record.

6 (h) Whenever isolated time out, time out, or physical
7 restraint is used, school personnel shall fully document and
8 report to the State Board of Education the incident, including
9 the events leading up to the incident, what alternative
10 measures that are less restrictive and intrusive were used
11 prior to the use of isolated time out, time out, or physical
12 restraint, why those measures were ineffective or deemed
13 inappropriate, the type of restraint, isolated time out, or
14 time out that was used, the length of time the student was in
15 isolated time out or time out or was restrained, and the staff
16 involved. The parents or guardian of a student and the State
17 Superintendent of Education shall be informed whenever
18 isolated time out, time out, or physical restraint is used.

19 Schools shall provide parents and guardians with the
20 following information, to be developed by the State Board and
21 which may be incorporated into the State Board's prescribed
22 physical restraint and time out form at the discretion of the
23 State Board, after each incident in which isolated time out,
24 time out, or physical restraint is used during the school
25 year, in printed form or, upon the written request of the
26 parent or guardian, by email:

1 (1) a copy of the standards for when isolated time
2 out, time out, and physical restraint can be used;

3 (2) information about the rights of parents,
4 guardians, and students; and

5 (3) information about the parent's or guardian's right
6 to file a complaint with the State Superintendent of
7 Education, the complaint process, and other information to
8 assist the parent or guardian in navigating the complaint
9 process.

10 (i) Any use of isolated time out, time out, or physical
11 restraint that is permitted by a school board's policy shall
12 be implemented in accordance with written procedures.

13 (Source: P.A. 102-339, eff. 8-13-21.)

14 (105 ILCS 5/10-20.83 new)

15 Sec. 10-20.83. Disciplinary action during COVID-19 public
16 health emergency.

17 (a) If the Governor has declared a disaster due to a public
18 health emergency related to COVID-19 pursuant to Section 7 of
19 the Illinois Emergency Management Agency Act and the State
20 Board of Education and the Department of Public Health have
21 adopted policies, rules, and guidance pertaining to COVID-19
22 mitigation efforts in schools, each school board shall have
23 the sole authority to enforce disciplinary actions, in a
24 manner not inconsistent with this Code, if a student refuses
25 to comply with the adopted mitigation efforts. The State Board

1 and the Department of Public Health shall have no authority to
2 enforce or enact disciplinary actions if a student refuses to
3 comply with the adopted mitigation efforts.

4 (b) Each school board shall adopt a disciplinary policy
5 for students who refuse to comply with the adopted mitigation
6 efforts and shall establish a complaint process in which a
7 student or the student's parent or guardian may appeal a
8 school's disciplinary action against the student for refusing
9 to comply with the adopted mitigation efforts.

10 The appeals process shall allow a student or the student's
11 parent or guardian to appeal the school's disciplinary action
12 to the school board. The school board shall make a decision on
13 whether the disciplinary action is appropriate. During the
14 appeals process, the student may not be subject to any
15 disciplinary action until the school board determines if the
16 disciplinary action to be taken against the student is
17 appropriate. In each case, the school board must make
18 specific, individualized findings to justify any proposed
19 disciplinary action to be taken against a student.

20 The student or the student's parent or guardian shall have
21 the right to appeal the school board's decision to the circuit
22 court that has jurisdiction over the school board. For any
23 scientific findings relied on in connection with the school
24 board's decision, the school board shall have the burden of
25 proof to establish by clear and convincing evidence that the
26 proposed disciplinary action and the adopted mitigation

1 efforts are justified, meaningful, or effective. In
2 determining whether the mitigation efforts are justified or
3 the disciplinary action is appropriate, a court may not give
4 any administrative deference to the State Board of Education,
5 the Department of Public Health, or the school board, unless
6 the findings are particularized to the specific circumstances
7 of the student. No deference may be given to any findings
8 relied on that are based merely on statistical metrics or
9 probabilities. Any person challenging the disciplinary action
10 shall have the right to confront the underlying data and
11 evidence that is being used to impose the disciplinary action.

