



Sen. Ann Gillespie

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10200SB2296sam001

LRB102 15797 CMG 24551 a

1 AMENDMENT TO SENATE BILL 2296

2 AMENDMENT NO. _____. Amend Senate Bill 2296 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 5-45 as follows:

6 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

7 Sec. 5-45. Emergency rulemaking.

8 (a) "Emergency" means the existence of any situation that
9 any agency finds reasonably constitutes a threat to the public
10 interest, safety, or welfare.

11 (b) If any agency finds that an emergency exists that
12 requires adoption of a rule upon fewer days than is required by
13 Section 5-40 and states in writing its reasons for that
14 finding, the agency may adopt an emergency rule without prior
15 notice or hearing upon filing a notice of emergency rulemaking
16 with the Secretary of State under Section 5-70. The notice

1 shall include the text of the emergency rule and shall be
2 published in the Illinois Register. Consent orders or other
3 court orders adopting settlements negotiated by an agency may
4 be adopted under this Section. Subject to applicable
5 constitutional or statutory provisions, an emergency rule
6 becomes effective immediately upon filing under Section 5-65
7 or at a stated date less than 10 days thereafter. The agency's
8 finding and a statement of the specific reasons for the
9 finding shall be filed with the rule. The agency shall take
10 reasonable and appropriate measures to make emergency rules
11 known to the persons who may be affected by them.

12 (c) An emergency rule may be effective for a period of not
13 longer than 150 days, but the agency's authority to adopt an
14 identical rule under Section 5-40 is not precluded. No
15 emergency rule may be adopted more than once in any 24-month
16 period, except that this limitation on the number of emergency
17 rules that may be adopted in a 24-month period does not apply
18 to (i) emergency rules that make additions to and deletions
19 from the Drug Manual under Section 5-5.16 of the Illinois
20 Public Aid Code or the generic drug formulary under Section
21 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
22 emergency rules adopted by the Pollution Control Board before
23 July 1, 1997 to implement portions of the Livestock Management
24 Facilities Act, (iii) emergency rules adopted by the Illinois
25 Department of Public Health under subsections (a) through (i)
26 of Section 2 of the Department of Public Health Act when

1 necessary to protect the public's health, (iv) emergency rules
2 adopted pursuant to subsection (n) of this Section, (v)
3 emergency rules adopted pursuant to subsection (o) of this
4 Section, or (vi) emergency rules adopted pursuant to
5 subsection (c-5) of this Section. Two or more emergency rules
6 having substantially the same purpose and effect shall be
7 deemed to be a single rule for purposes of this Section.

8 (c-5) To facilitate the maintenance of the program of
9 group health benefits provided to annuitants, survivors, and
10 retired employees under the State Employees Group Insurance
11 Act of 1971, rules to alter the contributions to be paid by the
12 State, annuitants, survivors, retired employees, or any
13 combination of those entities, for that program of group
14 health benefits, shall be adopted as emergency rules. The
15 adoption of those rules shall be considered an emergency and
16 necessary for the public interest, safety, and welfare.

17 (d) In order to provide for the expeditious and timely
18 implementation of the State's fiscal year 1999 budget,
19 emergency rules to implement any provision of Public Act
20 90-587 or 90-588 or any other budget initiative for fiscal
21 year 1999 may be adopted in accordance with this Section by the
22 agency charged with administering that provision or
23 initiative, except that the 24-month limitation on the
24 adoption of emergency rules and the provisions of Sections
25 5-115 and 5-125 do not apply to rules adopted under this
26 subsection (d). The adoption of emergency rules authorized by

1 this subsection (d) shall be deemed to be necessary for the
2 public interest, safety, and welfare.

3 (e) In order to provide for the expeditious and timely
4 implementation of the State's fiscal year 2000 budget,
5 emergency rules to implement any provision of Public Act 91-24
6 or any other budget initiative for fiscal year 2000 may be
7 adopted in accordance with this Section by the agency charged
8 with administering that provision or initiative, except that
9 the 24-month limitation on the adoption of emergency rules and
10 the provisions of Sections 5-115 and 5-125 do not apply to
11 rules adopted under this subsection (e). The adoption of
12 emergency rules authorized by this subsection (e) shall be
13 deemed to be necessary for the public interest, safety, and
14 welfare.

15 (f) In order to provide for the expeditious and timely
16 implementation of the State's fiscal year 2001 budget,
17 emergency rules to implement any provision of Public Act
18 91-712 or any other budget initiative for fiscal year 2001 may
19 be adopted in accordance with this Section by the agency
20 charged with administering that provision or initiative,
21 except that the 24-month limitation on the adoption of
22 emergency rules and the provisions of Sections 5-115 and 5-125
23 do not apply to rules adopted under this subsection (f). The
24 adoption of emergency rules authorized by this subsection (f)
25 shall be deemed to be necessary for the public interest,
26 safety, and welfare.

1 (g) In order to provide for the expeditious and timely
2 implementation of the State's fiscal year 2002 budget,
3 emergency rules to implement any provision of Public Act 92-10
4 or any other budget initiative for fiscal year 2002 may be
5 adopted in accordance with this Section by the agency charged
6 with administering that provision or initiative, except that
7 the 24-month limitation on the adoption of emergency rules and
8 the provisions of Sections 5-115 and 5-125 do not apply to
9 rules adopted under this subsection (g). The adoption of
10 emergency rules authorized by this subsection (g) shall be
11 deemed to be necessary for the public interest, safety, and
12 welfare.

