

115TH CONGRESS  
2D SESSION

# S. 3626

To prohibit and prevent seclusion and to prevent and reduce the use of physical restraint in schools, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 14, 2018

Mr. MURPHY (for himself, Mrs. MURRAY, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To prohibit and prevent seclusion and to prevent and reduce the use of physical restraint in schools, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Keeping All Students Safe Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

- Sec. 5. Minimum standards; rules of construction.
- Sec. 6. State plan and report requirements and enforcement.
- Sec. 7. Grants for State educational agencies.
- Sec. 8. National assessment.
- Sec. 9. Protection and advocacy systems.
- Sec. 10. Applicability to private schools and home schools.
- Sec. 11. Authorization of appropriations.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Restraint and seclusion have resulted in se-  
 4 rious physical injury, psychological trauma, and  
 5 death to children in public and private schools. Na-  
 6 tional research shows students have been subjected  
 7 to restraint and seclusion in schools as a means of  
 8 discipline, to force compliance, or as a substitute for  
 9 appropriate educational and behavioral support.

10 (2) All children have the right to be free from  
 11 physical or mental abuse, aversive behavioral inter-  
 12 ventions that compromise health and safety, and any  
 13 restraint or seclusion imposed solely for purposes of  
 14 discipline or convenience.

15 (3) Safe, effective, evidence-based strategies are  
 16 available to support children who display challenging  
 17 behaviors in school settings. Training for staff fo-  
 18 cused on the dangers of restraint and seclusion as  
 19 well as training in evidence-based positive behavior  
 20 supports, de-escalation techniques, and physical re-  
 21 straint and seclusion prevention, can reduce the inci-  
 22 dence of injury, trauma, and death.

1           (4) School personnel have the right to work in  
2           a safe environment and should be provided training,  
3           resources, and support to prevent injury and trauma  
4           to themselves and others.

5           (5) Despite the widely recognized risks of re-  
6           straint and seclusion, a substantial disparity exists  
7           among many States and localities with regard to the  
8           protection and oversight of the rights of children  
9           and school personnel to a safe learning environment.

10          (6) Children are subjected to restraint and se-  
11          clusion at higher rates than adults. Physical re-  
12          straint which restricts breathing or causes other  
13          physical trauma, as well as seclusion in the absence  
14          of continuous face-to-face monitoring, have resulted  
15          in the deaths of children in schools.

16          (7) Children are protected from inappropriate  
17          restraint and the use of seclusion in other settings,  
18          such as hospitals, health facilities, and nonmedical  
19          community-based facilities. Similar protections are  
20          needed in schools, yet such protections must be es-  
21          tablished in a manner that acknowledges the dif-  
22          ferences of the school environment.

23          (8) Research confirms that restraint and seclu-  
24          sion are not therapeutic, nor are these practices ef-  
25          fective means to calm, discipline, or teach children.

1 Restraint and seclusion may have an opposite effect,  
2 while simultaneously decreasing a child’s ability to  
3 learn.

4 (9) The effective implementation of schoolwide  
5 positive behavior supports is linked to greater aca-  
6 demic achievement, significantly fewer disciplinary  
7 problems, increased instruction time, and staff per-  
8 ception of a safer teaching environment.

9 (10) The Every Student Succeeds Act (Public  
10 Law 114–95), a bipartisan reauthorization of the  
11 Elementary and Secondary Education Act of 1965  
12 (20 U.S.C. 6301 et seq.) passed in 2015, requires  
13 States to support local educational agencies in im-  
14 proving school conditions through reducing the use  
15 of aversive behavioral interventions. The report  
16 issued by the Committee on Health, Education,  
17 Labor, and Pensions of the Senate regarding the  
18 Every Student Succeeds Act described aversive be-  
19 havioral interventions as including seclusion and re-  
20 straint. There is bipartisan agreement that schools  
21 must reduce seclusion and restraint to improve  
22 school conditions for all children.

