

AMENDMENTS TO LB529

(Amendments to Standing Committee amendments, AM495)

Introduced by Murman, 38.

1           1. Insert the following new sections:

2           Sec. 7. (1) Beginning with school year 2022-23, administrative,  
3 teaching, and other school personnel may utilize an emergency safety  
4 intervention as provided in subsection (3) of this section.

5           (2) An emergency safety intervention shall be performed in a manner  
6 that is safe, proportionate, and appropriate to the severity of the  
7 behavior; the student's chronological and developmental age, size, sex,  
8 and physical, medical, and psychiatric condition, if known; and the  
9 student's personal history, including any history of physical or sexual  
10 abuse, if known. If possible, efforts to de-escalate the situation shall  
11 occur prior to an emergency safety intervention.

12           (3) An emergency safety intervention does not include any physical  
13 action that is intended to cause bodily pain or to punish a student. An  
14 emergency safety intervention shall be used only:

15           (a) To protect persons from harm or secure property if such action  
16 may protect a student, school personnel, or other person from imminent  
17 serious physical injury;

18           (b) To ensure the safety of the student or others during an  
19 emergency safety situation;

20           (c) Until the emergency safety situation has ceased and the  
21 student's safety and the safety of others can be ensured; and

22           (d) With the least amount of force necessary to protect the student  
23 or others from imminent serious physical injury.

24           (4) Each school district shall adopt a policy regarding the use of  
25 an emergency safety intervention pursuant to this section that adheres to  
26 the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400

1 et seq., and section 504 of the Rehabilitation Act of 1973, 29 U.S.C.  
2 794. Such policy shall include training requirements relating to the use  
3 of an emergency safety intervention. The State Department of Education  
4 shall provide a guidance document that school districts may consider when  
5 adopting such policy.

6 (5) Following the use of an emergency safety intervention, school  
7 personnel shall, as soon as practicable, contact the parent or guardian  
8 of the student and notify such parent or guardian of the use of an  
9 emergency safety intervention.

10 (6)(a) No administrative, teaching, or other school personnel shall  
11 be subject to professional or administrative discipline for harm caused  
12 by an act or omission by such administrative, teaching, or other school  
13 personnel relating to the use of an emergency safety intervention  
14 pursuant to this section unless the harm was caused by (i) gross  
15 negligence, (ii) a conscious, flagrant indifference to the rights or  
16 safety of the individual who was harmed, or (iii) willful, criminal, or  
17 reckless misconduct, including misconduct (A) that constitutes a crime of  
18 violence, as defined by 18 U.S.C. 16, as such section existed on January  
19 1, 2021, (B) that involves a sexual offense listed in subdivision (1)(a)  
20 (i) of section 29-4003, (C) for which the administrative, teaching, or  
21 other school personnel has been found to have violated a federal or state  
22 civil rights law, or (D) that occurred while the administrative,  
23 teaching, or other school personnel was under the influence of alcoholic  
24 liquor or drugs.

25 (b) Nothing in this section shall be construed to limit any defense  
26 that may be available under any other provision of law, including, but  
27 not limited to, any defense relating to self-protection or the protection  
28 of others.

29 (7) For purposes of this section:

30 (a) Emergency safety intervention means physical intervention  
31 intended to hold a student immobile or limit a student's movement, where

1 body contact is the only source of physical restraint, and where  
2 immobilization is used to effectively gain control of a student in order  
3 to protect such student or other individual from physical injury as an  
4 immediate response to an emergency safety situation. Emergency safety  
5 intervention does not include physical contact that (i) helps a student  
6 respond or complete a task; (ii) assists a student without restricting  
7 the student's movement; (iii) is needed to administer an authorized  
8 health-related service or procedure; or (iv) is needed to physically  
9 escort a student when the student does not resist or the student's  
10 resistance is minimal;

11 (b) Emergency safety situation means a situation where immediate  
12 intervention is needed to protect a student or other individual from  
13 physical injury. Emergency safety situation does not mean a situation  
14 where a student does not respond to a task or request and instead places  
15 his or her head on a desk or hides under a desk or table; a student does  
16 not respond to a staff person's request unless failing to respond would  
17 result in physical injury to the student or other individual; or an  
18 emergency incident has already occurred and no threat of physical injury  
19 currently exists;

20 (c) Imminent serious physical injury means serious physical injury  
21 to a student or others occurring currently or highly likely to occur in  
22 the immediate future as the result of the student's behavior; and

23 (d) Serious physical injury means death, disfigurement, or  
24 protracted loss or impairment of the function of a bodily member or organ  
25 of a student or others.

26 Sec. 8. (1) For school year 2022-23 and each school year thereafter,  
27 each school district shall create and adopt a classroom removal policy  
28 including training requirements. The State Department of Education shall  
29 provide a guidance document that school districts may consider when  
30 adopting such policy. Each classroom removal policy shall:

31 (a) Describe when and how a teacher may request that a school

1 administrator remove from a classroom a student that is engaged in  
2 disruptive behavior and when such student may be returned to the  
3 classroom;

4 (b) Define appropriate behavioral interventions or supports that  
5 shall be implemented to aid a student's successful return to a classroom;  
6 and

7 (c) Require the return to the classroom as soon as possible, when it  
8 is deemed safe and in the best interest of the student.

9 (2) For purposes of this section, disruptive behavior means conduct  
10 of a student that is so unruly, disruptive, or abusive that it seriously  
11 interferes with a teacher's or school administrator's ability to  
12 communicate with the students in a classroom, with a student's ability to  
13 learn, or with the operation of a school or school-related activity.

14 (3) Except as prohibited by the federal Individuals with  
15 Disabilities Education Act, 20 U.S.C. 1400 et seq., related federal  
16 regulations, or any applicable individualized education plan established  
17 pursuant to such federal act, or by section 504 of the Rehabilitation Act  
18 of 1973, 29 U.S.C. 794, related federal regulations, or any applicable  
19 plan established pursuant to such federal act, if a teacher has requested  
20 that a school administrator remove a student from a classroom in  
21 compliance with the school district's classroom removal policy, a school  
22 administrator shall temporarily remove such student from such classroom.

23 (4) No school personnel shall be subject to administrative  
24 discipline for removing a student from a classroom or requesting such  
25 removal if such school personnel followed the school district's classroom  
26 removal policy.

27 2. On page 8, line 21, strike the second "and"; in line 31 strike  
28 the period and insert "; and"; and after line 31 insert the following new  
29 subdivision:

30 "(v) In addition to the preamble, training shall be provided on  
31 emergency safety intervention pursuant to section 7 of this act, on

1 classroom removal pursuant to section 8 of this act, and on the school  
2 district's policies under such sections."

3 3. On page 9, after line 17, insert the following new subdivision:

4 "(b) A school district or an approved or accredited private,  
5 denominational, or parochial school may annually apply to the Educational  
6 Service Unit Coordinating Council for a grant, and the council shall  
7 award a grant not to exceed six thousand five hundred dollars for any  
8 school year, to directly provide the district's or school's own  
9 behavioral awareness and intervention training."; and in line 18 strike  
10 "(b)" and insert "(c)".

11 4. On page 70, line 27, strike "35 to 59" and insert "37 to 61".

12 5. Renumber the remaining sections and correct internal references  
13 accordingly.