13 (h) In order to provide for the expeditious and timely
14 implementation of the State's fiscal year 2003 budget,
15 emergency rules to implement any provision of Public Act
16 92-597 or any other budget initiative for fiscal year 2003 may
17 be adopted in accordance with this Section by the agency
18 charged with administering that provision or initiative,
19 except that the 24-month limitation on the adoption of
20 emergency rules and the provisions of Sections 5-115 and 5-125
21 do not apply to rules adopted under this subsection (h). The
22 adoption of emergency rules authorized by this subsection (h)
23 shall be deemed to be necessary for the public interest,
24 safety, and welfare.

25 (i) In order to provide for the expeditious and timely
26 implementation of the State's fiscal year 2004 budget,

1 emergency rules to implement any provision of Public Act 93-20
2 or any other budget initiative for fiscal year 2004 may be
3 adopted in accordance with this Section by the agency charged
4 with administering that provision or initiative, except that
5 the 24-month limitation on the adoption of emergency rules and
6 the provisions of Sections 5-115 and 5-125 do not apply to
7 rules adopted under this subsection (i). The adoption of
8 emergency rules authorized by this subsection (i) shall be
9 deemed to be necessary for the public interest, safety, and
10 welfare.

11 (j) In order to provide for the expeditious and timely
12 implementation of the provisions of the State's fiscal year
13 2005 budget as provided under the Fiscal Year 2005 Budget
14 Implementation (Human Services) Act, emergency rules to
15 implement any provision of the Fiscal Year 2005 Budget
16 Implementation (Human Services) Act may be adopted in
17 accordance with this Section by the agency charged with
18 administering that provision, except that the 24-month
19 limitation on the adoption of emergency rules and the
20 provisions of Sections 5-115 and 5-125 do not apply to rules
21 adopted under this subsection (j). The Department of Public
22 Aid may also adopt rules under this subsection (j) necessary
23 to administer the Illinois Public Aid Code and the Children's
24 Health Insurance Program Act. The adoption of emergency rules
25 authorized by this subsection (j) shall be deemed to be
26 necessary for the public interest, safety, and welfare.

1 (k) In order to provide for the expeditious and timely
2 implementation of the provisions of the State's fiscal year
3 2006 budget, emergency rules to implement any provision of
4 Public Act 94-48 or any other budget initiative for fiscal
5 year 2006 may be adopted in accordance with this Section by the
6 agency charged with administering that provision or
7 initiative, except that the 24-month limitation on the
8 adoption of emergency rules and the provisions of Sections
9 5-115 and 5-125 do not apply to rules adopted under this
10 subsection (k). The Department of Healthcare and Family
11 Services may also adopt rules under this subsection (k)
12 necessary to administer the Illinois Public Aid Code, the
13 Senior Citizens and Persons with Disabilities Property Tax
14 Relief Act, the Senior Citizens and Disabled Persons
15 Prescription Drug Discount Program Act (now the Illinois
16 Prescription Drug Discount Program Act), and the Children's
17 Health Insurance Program Act. The adoption of emergency rules
18 authorized by this subsection (k) shall be deemed to be
19 necessary for the public interest, safety, and welfare.

20 (l) In order to provide for the expeditious and timely
21 implementation of the provisions of the State's fiscal year
22 2007 budget, the Department of Healthcare and Family Services
23 may adopt emergency rules during fiscal year 2007, including
24 rules effective July 1, 2007, in accordance with this
25 subsection to the extent necessary to administer the
26 Department's responsibilities with respect to amendments to

1 the State plans and Illinois waivers approved by the federal
2 Centers for Medicare and Medicaid Services necessitated by the
3 requirements of Title XIX and Title XXI of the federal Social
4 Security Act. The adoption of emergency rules authorized by
5 this subsection (l) shall be deemed to be necessary for the
6 public interest, safety, and welfare.

7 (m) In order to provide for the expeditious and timely
8 implementation of the provisions of the State's fiscal year
9 2008 budget, the Department of Healthcare and Family Services
10 may adopt emergency rules during fiscal year 2008, including
11 rules effective July 1, 2008, in accordance with this
12 subsection to the extent necessary to administer the
13 Department's responsibilities with respect to amendments to
14 the State plans and Illinois waivers approved by the federal
15 Centers for Medicare and Medicaid Services necessitated by the
16 requirements of Title XIX and Title XXI of the federal Social
17 Security Act. The adoption of emergency rules authorized by
18 this subsection (m) shall be deemed to be necessary for the
19 public interest, safety, and welfare.

20 (n) In order to provide for the expeditious and timely
21 implementation of the provisions of the State's fiscal year
22 2010 budget, emergency rules to implement any provision of
23 Public Act 96-45 or any other budget initiative authorized by
24 the 96th General Assembly for fiscal year 2010 may be adopted
25 in accordance with this Section by the agency charged with
26 administering that provision or initiative. The adoption of

1 emergency rules authorized by this subsection (n) shall be
2 deemed to be necessary for the public interest, safety, and
3 welfare. The rulemaking authority granted in this subsection
4 (n) shall apply only to rules promulgated during Fiscal Year
5 2010.

6 (o) In order to provide for the expeditious and timely
7 implementation of the provisions of the State's fiscal year
8 2011 budget, emergency rules to implement any provision of
9 Public Act 96-958 or any other budget initiative authorized by
10 the 96th General Assembly for fiscal year 2011 may be adopted
11 in accordance with this Section by the agency charged with
12 administering that provision or initiative. The adoption of
13 emergency rules authorized by this subsection (o) is deemed to
14 be necessary for the public interest, safety, and welfare. The
15 rulemaking authority granted in this subsection (o) applies
16 only to rules promulgated on or after July 1, 2010 (the
17 effective date of Public Act 96-958) through June 30, 2011.