23 **SEC. 3. PURPOSES.**

24 The purposes of this Act are to—

25 (1) prohibit seclusion in schools;

1           (2) prevent seclusion, and prevent and reduce  
2 the use of physical restraint in schools;

3           (3) ensure the safety of all students and school  
4 personnel in schools and promote a positive school  
5 culture and climate;

6           (4) protect students from—

7                 (A) physical and mental abuse;

8                 (B) aversive behavioral interventions that  
9 compromise health and safety;

10                (C) any seclusion;

11                (D) any physical restraint imposed solely  
12 for purposes of discipline or convenience;

13                (E) physical restraint and physical escort  
14 that is known to be life-threatening, including  
15 physical restraint that restricts breathing; and

16                (F) physical restraint if contraindicated  
17 based on the student's disability, health care  
18 needs, or medical or psychiatric condition;

19           (5) ensure that physical restraint is imposed in  
20 school only when a student's behavior poses an im-  
21 mminent danger of serious physical injury to the stu-  
22 dent, school personnel, or others;

23           (6) ensure that—

24                 (A) parents are fully informed of the pro-  
25 hibitions and requirements of this Act;

1 (B) parents are fully informed of the poli-  
2 cies on restraint and seclusion of the applicable  
3 school, local educational agency, and the State;

4 (C) parents are notified when physical re-  
5 straint has been utilized on their child or chil-  
6 dren; and

7 (D) a meeting with parents occurs to dis-  
8 cuss any incident in which physical restraint is  
9 imposed on their child pursuant to section  
10 5(a)(6)(B); and

11 (7) assist States, local educational agencies,  
12 and schools in—

13 (A) establishing policies and procedures to  
14 keep all students, including students with the  
15 most complex and intensive behavioral needs,  
16 and school personnel safe;

17 (B) providing school personnel with the  
18 necessary tools, training, and support to ensure  
19 the safety of all students and school personnel;

20 (C) collecting and analyzing data on phys-  
21 ical restraint in schools; and

22 (D) identifying and implementing effective  
23 evidence-based models to prevent seclusion and  
24 reduce and prevent physical restraint in schools.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) **APPLICABLE PROGRAM.**—The term “appli-  
4 cable program” has the meaning given the term in  
5 section 400(c) of the General Education Provisions  
6 Act (20 U.S.C. 1221(c)).

7 (2) **CHEMICAL RESTRAINT.**—The term “chem-  
8 ical restraint” means a drug or medication used on  
9 a student to control behavior or restrict freedom of  
10 movement that is not—

11 (A) prescribed by a licensed physician, or  
12 other qualified health professional acting under  
13 the scope of the professional’s authority under  
14 State law, for the standard treatment of a stu-  
15 dent’s medical or psychiatric condition; and

16 (B) administered as prescribed by the li-  
17 censed physician or other qualified health pro-  
18 fessional acting under the scope of the profes-  
19 sional’s authority under State law.

20 (3) **ESEA TERMS.**—The terms “early childhood  
21 education program”, “educational service agency”,  
22 “elementary school”, “local educational agency”,  
23 “other staff”, “paraprofessional”, “parent”, “school  
24 leader”, “secondary school”, “specialized instruc-  
25 tional support personnel”, “State”, and “State edu-  
26 cational agency” have the meanings given the terms

1 in section 8101 of the Elementary and Secondary  
2 Education Act of 1965 (20 U.S.C. 7801).

3 (4) MECHANICAL RESTRAINT.—The term “me-  
4chanical restraint” has the meaning given the term  
5 in section 595(d)(1) of the Public Health Service  
6 Act (42 U.S.C. 290jj(d)(1)), except that the mean-  
7ing shall be applied by substituting “student’s” for  
8 “resident’s”.

9 (5) MILITARY-CONNECTED DEPENDENTS.—The  
10 term “military-connected dependents” means chil-  
11dren described in subparagraphs (B) and (D)(i) of  
12section 7003(a)(1) of the Elementary and Secondary  
13Education Act of 1965 (20 U.S.C. 7703(a)(1)).

14 (6) PHYSICAL ESCORT.—The term “physical es-  
15cort” has the meaning given the term in section  
16595(d)(2) of the Public Health Service Act (42  
17U.S.C. 290jj(d)(2)), except that the meaning shall  
18be applied by substituting “student” for “resident”.

19 (7) PHYSICAL RESTRAINT.—The term “physical  
20restraint” means a personal restriction that immo-  
21bilizes or reduces the ability of an individual to move  
22the individual’s arms, legs, torso, or head freely, ex-  
23cept that such term does not include a physical es-  
24cort, mechanical restraint, or chemical restraint.