12 (105 ILCS 5/34-18.20)

13 Sec. 34-18.20. Time out, isolated time out, restraint, and
14 necessities; limitations and prohibitions.

15 (a) The General Assembly finds and declares that the use
16 of isolated time out, time out, and physical restraint on
17 children and youth carries risks to the health and safety of
18 students and staff; therefore, the ultimate goal is to reduce
19 and eventually eliminate the use of those interventions. The
20 General Assembly also finds and declares that the State Board
21 of Education must take affirmative action to lead and support
22 schools in transforming the school culture to reduce and
23 eliminate the use of all such interventions over time.

24 (b) In this Section:

25 "Chemical restraint" means the use of medication to

1 control a student's behavior or to restrict a student's
2 freedom of movement. "Chemical restraint" does not include
3 medication that is legally prescribed and administered as part
4 of a student's regular medical regimen to manage behavioral
5 symptoms and treat medical symptoms.

6 "Isolated time out" means the involuntary confinement of a
7 student alone in a time out room or other enclosure outside of
8 the classroom without a supervising adult in the time out room
9 or enclosure. A supervising adult is not considered to be in a
10 time out room or other enclosure if the supervising adult
11 appears in the time out room or enclosure only through an
12 electronic medium or screen. "Isolated time out" includes the
13 isolation or confinement of a physically healthy student if
14 the isolation or confinement is stated to be for the purpose of
15 COVID-19 mitigation efforts.

16 "Isolated time out" or "time out" does not include a
17 student-initiated or student-requested break, a
18 student-initiated sensory break or a teacher-initiated sensory
19 break that may include a sensory room containing sensory tools
20 to assist a student to calm and de-escalate, an in-school
21 suspension or detention, or any other appropriate disciplinary
22 measure, including the student's brief removal to the hallway
23 or similar environment.

24 "Mechanical restraint" means the use of any device or
25 equipment to limit a student's movement or to hold a student
26 immobile. "Mechanical restraint" does not include any

1 restraint used to (i) treat a student's medical needs; (ii)
2 protect a student who is known to be at risk of injury
3 resulting from a lack of coordination or frequent loss of
4 consciousness; (iii) position a student with physical
5 disabilities in a manner specified in the student's
6 individualized education program, federal Section 504 plan, or
7 other plan of care; (iv) provide a supplementary aid, service,
8 or accommodation, including, but not limited to, assistive
9 technology that provides proprioceptive input or aids in
10 self-regulation; or (v) promote student safety in vehicles
11 used to transport students.

12 "Physical restraint" or "restraint" means holding a
13 student or otherwise restricting a student's movements.
14 "Physical restraint" or "restraint" does not include momentary
15 periods of physical restriction by direct person to person
16 contact, without the aid of material or mechanical devices,
17 that are accomplished with limited force and that are designed
18 to prevent a student from completing an act that would result
19 in potential physical harm to himself, herself, or another or
20 damage to property.

21 "Prone physical restraint" means a physical restraint in
22 which a student is held face down on the floor or other surface
23 and physical pressure is applied to the student's body to keep
24 the student in the prone position.

25 "Time out" means a behavior management technique for the
26 purpose of calming or de-escalation that involves the

1 involuntary monitored separation of a student from classmates
2 with a trained adult for part of the school day, only for a
3 brief time, in a nonlocked setting. "Time out" includes the
4 isolation or confinement of a physically healthy student if
5 the isolation or confinement is stated to be for the purpose of
6 COVID-19 mitigation efforts.

7 (c) Isolated time out, time out, and physical restraint,
8 other than prone physical restraint, may be used only if (i)
9 the student's behavior presents an imminent danger of serious
10 physical harm to the student or to others; (ii) other less
11 restrictive and intrusive measures have been tried and have
12 proven to be ineffective in stopping the imminent danger of
13 serious physical harm; (iii) there is no known medical
14 contraindication to its use on the student; and (iv) the
15 school staff member or members applying the use of time out,
16 isolated time out, or physical restraint on a student have
17 been trained in its safe application, as established by rule
18 by the State Board of Education. Isolated time out is allowed
19 only under limited circumstances as set forth in this Section.
20 If all other requirements under this Section are met, isolated
21 time out may be used only if the adult in the time out room or
22 enclosure is in imminent danger of serious physical harm
23 because the student is unable to cease actively engaging in
24 extreme physical aggression.