18 (p) In order to provide for the expeditious and timely
19 implementation of the provisions of Public Act 97-689,
20 emergency rules to implement any provision of Public Act
21 97-689 may be adopted in accordance with this subsection (p)
22 by the agency charged with administering that provision or
23 initiative. The 150-day limitation of the effective period of
24 emergency rules does not apply to rules adopted under this
25 subsection (p), and the effective period may continue through
26 June 30, 2013. The 24-month limitation on the adoption of

1 emergency rules does not apply to rules adopted under this
2 subsection (p). The adoption of emergency rules authorized by
3 this subsection (p) is deemed to be necessary for the public
4 interest, safety, and welfare.

5 (q) In order to provide for the expeditious and timely
6 implementation of the provisions of Articles 7, 8, 9, 11, and
7 12 of Public Act 98-104, emergency rules to implement any
8 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
9 may be adopted in accordance with this subsection (q) by the
10 agency charged with administering that provision or
11 initiative. The 24-month limitation on the adoption of
12 emergency rules does not apply to rules adopted under this
13 subsection (q). The adoption of emergency rules authorized by
14 this subsection (q) is deemed to be necessary for the public
15 interest, safety, and welfare.

16 (r) In order to provide for the expeditious and timely
17 implementation of the provisions of Public Act 98-651,
18 emergency rules to implement Public Act 98-651 may be adopted
19 in accordance with this subsection (r) by the Department of
20 Healthcare and Family Services. The 24-month limitation on the
21 adoption of emergency rules does not apply to rules adopted
22 under this subsection (r). The adoption of emergency rules
23 authorized by this subsection (r) is deemed to be necessary
24 for the public interest, safety, and welfare.

25 (s) In order to provide for the expeditious and timely
26 implementation of the provisions of Sections 5-5b.1 and 5A-2

1 of the Illinois Public Aid Code, emergency rules to implement
2 any provision of Section 5-5b.1 or Section 5A-2 of the
3 Illinois Public Aid Code may be adopted in accordance with
4 this subsection (s) by the Department of Healthcare and Family
5 Services. The rulemaking authority granted in this subsection
6 (s) shall apply only to those rules adopted prior to July 1,
7 2015. Notwithstanding any other provision of this Section, any
8 emergency rule adopted under this subsection (s) shall only
9 apply to payments made for State fiscal year 2015. The
10 adoption of emergency rules authorized by this subsection (s)
11 is deemed to be necessary for the public interest, safety, and
12 welfare.

13 (t) In order to provide for the expeditious and timely
14 implementation of the provisions of Article II of Public Act
15 99-6, emergency rules to implement the changes made by Article
16 II of Public Act 99-6 to the Emergency Telephone System Act may
17 be adopted in accordance with this subsection (t) by the
18 Department of State Police. The rulemaking authority granted
19 in this subsection (t) shall apply only to those rules adopted
20 prior to July 1, 2016. The 24-month limitation on the adoption
21 of emergency rules does not apply to rules adopted under this
22 subsection (t). The adoption of emergency rules authorized by
23 this subsection (t) is deemed to be necessary for the public
24 interest, safety, and welfare.

25 (u) In order to provide for the expeditious and timely
26 implementation of the provisions of the Burn Victims Relief

1 Act, emergency rules to implement any provision of the Act may
2 be adopted in accordance with this subsection (u) by the
3 Department of Insurance. The rulemaking authority granted in
4 this subsection (u) shall apply only to those rules adopted
5 prior to December 31, 2015. The adoption of emergency rules
6 authorized by this subsection (u) is deemed to be necessary
7 for the public interest, safety, and welfare.

8 (v) In order to provide for the expeditious and timely
9 implementation of the provisions of Public Act 99-516,
10 emergency rules to implement Public Act 99-516 may be adopted
11 in accordance with this subsection (v) by the Department of
12 Healthcare and Family Services. The 24-month limitation on the
13 adoption of emergency rules does not apply to rules adopted
14 under this subsection (v). The adoption of emergency rules
15 authorized by this subsection (v) is deemed to be necessary
16 for the public interest, safety, and welfare.

17 (w) In order to provide for the expeditious and timely
18 implementation of the provisions of Public Act 99-796,
19 emergency rules to implement the changes made by Public Act
20 99-796 may be adopted in accordance with this subsection (w)
21 by the Adjutant General. The adoption of emergency rules
22 authorized by this subsection (w) is deemed to be necessary
23 for the public interest, safety, and welfare.

24 (x) In order to provide for the expeditious and timely
25 implementation of the provisions of Public Act 99-906,
26 emergency rules to implement subsection (i) of Section

1 16-115D, subsection (g) of Section 16-128A, and subsection (a)
2 of Section 16-128B of the Public Utilities Act may be adopted
3 in accordance with this subsection (x) by the Illinois
4 Commerce Commission. The rulemaking authority granted in this
5 subsection (x) shall apply only to those rules adopted within
6 180 days after June 1, 2017 (the effective date of Public Act
7 99-906). The adoption of emergency rules authorized by this
8 subsection (x) is deemed to be necessary for the public
9 interest, safety, and welfare.