1 (8) POSITIVE BEHAVIOR INTERVENTIONS AND  
2 SUPPORTS.—The term “positive behavior interven-  
3 tions and supports”—

4 (A) means a schoolwide, systematic ap-  
5 proach to embed evidence-based practices and  
6 data-driven decisionmaking to improve school  
7 climate and culture (including a range of sys-  
8 temic and individualized positive strategies to  
9 reinforce desired behaviors and diminish reoc-  
10 currence of challenging behaviors), in order to  
11 achieve improved academic and social outcomes  
12 and increase learning for all students (including  
13 students with the most complex and intensive  
14 behavioral needs); and

15 (B) encompasses a range of systemic and  
16 individualized positive strategies to reinforce de-  
17 sired behaviors, diminish reoccurrence of chal-  
18 lenging behaviors, and teach appropriate behav-  
19 iors to students.

20 (9) PROTECTION AND ADVOCACY SYSTEM.—The  
21 term “protection and advocacy system” means a  
22 protection and advocacy system established under  
23 section 143 of the Developmental Disabilities Assist-  
24 ance and Bill of Rights Act of 2000 (42 U.S.C.  
25 15043).

1 (10) SCHOOL.—The term “school” means—

2 (A) an elementary school or secondary  
3 school; or

4 (B) an entity that—

5 (i) provides elementary and secondary  
6 education; and

7 (ii) receives, or serves students who  
8 receive, support in any form from any pro-  
9 gram supported, in whole or in part, with  
10 Federal funds.

11 (11) SCHOOL PERSONNEL.—The term “school  
12 personnel” means individuals who are employed by  
13 a school, or who perform services for a school on a  
14 contractual basis as—

15 (A) school leaders;

16 (B) teachers;

17 (C) specialized instructional support per-  
18 sonnel;

19 (D) paraprofessionals; or

20 (E) other staff.

21 (12) SCHOOL RESOURCE OFFICER.—The term  
22 “school resource officer” means a sworn law enforce-  
23 ment officer who is—

1 (A) assigned by the employing police de-  
2 partment to a local educational agency or  
3 school;

4 (B) contracting with a local educational  
5 agency or school; or

6 (C) employed by a local educational agen-  
7 cy.

8 (13) SCHOOL SECURITY GUARD.—The term  
9 “school security guard” means a contractor or an  
10 employee of a local educational agency or school re-  
11 sponsible for addressing one or more of the following  
12 safety and crime prevention activities in and around  
13 a school:

14 (A) Assisting school personnel in school  
15 safety incidents.

16 (B) Educating students in crime and ille-  
17 gal drug use prevention and safety.

18 (C) Developing or expanding community  
19 justice initiatives for students.

20 (D) Training students in conflict resolution  
21 and supporting restorative justice programs.

22 (E) Serving as a liaison between the school  
23 and outside agencies, including other law en-  
24 forcement agencies.

1 (F) Screening students or visitors to the  
2 school for prohibited items.

3 (14) SECLUSION.—The term “seclusion” means  
4 the involuntary confinement of a student alone in a  
5 room or area from which the student is physically  
6 prevented from leaving, except that such term does  
7 not include a time out.

8 (15) SECRETARY.—The term “Secretary”  
9 means the Secretary of Education.

10 (16) SPECIAL EDUCATION SCHOOL.—The term  
11 “special education school” means a school that fo-  
12 cuses primarily on serving the needs of students  
13 with disabilities under the Individuals with Disabil-  
14 ities Education Act (20 U.S.C. 1400 et seq.) or sec-  
15 tion 504 of the Rehabilitation Act of 1973 (29  
16 U.S.C. 794).

17 (17) STATE-APPROVED CRISIS INTERVENTION  
18 TRAINING PROGRAM.—The term “State-approved  
19 crisis intervention training program” means a train-  
20 ing program approved by a State and the Secretary  
21 that, at a minimum, provides—

22 (A) training in evidence-based techniques  
23 shown to be effective in the prevention of phys-  
24 ical restraint;

1 (B) evidence-based skills training related  
2 to positive behavior supports, safe physical es-  
3 cort, conflict prevention, understanding ante-  
4 cedents, de-escalation, and conflict manage-  
5 ment;

6 (C) training in evidence-based techniques  
7 shown to be effective in keeping both school  
8 personnel and students safe when imposing  
9 physical restraint;

10 (D) training in first aid and cardiopulmo-  
11 nary resuscitation;

12 (E) information describing State policies  
13 and procedures that meet the minimum stand-  
14 ards established by regulations promulgated  
15 pursuant to section 5(a); and

16 (F) certification for school personnel,  
17 school resource officers, and school security  
18 guards in the techniques and skills described in  
19 subparagraphs (A) through (D), which shall be  
20 required to be renewed on a periodic basis.