25 (c-5) If the Governor has declared a disaster due to a
26 public health emergency related to COVID-19 pursuant to

1 Section 7 of the Illinois Emergency Management Agency Act or
2 the Governor or any State agency has taken action related to
3 COVID-19 and if the State Board of Education and the
4 Department of Public Health have adopted policies, rules, and
5 guidance concerning COVID-19 mitigation efforts, then isolated
6 time out and time out may not be used by a school district as a
7 disciplinary action if a student refuses to comply with the
8 adopted COVID-19 mitigation efforts, including a student's
9 refusal to wear a face covering at school. However, isolated
10 time out and time out may be used by a school district if the
11 Department of Public Health or the local health department
12 determines, in accordance with rules and policies of the
13 Department of Public Health, that there are specific facts and
14 circumstances that (i) apply to an individual student, (ii)
15 necessitate placing the student under quarantine, and (iii)
16 demonstrate that the student is currently positive for or
17 believed to be positive for COVID-19. Any decision to place a
18 student in isolated time out or time out for a purpose related
19 to COVID-19 must be documented, and the underlying facts and
20 data used to justify the isolation must be specifically
21 listed, cited, and explained as to why the underlying facts
22 and data are applicable only to the specific student in
23 question.

24 If isolated time out or time out is used on a student for
25 refusing to comply with the adopted COVID-19 mitigation
26 efforts, the student shall be readmitted into the regular

1 classroom following the presentation of a negative COVID-19
2 test or other written documentation from a physician licensed
3 to practice medicine in all of its branches in this State
4 recommending that the student return to the classroom. No
5 isolated time out or time out may be used on a student for a
6 purpose related to COVID-19 without the prior consent of the
7 student's parent or guardian or a court order.

8 If exigent circumstances exist that cause the court system
9 to be unavailable in a timely manner or that make it impossible
10 to obtain consent from a parent or guardian or to file a
11 petition within 48 hours after notice of a student's refusal
12 to comply with the adopted COVID-19 mitigation efforts, the
13 school board must file a petition requesting a court order
14 before the commencement of the next scheduled school week or
15 as soon as reasonably possible, whichever is earlier. Failure
16 by the school board to file such a petition shall constitute a
17 waiver of the imposition of discipline for refusal by the
18 student to comply with the adopted COVID-19 mitigation
19 efforts.

20 No court order may be issued unless the school district
21 seeking the court order has proven, by clear and convincing
22 evidence, that the public's health and welfare are
23 significantly endangered by the student because the student
24 has been exposed to or is reasonably believed to have been
25 exposed to COVID-19. The school district seeking the order
26 must also prove that all other reasonable means of correcting

1 the problem have been exhausted and no less restrictive
2 alternatives to the use of isolated time out or time out exist.
3 For the purposes of this subsection, in determining whether no
4 less restrictive alternatives exist, the court shall consider
5 evidence showing that, under the specific circumstances
6 presented by the case for which an order is sought, isolated
7 time out or time out is the only reasonably protective
8 measure.

9 Any student who has been or is about to be ordered to be
10 subject to disciplinary measures under this subsection shall
11 have the right to counsel, and no order may be issued without
12 the court appointing counsel if no counsel has otherwise
13 appeared on behalf of the student.

14 (c-10) Mechanical restraint and chemical restraint are
15 prohibited.

16 (c-15) Prone restraint is prohibited except when all of
17 the following conditions are satisfied:

18 (1) The student's Behavior Intervention Plan
19 specifically allows for prone restraint of the student.

20 (2) The Behavior Intervention Plan was put into place
21 before January 1, 2021.

22 (3) The student's Behavior Intervention Plan has been
23 approved by the IEP team.