10 (y) In order to provide for the expeditious and timely
11 implementation of the provisions of Public Act 100-23,
12 emergency rules to implement the changes made by Public Act
13 100-23 to Section 4.02 of the Illinois Act on the Aging,
14 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
15 Section 55-30 of the Alcoholism and Other Drug Abuse and
16 Dependency Act, and Sections 74 and 75 of the Mental Health and
17 Developmental Disabilities Administrative Act may be adopted
18 in accordance with this subsection (y) by the respective
19 Department. The adoption of emergency rules authorized by this
20 subsection (y) is deemed to be necessary for the public
21 interest, safety, and welfare.

22 (z) In order to provide for the expeditious and timely
23 implementation of the provisions of Public Act 100-554,
24 emergency rules to implement the changes made by Public Act
25 100-554 to Section 4.7 of the Lobbyist Registration Act may be
26 adopted in accordance with this subsection (z) by the

1 Secretary of State. The adoption of emergency rules authorized
2 by this subsection (z) is deemed to be necessary for the public
3 interest, safety, and welfare.

4 (aa) In order to provide for the expeditious and timely
5 initial implementation of the changes made to Articles 5, 5A,
6 12, and 14 of the Illinois Public Aid Code under the provisions
7 of Public Act 100-581, the Department of Healthcare and Family
8 Services may adopt emergency rules in accordance with this
9 subsection (aa). The 24-month limitation on the adoption of
10 emergency rules does not apply to rules to initially implement
11 the changes made to Articles 5, 5A, 12, and 14 of the Illinois
12 Public Aid Code adopted under this subsection (aa). The
13 adoption of emergency rules authorized by this subsection (aa)
14 is deemed to be necessary for the public interest, safety, and
15 welfare.

16 (bb) In order to provide for the expeditious and timely
17 implementation of the provisions of Public Act 100-587,
18 emergency rules to implement the changes made by Public Act
19 100-587 to Section 4.02 of the Illinois Act on the Aging,
20 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
21 subsection (b) of Section 55-30 of the Alcoholism and Other
22 Drug Abuse and Dependency Act, Section 5-104 of the
23 Specialized Mental Health Rehabilitation Act of 2013, and
24 Section 75 and subsection (b) of Section 74 of the Mental
25 Health and Developmental Disabilities Administrative Act may
26 be adopted in accordance with this subsection (bb) by the

1 respective Department. The adoption of emergency rules
2 authorized by this subsection (bb) is deemed to be necessary
3 for the public interest, safety, and welfare.

4 (cc) In order to provide for the expeditious and timely
5 implementation of the provisions of Public Act 100-587,
6 emergency rules may be adopted in accordance with this
7 subsection (cc) to implement the changes made by Public Act
8 100-587 to: Sections 14-147.5 and 14-147.6 of the Illinois
9 Pension Code by the Board created under Article 14 of the Code;
10 Sections 15-185.5 and 15-185.6 of the Illinois Pension Code by
11 the Board created under Article 15 of the Code; and Sections
12 16-190.5 and 16-190.6 of the Illinois Pension Code by the
13 Board created under Article 16 of the Code. The adoption of
14 emergency rules authorized by this subsection (cc) is deemed
15 to be necessary for the public interest, safety, and welfare.

16 (dd) In order to provide for the expeditious and timely
17 implementation of the provisions of Public Act 100-864,
18 emergency rules to implement the changes made by Public Act
19 100-864 to Section 3.35 of the Newborn Metabolic Screening Act
20 may be adopted in accordance with this subsection (dd) by the
21 Secretary of State. The adoption of emergency rules authorized
22 by this subsection (dd) is deemed to be necessary for the
23 public interest, safety, and welfare.

24 (ee) In order to provide for the expeditious and timely
25 implementation of the provisions of Public Act 100-1172,
26 emergency rules implementing the Illinois Underground Natural

1 Gas Storage Safety Act may be adopted in accordance with this
2 subsection by the Department of Natural Resources. The
3 adoption of emergency rules authorized by this subsection is
4 deemed to be necessary for the public interest, safety, and
5 welfare.

6 (ff) In order to provide for the expeditious and timely
7 initial implementation of the changes made to Articles 5A and
8 14 of the Illinois Public Aid Code under the provisions of
9 Public Act 100-1181, the Department of Healthcare and Family
10 Services may on a one-time-only basis adopt emergency rules in
11 accordance with this subsection (ff). The 24-month limitation
12 on the adoption of emergency rules does not apply to rules to
13 initially implement the changes made to Articles 5A and 14 of
14 the Illinois Public Aid Code adopted under this subsection
15 (ff). The adoption of emergency rules authorized by this
16 subsection (ff) is deemed to be necessary for the public
17 interest, safety, and welfare.

18 (gg) In order to provide for the expeditious and timely
19 implementation of the provisions of Public Act 101-1,
20 emergency rules may be adopted by the Department of Labor in
21 accordance with this subsection (gg) to implement the changes
22 made by Public Act 101-1 to the Minimum Wage Law. The adoption
23 of emergency rules authorized by this subsection (gg) is
24 deemed to be necessary for the public interest, safety, and
25 welfare.

26 (hh) In order to provide for the expeditious and timely

1 implementation of the provisions of Public Act 101-10,
2 emergency rules may be adopted in accordance with this
3 subsection (hh) to implement the changes made by Public Act
4 101-10 to subsection (j) of Section 5-5.2 of the Illinois
5 Public Aid Code. The adoption of emergency rules authorized by
6 this subsection (hh) is deemed to be necessary for the public
7 interest, safety, and welfare.

8 (ii) In order to provide for the expeditious and timely
9 implementation of the provisions of Public Act 101-10,
10 emergency rules to implement the changes made by Public Act
11 101-10 to Sections 5-5.4 and 5-5.4i of the Illinois Public Aid
12 Code may be adopted in accordance with this subsection (ii) by
13 the Department of Public Health. The adoption of emergency
14 rules authorized by this subsection (ii) is deemed to be
15 necessary for the public interest, safety, and welfare.