21 (18) STUDENT.—The term “student” means a  
22 student enrolled in a school, except that in the case  
23 of a student enrolled in a private school or private  
24 program, such term means a student who receives

1 support in any form from any program or activity  
2 supported, in whole or in part, with Federal funds.

3 (19) TIME OUT.—The term “time out” has the  
4 meaning given the term in section 595(d)(5) of the  
5 Public Health Service Act (42 U.S.C. 290jj(d)(5)),  
6 except that the meaning shall be applied by sub-  
7 stituting “student” for “resident”.

8 **SEC. 5. MINIMUM STANDARDS; RULES OF CONSTRUCTION.**

9 (a) MINIMUM STANDARDS.—

10 (1) REGULATIONS.—

11 (A) IN GENERAL.—Not later than 180  
12 days after the date of enactment of this Act, to  
13 protect each student from physical or mental  
14 abuse, aversive behavioral interventions that  
15 compromise student health and safety, seclu-  
16 sion, or physical restraint imposed solely for  
17 purposes of discipline or convenience or in a  
18 manner otherwise inconsistent with this Act,  
19 the Secretary shall promulgate regulations es-  
20 tablishing minimum standards consistent with  
21 this subsection.

22 (B) HEAD START.—

23 (i) IN GENERAL.—The Secretary of  
24 Health and Human Services, in coordina-  
25 tion with the Secretary, shall promulgate

1 regulations under this subsection with re-  
2 spect to Head Start agencies (including  
3 Early Head Start agencies) under the  
4 Head Start Act (24 U.S.C. 9801 et seq.).

5 (ii) FUNDS.—From the amount ap-  
6 propriated under section 11, the Secretary  
7 may allocate funds to the Secretary of  
8 Health and Human Services to assist the  
9 Head Start agencies (including Early Head  
10 Start agencies) in establishing, imple-  
11 menting, and enforcing policies and proce-  
12 dures to meet the requirements established  
13 by regulations promulgated by the Sec-  
14 retary of Health and Human Services  
15 under clause (i).

16 (2) PROHIBITED ACTIONS.—Each school per-  
17 sonnel, school security guard, and school resource of-  
18 ficer shall be prohibited from imposing on any stu-  
19 dent the following:

20 (A) Seclusion.

21 (B) Mechanical restraints.

22 (C) Chemical restraints.

23 (D) Physical restraint or physical escort  
24 that is life threatening or that restricts breath-  
25 ing.

1           (E) Physical restraint if contraindicated  
2 based on the student's disability, health care  
3 needs, or medical or psychiatric condition, as  
4 documented in—

5           (i) a health care directive or medical  
6 management plan;

7           (ii) a behavior intervention plan;

8           (iii) an individualized education pro-  
9 gram or an individualized family service  
10 plan (as defined in section 602 of the Indi-  
11 viduals with Disabilities Education Act (20  
12 U.S.C. 1401));

13           (iv) a plan developed pursuant to sec-  
14 tion 504 of the Rehabilitation Act of 1973  
15 (29 U.S.C. 794) or title II of the Ameri-  
16 cans with Disabilities Act of 1990 (42  
17 U.S.C. 12131 et seq.); or

18           (v) other relevant record made avail-  
19 able to the State or local educational agen-  
20 cy involved.

21           (F) Physical restraint that is not in com-  
22 pliance with paragraph (3).

23           (G) Any other form of aversive behavioral  
24 interventions.



1           (3) PHYSICAL RESTRAINT.—The use of physical  
2           restraint by any school personnel, school security  
3           guard, or school resource officer shall be considered  
4           in compliance with the minimum standards promul-  
5           gated under this subsection only if each of the fol-  
6           lowing requirements are met:

7                   (A) The student’s behavior poses an immi-  
8                   nent danger of serious physical injury to the  
9                   student, school personnel, school security guard,  
10                  school resource officer, or others.

11                  (B) Less restrictive interventions would be  
12                  ineffective in stopping such imminent danger of  
13                  serious physical injury.

14                  (C) Such physical restraint is imposed by  
15                  school personnel, or a school security guard or  
16                  school resource officer, who—

17                          (i) continuously monitors the student  
18                          face-to-face; or

19                          (ii) if school personnel safety, or the  
20                          safety of a school security guard or school  
21                          resource officer, is significantly com-  
22                          promised by such face-to-face monitoring,  
23                          such personnel, guard, or officer, is in con-  
24                          tinuous direct visual contact with the stu-  
25                          dent by looking directly at the student

1 from a distance rather than electronically  
2 monitoring the student using a security  
3 camera or other system.