24 (4) The school staff member or staff members applying
25 the use of prone restraint on a student have been trained
26 in its safe application as established by rule by the

1 State Board of Education.

2 (5) The school must be able to document and
3 demonstrate to the IEP team that the use of other
4 de-escalation techniques provided for in the student's
5 Behavior Intervention Plan were ineffective.

6 (6) The use of prone restraint occurs within the
7 school years of 2021-2022 and 2022-2023.

8 All instances of the utilization of prone restraint must be
9 reported in accordance with the provisions of this amendatory
10 Act of the 102nd General Assembly. Nothing in this Section
11 shall prohibit the State Board of Education from adopting
12 administrative rules that further restrict or disqualify the
13 use of prone restraint.

14 (d) The use of any of the following rooms or enclosures for
15 an isolated time out or time out purposes is prohibited:

16 (1) a locked room or a room in which the door is
17 obstructed, prohibiting it from opening;

18 (2) a confining space such as a closet or box;

19 (3) a room where the student cannot be continually
20 observed; or

21 (4) any other room or enclosure or time out procedure
22 that is contrary to current rules adopted by the State
23 Board of Education.

24 (e) The deprivation of necessities needed to sustain the
25 health of a person, including, without limitation, the denial
26 or unreasonable delay in the provision of the following, is

1 prohibited:

2 (1) food or liquid at a time when it is customarily
3 served;

4 (2) medication; or

5 (3) the use of a restroom.

6 (f) (Blank).

7 (g) Following each incident of isolated time out, time
8 out, or physical restraint, but no later than 2 school days
9 after the incident, the principal or another designated
10 administrator shall notify the student's parent or guardian
11 that he or she may request a meeting with appropriate school
12 personnel to discuss the incident. This meeting shall be held
13 separate and apart from meetings held in accordance with the
14 student's individualized education program or from meetings
15 held in accordance with the student's plan for services under
16 Section 504 of the federal Rehabilitation Act of 1973. If a
17 parent or guardian requests a meeting, the meeting shall be
18 convened within 2 school days after the request, provided that
19 the 2-school day limitation shall be extended if requested by
20 the parent or guardian. The parent or guardian may also
21 request that the meeting be convened via telephone or video
22 conference.

23 The meeting shall include the student, if appropriate, at
24 least one school staff member involved in the incident of
25 isolated time out, time out, or physical restraint, the
26 student's parent or guardian, and at least one appropriate

1 school staff member not involved in the incident of isolated
2 time out, time out, or physical restraint, such as a social
3 worker, psychologist, nurse, or behavioral specialist. During
4 the meeting, the school staff member or members involved in
5 the incident of isolated time out, time out, or physical
6 restraint, the student, and the student's parent or guardian,
7 if applicable, shall be provided an opportunity to describe
8 (i) the events that occurred prior to the incident of isolated
9 time out, time out, or physical restraint and any actions that
10 were taken by school personnel or the student leading up to the
11 incident; (ii) the incident of isolated time out, time out, or
12 physical restraint; and (iii) the events that occurred or the
13 actions that were taken following the incident of isolated
14 time out, time out, or physical restraint and whether the
15 student returned to regular school activities and, if not, how
16 the student spent the remainder of the school day. All parties
17 present at the meeting shall have the opportunity to discuss
18 what school personnel could have done differently to avoid the
19 incident of isolated time out, time out, or physical restraint
20 and what alternative courses of action, if any, the school can
21 take to support the student and to avoid the future use of
22 isolated time out, time out, or physical restraint. At no
23 point may a student be excluded from school solely because a
24 meeting has not occurred.

25 A summary of the meeting and any agreements or conclusions
26 reached during the meeting shall be documented in writing and

1 shall become part of the student's school record. A copy of the
2 documents shall be provided to the student's parent or
3 guardian. If a parent or guardian does not request a meeting
4 within 10 school days after the school has provided the
5 documents to the parent or guardian or if a parent or guardian
6 fails to attend a requested meeting, that fact shall be
7 documented as part of the student's school record.