16 (jj) In order to provide for the expeditious and timely
17 implementation of the provisions of Public Act 101-10,
18 emergency rules to implement the changes made by Public Act
19 101-10 to Section 74 of the Mental Health and Developmental
20 Disabilities Administrative Act may be adopted in accordance
21 with this subsection (jj) by the Department of Human Services.
22 The adoption of emergency rules authorized by this subsection
23 (jj) is deemed to be necessary for the public interest,
24 safety, and welfare.

25 (kk) In order to provide for the expeditious and timely
26 implementation of the Cannabis Regulation and Tax Act and

1 Public Act 101-27, the Department of Revenue, the Department
2 of Public Health, the Department of Agriculture, the
3 Department of State Police, and the Department of Financial
4 and Professional Regulation may adopt emergency rules in
5 accordance with this subsection (kk). The rulemaking authority
6 granted in this subsection (kk) shall apply only to rules
7 adopted before December 31, 2021. Notwithstanding the
8 provisions of subsection (c), emergency rules adopted under
9 this subsection (kk) shall be effective for 180 days. The
10 adoption of emergency rules authorized by this subsection (kk)
11 is deemed to be necessary for the public interest, safety, and
12 welfare.

13 (ll) In order to provide for the expeditious and timely
14 implementation of the provisions of the Leveling the Playing
15 Field for Illinois Retail Act, emergency rules may be adopted
16 in accordance with this subsection (ll) to implement the
17 changes made by the Leveling the Playing Field for Illinois
18 Retail Act. The adoption of emergency rules authorized by this
19 subsection (ll) is deemed to be necessary for the public
20 interest, safety, and welfare.

21 (mm) In order to provide for the expeditious and timely
22 implementation of the provisions of Section 25-70 of the
23 Sports Wagering Act, emergency rules to implement Section
24 25-70 of the Sports Wagering Act may be adopted in accordance
25 with this subsection (mm) by the Department of the Lottery as
26 provided in the Sports Wagering Act. The adoption of emergency

1 rules authorized by this subsection (mm) is deemed to be
2 necessary for the public interest, safety, and welfare.

3 (nn) In order to provide for the expeditious and timely
4 implementation of the Sports Wagering Act, emergency rules to
5 implement the Sports Wagering Act may be adopted in accordance
6 with this subsection (nn) by the Illinois Gaming Board. The
7 adoption of emergency rules authorized by this subsection (nn)
8 is deemed to be necessary for the public interest, safety, and
9 welfare.

10 (oo) In order to provide for the expeditious and timely
11 implementation of the provisions of subsection (c) of Section
12 20 of the Video Gaming Act, emergency rules to implement the
13 provisions of subsection (c) of Section 20 of the Video Gaming
14 Act may be adopted in accordance with this subsection (oo) by
15 the Illinois Gaming Board. The adoption of emergency rules
16 authorized by this subsection (oo) is deemed to be necessary
17 for the public interest, safety, and welfare.

18 (pp) In order to provide for the expeditious and timely
19 implementation of the provisions of Section 50 of the Sexual
20 Assault Evidence Submission Act, emergency rules to implement
21 Section 50 of the Sexual Assault Evidence Submission Act may
22 be adopted in accordance with this subsection (pp) by the
23 Department of State Police. The adoption of emergency rules
24 authorized by this subsection (pp) is deemed to be necessary
25 for the public interest, safety, and welfare.

26 (qq) In order to provide for the expeditious and timely

1 implementation of the provisions of the Illinois Works Jobs
2 Program Act, emergency rules may be adopted in accordance with
3 this subsection (qq) to implement the Illinois Works Jobs
4 Program Act. The adoption of emergency rules authorized by
5 this subsection (qq) is deemed to be necessary for the public
6 interest, safety, and welfare.

7 (rr) In order to provide for the expeditious and timely
8 implementation of the provisions of subsection (c) of Section
9 2-3.130 of the School Code, emergency rules to implement
10 subsection (c) of Section 2-3.130 of the School Code may be
11 adopted in accordance with this subsection (rr) by the State
12 Board of Education. The adoption of emergency rules authorized
13 by this subsection (rr) is deemed to be necessary for the
14 public interest, safety, and welfare.

15 (Source: P.A. 100-23, eff. 7-6-17; 100-554, eff. 11-16-17;
16 100-581, eff. 3-12-18; 100-587, Article 95, Section 95-5, eff.
17 6-4-18; 100-587, Article 110, Section 110-5, eff. 6-4-18;
18 100-864, eff. 8-14-18; 100-1172, eff. 1-4-19; 100-1181, eff.
19 3-8-19; 101-1, eff. 2-19-19; 101-10, Article 20, Section 20-5,
20 eff. 6-5-19; 101-10, Article 35, Section 35-5, eff. 6-5-19;
21 101-27, eff. 6-25-19; 101-31, Article 15, Section 15-5, eff.
22 6-28-19; 101-31, Article 25, Section 25-900, eff. 6-28-19;
23 101-31, Article 35, Section 35-3, eff. 6-28-19; 101-377, eff.
24 8-16-19; 101-601, eff. 12-10-19.)

25 Section 10. The School Code is amended by changing

1 Sections 2-3.130, 10-20.33, and 34-18.20 as follows:

2 (105 ILCS 5/2-3.130)

3 Sec. 2-3.130. Isolated time out, time ~~Time~~ out, and
4 physical restraint rules; grant program; third-party
5 assistance; goals and plans.