4 (D) Such physical restraint is imposed  
5 by—

6 (i) school personnel, or a school re-  
7 source officer or school security guard,  
8 trained and certified by a State-approved  
9 crisis intervention training program; or

10 (ii) school personnel, or a school secu-  
11 rity guard or school resource officer, not  
12 trained and certified as described in clause  
13 (i), in the case of a rare and clearly un-  
14 avoidable emergency circumstance when  
15 school personnel, or a school resource offi-  
16 cer or school security guard, trained and  
17 certified as described in clause (i) is not  
18 immediately available due to the unforesee-  
19 able nature of the emergency circumstance.

20 (E) Such physical restraint ends imme-  
21 diately upon the cessation of the conditions de-  
22 scribed in subparagraph (A).

23 (F) The physical restraint does not inter-  
24 fere with the student's ability to communicate

1 in the student's primary language or primary  
2 mode of communication.

3 (G) The physical restraint uses the least  
4 amount of force necessary to protect the stu-  
5 dent or others from the threatened injury.

6 (4) TRAINING.—Each State, in consultation  
7 with local educational agency officials, shall ensure  
8 that a sufficient number of school personnel are  
9 trained and certified by a State-approved crisis  
10 intervention training program to meet the needs of  
11 the specific student population in each school.

12 (5) PROHIBITION ON PLANNED INTERVEN-  
13 TION.—The use of physical restraint as a planned  
14 intervention shall not be written into a student's  
15 education plan, individual safety plan, behavioral  
16 plan, or individualized education program (as de-  
17 fined in section 602 of the Individuals with Disabil-  
18 ities Education Act (20 U.S.C. 1401)), except that  
19 local educational agencies or schools may establish  
20 policies and procedures for use of physical restraint  
21 in school safety or crisis plans, provided that such  
22 a plan is not specific to any individual student.

23 (6) PROCEDURES FOLLOWING PHYSICAL RE-  
24 STRAINT.—Each school shall establish procedures to  
25 be followed after an incident involving the imposition

1 of physical restraint upon a student, which shall in-  
2 clude each of the following:

3 (A) Procedures to provide to the parent of  
4 the student, with respect to such incident—

5 (i) an immediate verbal or electronic  
6 communication, as soon as is practicable  
7 and not later than the same day as the in-  
8 cident; and

9 (ii) written notification, as soon as is  
10 practicable, and not later than 24 hours  
11 after the incident that shall include, at  
12 minimum—

13 (I) a description of the incident,  
14 including precipitating events;

15 (II) positive interventions used  
16 prior to restraint;

17 (III) the length of time of re-  
18 straint; and

19 (IV) a description of the serious  
20 physical injury of the student or oth-  
21 ers to necessitate the use of restraint.

22 (B) A meeting between parents of the stu-  
23 dent and the school, as soon as is practicable,  
24 and not later than 5 school days following the  
25 incident (unless such meeting is delayed by

1 written mutual agreement of the parent and  
2 school)—

3 (i) which shall include, at a min-  
4 imum—

5 (I) the parent of such student;

6 (II) the student involved (if ap-  
7 propriate);

8 (III) the school personnel, school  
9 resource officer, or school security  
10 guard who imposed the restraint;

11 (IV) a teacher of such student;

12 (V) a school leader of such stu-  
13 dent; and

14 (VI) an expert on behavior inter-  
15 ventions, who may be a special edu-  
16 cation teacher;

17 (ii) the purpose of which shall be to  
18 discuss the incident, as described by both  
19 the student and the school personnel, or  
20 the school resource officer or school secu-  
21 rity guard involved, including—

22 (I) any precipitating events;

23 (II) how the incident occurred;

24 and

1 (III) prior positive behavior inter-  
2 ventions and supports used to de-esca-  
3 late the situation; and

4 (iii) which shall include—

5 (I) the discussion of proactive  
6 strategies to prevent future need for  
7 the use of restraint;

8 (II)(aa) for a student identified  
9 as eligible to receive accommodations  
10 under section 504 of the Rehabilita-  
11 tion Act of 1973 (29 U.S.C. 794) or  
12 title II of the Americans with Disabil-  
13 ities Act of 1990 (42 U.S.C. 12131 et  
14 seq.), or accommodations or special  
15 education or related services under  
16 the Individuals with Disabilities Edu-  
17 cation Act (20 U.S.C. 1400 et seq.),  
18 a discussion of the need for a func-  
19 tional behavioral assessment and a be-  
20 havior intervention plan; or