8 (h) Whenever isolated time out, time out, or physical
9 restraint is used, school personnel shall fully document and
10 report to the State Board of Education the incident, including
11 the events leading up to the incident, what alternative
12 measures that are less restrictive and intrusive were used
13 prior to the use of isolated time out, time out, or physical
14 restraint, why those measures were ineffective or deemed
15 inappropriate, the type of restraint, isolated time out, or
16 time out that was used, the length of time the student was in
17 isolated time out or time out or was restrained, and the staff
18 involved. The parents or guardian of a student and the State
19 Superintendent of Education shall be informed whenever
20 isolated time out, time out, or physical restraint is used.

21 Schools shall provide parents and guardians with the
22 following information, to be developed by the State Board and
23 which may be incorporated into the State Board's prescribed
24 physical restraint and time out form at the discretion of the
25 State Board, after each incident in which isolated time out,
26 time out, or physical restraint is used during the school

1 year, in printed form or, upon the written request of the
2 parent or guardian, by email:

3 (1) a copy of the standards for when isolated time
4 out, time out, and physical restraint can be used;

5 (2) information about the rights of parents,
6 guardians, and students; and

7 (3) information about the parent's or guardian's right
8 to file a complaint with the State Superintendent of
9 Education, the complaint process, and other information to
10 assist the parent or guardian in navigating the complaint
11 process.

12 (i) Any use of isolated time out, time out, or physical
13 restraint that is permitted by the board's policy shall be
14 implemented in accordance with written procedures.

15 (Source: P.A. 102-339, eff. 8-13-21.)

16 (105 ILCS 5/34-18.78 new)

17 Sec. 34-18.78. Disciplinary action during COVID-19 public
18 health emergency.

19 (a) If the Governor has declared a disaster due to a public
20 health emergency related to COVID-19 pursuant to Section 7 of
21 the Illinois Emergency Management Agency Act and the State
22 Board of Education and the Department of Public Health have
23 adopted policies, rules, and guidance pertaining to COVID-19
24 mitigation efforts in schools, the board shall have the sole
25 authority to enforce disciplinary actions, in a manner not

1 inconsistent with this Code, if a student refuses to comply
2 with the adopted mitigation efforts. The State Board and the
3 Department of Public Health shall have no authority to enforce
4 or enact disciplinary actions if a student refuses to comply
5 with the adopted mitigation efforts.

6 (b) The board shall adopt a disciplinary policy for
7 students who refuse to comply with the adopted mitigation
8 efforts and shall establish a complaint process in which a
9 student or the student's parent or guardian may appeal a
10 school's disciplinary action against the student for refusing
11 to comply with the adopted mitigation efforts.

12 The appeals process shall allow a student or the student's
13 parent or guardian to appeal the school's disciplinary action
14 to the board. The board shall make a decision on whether the
15 disciplinary action is appropriate. During the appeals
16 process, the student may not be subject to any disciplinary
17 action until the board determines if the disciplinary action
18 to be taken against the student is appropriate. In each case,
19 the board must make specific, individualized findings to
20 justify any proposed disciplinary action to be taken against a
21 student.

22 The student or the student's parent or guardian shall have
23 the right to appeal the board's decision to the circuit court
24 that has jurisdiction over the board. For any scientific
25 findings relied on in connection with the board's decision,
26 the board shall have the burden of proof to establish by clear

1 and convincing evidence that the proposed disciplinary action
2 and the adopted mitigation efforts are justified, meaningful,
3 or effective. In determining whether the mitigation efforts
4 are justified or the disciplinary action is appropriate, a
5 court may not give any administrative deference to the State
6 Board of Education, the Department of Public Health, or the
7 board, unless the findings are particularized to the specific
8 circumstances of the student. No deference may be given to any
9 findings relied on that are based merely on statistical
10 metrics or probabilities. Any person challenging the
11 disciplinary action shall have the right to confront the
12 underlying data and evidence that is being used to impose the
13 disciplinary action.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.