6 (a) For purposes of this Section, "isolated time out",
7 "physical restraint", and "time out" have the meanings given
8 to those terms under Section 10-20.33.

9 (b) The State Board of Education shall promulgate rules
10 governing the use of isolated time out, time out, and physical
11 restraint in ~~the~~ public schools and special education
12 nonpublic facilities under Section 14-7.02 of this Code. The
13 rules shall include provisions governing the documentation and
14 reporting ~~recordkeeping~~ that is required each time these
15 interventions ~~when physical restraint or more restrictive~~
16 forms of time out are used.

17 The rules adopted by the State Board shall include a
18 procedure by which a person who believes a violation of
19 Section 10-20.33 or 34-18.20 has occurred may file a
20 complaint. The rules adopted by the State Board shall include
21 training requirements that must be included in training
22 programs used to train and certify school personnel.

23 The State Board shall establish procedures for progressive
24 enforcement actions to ensure that schools fully comply with
25 the documentation and reporting requirements for isolated time

1 out, time out, and physical restraint established by rule,
2 which shall include meaningful and appropriate sanctions for
3 the failure to comply, including the failure to report to the
4 parent or guardian and to the State Board, the failure to
5 timely report, and the failure to provide detailed
6 documentation.

7 (c) Subject to appropriation, the State Board shall, by
8 adoption of emergency rules under subsection (rr) of Section
9 5-45 of the Illinois Administrative Procedure Act if it so
10 chooses, create a grant program for school districts, special
11 education nonpublic facilities under Section 14-7.02 of this
12 Code, and special education cooperatives to implement
13 school-wide, culturally sensitive, and trauma-informed
14 practices, positive behavioral interventions and supports, and
15 restorative practices within a multi-tiered system of support
16 aimed at reducing the need for interventions, such as isolated
17 time out, time out, and physical restraint.

18 (d) Subject to the Illinois Procurement Code, the Illinois
19 School Student Records Act, the Mental Health and
20 Developmental Disabilities Confidentiality Act, and the
21 federal Family Educational Rights and Privacy Act of 1974, the
22 State Board may contract with a third party to provide
23 assistance with the oversight and monitoring of the use of
24 isolated time out, time out, and physical restraint by school
25 districts.

26 (e) The State Board shall establish goals within 90 days

1 after the effective date of this amendatory Act of the 102nd
2 General Assembly, with specific benchmarks, for schools to
3 accomplish the systemic reduction of isolated time out, time
4 out, and physical restraint within 3 years after the effective
5 date of this amendatory Act of the 102nd General Assembly. The
6 State Board shall engage in meaningful consultation with
7 stakeholders to establish the goals, including in the review
8 and evaluation of the data submitted. Each school board shall
9 create a time out and physical restraint oversight team that
10 includes, but is not limited to, teachers, paraprofessionals,
11 school service personnel, and administrators to develop (i) a
12 school-specific plan for reducing and eventually eliminating
13 the use of isolated time out, time out, and physical restraint
14 in accordance with the goals and benchmarks established by the
15 State Board and (ii) procedures to implement the plan
16 developed by the team.

17 The progress toward the reduction and eventual elimination
18 of the use of isolated time out and physical restraint shall be
19 measured by the reduction in the overall number of incidents
20 of those interventions and the total number of students
21 subjected to those interventions. In limited cases, upon
22 written application made by a school district and approved by
23 the State Board based on criteria developed by the State Board
24 to show good cause, the reduction in the use of those
25 interventions may be measured by the frequency of the use of
26 those interventions on individual students and the student

1 population as a whole. The State Board shall specify a date for
2 submission of the plans. School districts shall submit a
3 report once each year for 3 years after the effective date of
4 this amendatory Act of the 102nd General Assembly to the State
5 Board on the progress made toward achieving the goals and
6 benchmarks established by the State Board and modify their
7 plans as necessary to satisfy those goals and benchmarks.
8 School districts shall notify parents and guardians that the
9 plans and reports are available for review. On or before June
10 30, 2023, the State Board shall issue a report to the General
11 Assembly on the progress made by schools to achieve those
12 goals and benchmarks. The required plans shall include, but
13 not be limited to, the specific actions that are to be taken
14 to:

15 (1) reduce and eventually eliminate a reliance on
16 isolated time out, time out, and physical restraint for
17 behavioral interventions and develop noncoercive
18 environments;

19 (2) develop individualized student plans that are
20 oriented toward prevention of the use of isolated time
21 out, time out, and physical restraint with the intent that
22 a plan be separate and apart from a student's
23 individualized education program or a student's plan for
24 services under Section 504 of the federal Rehabilitation
25 Act of 1973;

26 (3) ensure that appropriate school personnel are fully

1 informed of the student's history, including any history
2 of physical or sexual abuse, and other relevant medical
3 and mental health information, except that any disclosure
4 of student information must be consistent with federal and
5 State laws and rules governing student confidentiality and
6 privacy rights; and

7 (4) support a vision for cultural change that
8 reinforces the following:

9 (A) positive behavioral interventions and support
10 rather than isolated time out, time out, and physical
11 restraint;

12 (B) effective ways to de-escalate situations to
13 avoid isolated time out, time out, and physical
14 restraint;

15 (C) crisis intervention techniques that use
16 alternatives to isolated time out, time out, and
17 physical restraint; and

18 (D) use of debriefing meetings to reassess what
19 occurred and why it occurred and to think through ways
20 to prevent use of the intervention the next time.

