Introduction

History

a. Questions were brought forth in the Mental Health Field
   1. Hartford/Courier report
      1. 1998
      2. Resulted in the first GAO Report 1999
      3. Breakdown by state & Reasons for deaths statistically
      4. 40% of deaths occurred as a result of asphyxiation (others included
         strangulation, cardiac arrest, fire, drug overdose, blunt trauma,
         aspiration i.e. breathing vomit into lungs)
      5. Little if Few Standards
      6. Poor Staffing and training
      7. System without oversight
   2. GAO report of 1999
      1. Developmental Disability Assistance and Bill of Rights Act
         a. States receiving federal assistance must provide certain
            protection and advocacy systems for disabled individuals.
      2. Protection and Advocacy for Individuals with Mental Illness Act
         a. Requires states to establish designated P&A serves-charged
            with investigating reports of abuse/neglect
      3. Lack of Comprehensive reporting system to track data
      4. Lack of State Regulation (p. 3)
      5. Federal waivers applied for private facilities (p. 3)
      6. Agreement between advocates and providers
         a. Imminent risk of physical harm
      7. Suggestions for change
         a. Regulatory protections
         b. Reporting requirements
         c. Management commitment
         d. Training
         e. Incorporation of Fidelity checks
   2. Current GAO Report
      1. 2009 GAO Report & Hearing: Seclusion and Restraints Abuse at Public
         and Private Schools and Treatment Centers
         a. Three purposes: overview of federal and state law, verify
            allegations of student death and abuse from use of techniques
            are widespread, and examine the facts and circumstances.
         b. Restraint is defined as a manual method, physical or mechanical
            device, and material or equipment that immobilizes or reduces
            the ability of an individual to move arms, legs, body, or head
            freely.
         c. Seclusion is the involuntary confinement of an individual alone
            in a room or area from which the individual is physically
            prevented from leaving.
d. No Federal Law restricting use of seclusion in public and private schools.
   i. Children's Health Act of 2000 amended Title V of Public Health Service Act-regulates use of restraints and seclusion on residents of certain hospitals and health care facilities.

e. No Federal requirement for reporting or system for collecting data on incidents (possible use of chart p 2 GAO Report)

f. IDEA provides for inclusion of Restraint/Seclusion in the IEP

g. State Level regulations
   i. 19 have no regulations
   ii. Others have various regulations ranging from preclusions of restraint that impedes the child's breathing, annual reporting, various notification requirements, etc.

h. No determination was made that verifies allegations of death and abuse were widespread.
   i. Most of the allegations found were almost all disabled children.

i. Facts and circumstances had similar findings as the 1999 GAO report in Mental Health Facilities
   i. Common variables: lack of consent, facedown, or restraint that resulted in block airway, lack of training, continued employment after serious wrongful incident.

**Proposed Legislation**

**Implications for Illinois**

1. HR 201 Work Group
   a. Purpose
   i.
   b. Agency involvement

2. Illinois Rules
   a. General Guidelines
   2. School Boards must develop a policy that includes:
      1. Circumstance for use
      2. Written procedures
      3. Designation of a school based reviewer
      4. Process for evaluation of incidents resulting in serious injury
          a. Alternatives for Time Out when time limit has been exhausted
          b. Process for annual review
          c. Maintenance of disciplinary interventions used
      5. Review of Illinois Regulations ILCS 5/24-24
6. Defined as “means holding a student or otherwise restricting his or her movements”. Physical restraint includes the use of specific, planned techniques (e.g. the “basket hold” and “team control”).

7. Purpose: Student poses a physical risk to persons, there are no medical contraindications, and staff have been trained in safe application.

8. Restraint is designed to prevent a student from completing an act that would result in potential physical harm to persons or damage to property, or to remove a student who is unwilling to leave an area voluntarily.

9. May only be used as a means of maintaining discipline and only to the extent necessary to preserve the safety of students and others.

10. Only specific planned techniques are permitted.

11. The use of mechanical or chemical restraints are prohibited.

12. Shall take into consideration the safety and security of the student—shall not rely on pain as the intentional method of control.

13. Children whose primary mode of communication is sign language or other augmentative device the hands must be permitted to be free for brief periods unless such freedom is likely to result in harm to self or others.

14. Student must be released from Physical restraint immediately upon determination that student is no longer an imminent danger to self or others.

   a. Training
   b. Must include preventative techniques
   c. Alternatives to restraint
   d. De-escalation procedures
   e. Description of dangerous behaviors and methods for evaluating the risk of harm in individual situations.
   f. A simulated experience of administration
   g. Instruction regarding documentation
   h. Demonstration of proficiency
   i. Individuals are trained how to monitor for physical signs of distress
   j. Retraining must occur minimally every 2 years
   k. Schools must review the use of restraints annually

      i. Documentation
      ii. Must include: student’s name, date, beginning and ending times, description of relevant events leading up to the incident, description of any interventions used, description of incident (behaviorally specific), log of students behavior while involved in the incident, description of injuries (staff and students). List of all staff who participated, monitored, and/or supervised

      i. A description of the planned approach must be kept.
         i. Date parent notified & type of notification.
         ii. Notification of parents within 24 hours
         iii. Name of school official designated to review records.
iv. Documentation must occur by beginning of day after the episode

m. Time out rooms
i. Meet minimal size requirement-ceiling of not less than 8’ and minimal floor dimensions of 6’ x 6’
ii. Rooms must be free of materials that can cause harm.
iii. Doors must be steel or wood with solid core construction and unbreakable viewing panel
iv. An adult must remain within 2 feet and must be able to see the student at all times.
v. If locked mechanism, it must only be engaged when it is held in position by a person. If electronically engaged must automatically release if the building’s fire alarm system is activated.
vi. May not be longer than 30 minutes
vii. Parents notified
   1. Of the policy
   2. In writing within 24 hours after any use of TO or PR.
   3. Must include name, date, description of intervention used, and name of contact person with telephone number.

viii. School must review the use of isolated time out annually
   1. Documentation
      a. Same as physical restraint including

n. In cases where the Physical Restraint is longer than 15 minutes, and Time out exceeds 30 minutes, or there is repeated episodes over a period totaling three hours:
1. A certified staff person knowledgeable about the use of TO or PR shall evaluate the situation.
2. The evaluator shall consider the appropriateness of continuing the procedure in use, including student’s need for medication or nourishment and the need for an alternative strategy.
3. The results of the evaluation shall be committed to writing and copies of this documentation shall be placed in student’s temporary records.

o. In cases where the child has had more than 3 incidents of TO and/or PR the school personnel shall review the effectiveness of the procedures used and prepare an Individual behavior plan for the student that provides either for continued use of the interventions or for the use of other specified interventions.
   i. Review of Preventative Interventions
   ii. PBIS