21 (f) A school is exempt from the requirement to submit a
22 plan and the annual reports under subsection (e) if the school
23 is able to demonstrate to the satisfaction of the State Board
24 that (i) within the previous 3 years, the school district has
25 never engaged in the use of isolated time out, time out, or
26 physical restraint and (ii) the school has adopted a written

1 policy that prohibits the use isolated time out, time out, and
2 physical restraint on a student and is able to demonstrate the
3 enforcement of that policy.

4 (g) The State Board shall establish a system of ongoing
5 review, auditing, and monitoring to ensure that schools comply
6 with the documentation and reporting requirements and meet the
7 State Board's established goals and benchmarks for reducing
8 and eventually eliminating the use of isolated time out, time
9 out, and physical restraint.

10 (Source: P.A. 91-600, eff. 8-14-99; 92-16, eff. 6-28-01.)

11 (105 ILCS 5/10-20.33)

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

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

23 (b) In this Section:

24 "Chemical restraint" means the use of medication to
25 control a student's behavior or to restrict a student's

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

5 "Isolated time out" means the involuntary confinement of a
6 student alone in a time out room or other enclosure outside of
7 the classroom without a supervising adult in the time out room
8 or enclosure.

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

17 "Mechanical restraint" means the use of any device or
18 equipment to limit a student's movement or to hold a student
19 immobile. "Mechanical restraint" does not include any
20 restraint used to (i) treat a student's medical needs; (ii)
21 protect a student who is known to be at risk of injury
22 resulting from a lack of coordination or frequent loss of
23 consciousness; (iii) position a student with physical
24 disabilities in a manner specified in the student's
25 individualized education program, federal Section 504 plan, or
26 other plan of care; (iv) provide a supplementary aid, service,

1 or accommodation, including, but not limited to, assistive
2 technology that provides proprioceptive input or aids in
3 self-regulation; or (v) promote student safety in vehicles
4 used to transport students.

5 "Physical restraint" or "restraint" means holding a
6 student or otherwise restricting a student's movements.

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

14 "Prone physical restraint" means a physical restraint in
15 which a student is held face down on the floor or other surface
16 and physical pressure is applied to the student's body to keep
17 the student in the prone position.

18 "Time out" means a behavior management technique for the
19 purpose of calming or de-escalation that involves the
20 involuntary monitored separation of a student from classmates
21 with a trained adult for part of the school day, only for a
22 brief time, in a nonlocked setting.

23 (c) Isolated time out, time out, and physical restraint,
24 other than prone physical restraint, may be used only if (i)
25 the student's behavior presents an imminent danger of serious
26 physical harm to the student or to others; (ii) other less

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

15 Mechanical restraint and chemical restraint are
16 prohibited. Prone restraint is prohibited except in special
17 education nonpublic facilities under Section 14-7.02 of this
18 Code when all of the following conditions are satisfied:

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

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

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

25 (4) The school staff member or staff members applying
26 the use of prone restraint on a student have been trained

1 in its safe application as established by rule by the
2 State Board of Education.

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

7 (6) The use of prone restraint occurs within the
8 2021-2022 or 2022-2023 school year.

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

15 (d) ~~The Until rules are adopted under Section 2-3.130 of~~
16 ~~this Code, the~~ use of any of the following rooms or enclosures
17 for an isolated time out or time out purposes is prohibited:

18 (1) a locked room or a room in which the door is
19 obstructed, prohibiting it from opening ~~other than one~~
20 ~~with a locking mechanism that engages only when a key or~~
21 ~~handle is being held by a person;~~

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

23 (3) a room where the student cannot be continually
24 observed; or

25 (4) any other room or enclosure or time out procedure
26 that is contrary to current rules adopted by ~~guidelines of~~

1 the State Board of Education.

2 (e) The deprivation of necessities needed to sustain the
3 health of a person, including, without limitation, the denial
4 or unreasonable delay in the provision of the following, is
5 prohibited:

6 (1) food or liquid at a time when it is customarily
7 served;

8 (2) medication; or

9 (3) the use of a restroom.

10 (f) (Blank). The use of physical restraints is prohibited
11 except when (i) the student poses a physical risk to himself,
12 herself, or others, (ii) there is no medical contraindication
13 to its use, and (iii) the staff applying the restraint have
14 been trained in its safe application. For the purposes of this
15 Section, "restraint" does not include momentary periods of
16 physical restriction by direct person to person contact,
17 without the aid of material or mechanical devices,
18 accomplished with limited force and that are designed (i) to
19 prevent a student from completing an act that would result in
20 potential physical harm to himself, herself, or another or
21 damage to property or (ii) to remove a disruptive student who
22 is unwilling to voluntarily leave the area. The use of
23 physical restraints that meet the requirements of this Section
24 may be included in a student's individualized education plan
25 where deemed appropriate by the student's individualized
26 education plan team.

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

17 The meeting shall include the student, if appropriate, at
18 least one school staff member involved in the incident of
19 isolated time out, time out, or physical restraint, the
20 student's parent or guardian, and at least one appropriate
21 school staff member not involved in the incident of isolated
22 time out, time out, or physical restraint, such as a social
23 worker, psychologist, nurse, or behavioral specialist. During
24 the meeting, the school staff member or members involved in
25 the incident of isolated time out, time out, or physical
26 restraint, the student, and the student's parent or guardian,

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

19 A summary of the meeting and any agreements or conclusions
20 reached during the meeting shall be documented in writing and
21 shall become part of the student's school record. A copy of the
22 documents shall be provided to the student's parent or
23 guardian. If a parent or guardian does not request a meeting
24 within 10 school days after the school has provided the
25 documents to the parent or guardian or if a parent or guardian
26 fails to attend a requested meeting, that fact shall be

1 documented as part of the student's school record.

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

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

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

26 (2) information about the rights of parents,

1 guardians, and students; and

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

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

10 (Source: P.A. 91-600, eff. 8-14-99; 92-16, eff. 6-28-01.)

11 (105 ILCS 5/34-18.20)

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

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

23 (b) In this Section:

24 "Chemical restraint" means the use of medication to
25 control a student's behavior or to restrict a student's

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

5 "Isolated time out" means the involuntary confinement of a
6 student alone in a time out room or other enclosure outside of
7 the classroom without a supervising adult in the time out room
8 or enclosure.

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

17 "Mechanical restraint" means the use of any device or
18 equipment to limit a student's movement or to hold a student
19 immobile. "Mechanical restraint" does not include any
20 restraint used to (i) treat a student's medical needs; (ii)
21 protect a student who is known to be at risk of injury
22 resulting from a lack of coordination or frequent loss of
23 consciousness; (iii) position a student with physical
24 disabilities in a manner specified in the student's
25 individualized education program, federal Section 504 plan, or
26 other plan of care; (iv) provide a supplementary aid, service,

1 or accommodation, including, but not limited to, assistive
2 technology that provides proprioceptive input or aids in
3 self-regulation; or (v) promote student safety in vehicles
4 used to transport students.

5 "Physical restraint" or "restraint" means holding a
6 student or otherwise restricting a student's movements.

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

14 "Prone physical restraint" means a physical restraint in
15 which a student is held face down on the floor or other surface
16 and physical pressure is applied to the student's body to keep
17 the student in the prone position.

18 "Time out" means a behavior management technique for the
19 purpose of calming or de-escalation that involves the
20 involuntary monitored separation of a student from classmates
21 with a trained adult for part of the school day, only for a
22 brief time, in a nonlocked setting.

23 (c) Isolated time out, time out, and physical restraint,
24 other than prone physical restraint, may be used only if (i)
25 the student's behavior presents an imminent danger of serious
26 physical harm to the student or to others; (ii) other less

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

15 Mechanical restraint and chemical restraint are
16 prohibited. Prone restraint is prohibited except in special
17 education nonpublic facilities under Section 14-7.02 of this
18 Code when all of the following conditions are satisfied:

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

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

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

25 (4) The school staff member or staff members applying
26 the use of prone restraint on a student have been trained

1 in its safe application as established by rule by the
2 State Board of Education.

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

7 (6) The use of prone restraint occurs within the
8 2021-2022 or 2022-2023 school year.

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

15 (d) ~~The Until rules are adopted under Section 2-3.130 of~~
16 ~~this Code,~~ the use of any of the following rooms or enclosures
17 for an isolated time out or time out purposes is prohibited:

18 (1) a locked room or a room in which the door is
19 obstructed, prohibiting it from opening ~~other than one~~
20 ~~with a locking mechanism that engages only when a key or~~
21 ~~handle is being held by a person;~~

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

23 (3) a room where the student cannot be continually
24 observed; or

25 (4) any other room or enclosure or time out procedure
26 that is contrary to current rules adopted by ~~guidelines of~~

1 the State Board of Education.

2 (e) The deprivation of necessities needed to sustain the
3 health of a person, including, without limitation, the denial
4 or unreasonable delay in the provision of the following, is
5 prohibited:

6 (1) food or liquid at a time when it is customarily
7 served;

8 (2) medication; or

9 (3) the use of a restroom.

10 (f) (Blank). The use of physical restraints is prohibited
11 except when (i) the student poses a physical risk to himself,
12 herself, or others, (ii) there is no medical contraindication
13 to its use, and (iii) the staff applying the restraint have
14 been trained in its safe application. For the purposes of this
15 Section, "restraint" does not include momentary periods of
16 physical restriction by direct person to person contact,
17 without the aid of material or mechanical devices,
18 accomplished with limited force and that are designed (i) to
19 prevent a student from completing an act that would result in
20 potential physical harm to himself, herself, or another or
21 damage to property or (ii) to remove a disruptive student who
22 is unwilling to voluntarily leave the area. The use of
23 physical restraints that meet the requirements of this Section
24 may be included in a student's individualized education plan
25 where deemed appropriate by the student's individualized
26 education plan team.

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

17 The meeting shall include the student, if appropriate, at
18 least one school staff member involved in the incident of
19 isolated time out, time out, or physical restraint, the
20 student's parent or guardian, and at least one appropriate
21 school staff member not involved in the incident of isolated
22 time out, time out, or physical restraint, such as a social
23 worker, psychologist, nurse, or behavioral specialist. During
24 the meeting, the school staff member or members involved in
25 the incident of isolated time out, time out, or physical
26 restraint, the student, and the student's parent or guardian,

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

19 A summary of the meeting and any agreements or conclusions
20 reached during the meeting shall be documented in writing and
21 shall become part of the student's school record. A copy of the
22 documents shall be provided to the student's parent or
23 guardian. If a parent or guardian does not request a meeting
24 within 10 school days after the school has provided the
25 documents to the parent or guardian or if a parent or guardian
26 fails to attend a requested meeting, that fact shall be

1 documented as part of the student's school record.

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

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

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

26 (2) information about the rights of parents,

1 guardians, and students; and

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

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

10 (Source: P.A. 91-600, eff. 8-14-99; 92-16, eff. 6-28-01.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."