21 (bb) for a student not identified  
22 as eligible to receive accommodations  
23 under the provisions of law described  
24 in item (aa), evidence of a referral for  
25 such accommodations or special edu-

1 cation or related services, or docu-  
2 mentation of the basis for declining to  
3 such a referral for the student;

4 (III) provision to the parent, for  
5 use during the meeting, a written  
6 statement from each adult witness  
7 who was in the proximity of the stu-  
8 dent immediately before and during  
9 the time of the physical restraint, but  
10 was not directly involved in such re-  
11 straint; and

12 (IV) an assurance that in a case  
13 in which the student attends the  
14 meeting, the information commu-  
15 nicated by the student in that meeting  
16 will be for purposes of debriefing an  
17 incident where restraint was imposed  
18 upon the student, and—

19 (aa) may only be shared to  
20 the extent necessary to protect  
21 the safety of the student or oth-  
22 ers; and

23 (bb) may not be used  
24 against the student in any dis-

1                   disciplinary, criminal, or civil inves-  
2                   tigations or proceedings.

3                   (C) Any other procedures consistent with  
4                   this Act that the Secretary determines appro-  
5                   priate.

6           (b) SCHOOLS OPERATED OR FUNDED BY DEPART-  
7   MENT OF THE INTERIOR.—The Secretary of the Interior  
8   shall ensure that schools operated or funded by the De-  
9   partment of the Interior comply with the regulations pro-  
10  mulgated by the Secretary under subsection (a).

11          (c) SCHOOLS OPERATED OR FUNDED BY THE DE-  
12  PARTMENT OF DEFENSE.—The Secretary of Defense shall  
13  ensure that schools operated or funded by the Department  
14  of Defense Education Activity or otherwise operated or  
15  funded by the Department of Defense for the education  
16  of military-connected dependents comply with the regula-  
17  tions promulgated by the Secretary under subsection (a).

18          (d) RULES OF CONSTRUCTION.—

19               (1) IN GENERAL.—Nothing in this Act shall be  
20               construed to authorize the Secretary to promulgate  
21               regulations prohibiting the use of—

22                       (A) time out; and

23                       (B) devices implemented by trained school  
24                       personnel, or utilized by a student, for the spe-  
25                       cific and approved therapeutic or safety pur-



1 poses for which such devices were designed and,  
2 if applicable, prescribed, including—

3 (i) restraints for medical immobiliza-  
4 tion;

5 (ii) adaptive devices or mechanical  
6 supports used to achieve proper body posi-  
7 tion, balance, or alignment to allow greater  
8 freedom of mobility than would be possible  
9 without the use of such devices or mechan-  
10 ical supports; or

11 (iii) vehicle safety restraints when  
12 used as intended during the transport of a  
13 student in a moving vehicle.

14 (2) LAW ENFORCEMENT.—Nothing in this Act  
15 shall be construed to prevent a sworn law enforce-  
16 ment officer from carrying out the duties of the offi-  
17 cer under otherwise applicable law.

18 **SEC. 6. STATE PLAN AND REPORT REQUIREMENTS AND EN-**  
19 **FORCEMENT.**

20 (a) STATE PLAN.—Not later than 2 years after the  
21 Secretary promulgates regulations pursuant to section  
22 5(a), and each year thereafter, each State educational  
23 agency shall submit to the Secretary a State plan that pro-  
24 vides—

1           (1) demonstrations to the Secretary that the  
2 State has in effect—

3           (A) State policies and procedures that  
4 meet the minimum standards, including the  
5 standards with respect to State-approved crisis  
6 intervention training programs, established by  
7 regulations promulgated pursuant to section  
8 5(a); and

9           (B) a State mechanism to effectively mon-  
10 itor and enforce the minimum standards;

11          (2) a description of the State policies and pro-  
12 cedures, including a description of the State-ap-  
13 proved crisis intervention training programs in such  
14 State and how the State ensures accurate and timely  
15 reporting to the Office for Civil Rights of the De-  
16 partment of Education;

17          (3) a description of the State plans to ensure  
18 school personnel, students, and parents (including  
19 private school personnel, students, and parents) are  
20 aware of the State policies and procedures;

21          (4) a description of the State activities de-  
22 scribed in the State plan and approved by the Sec-  
23 retary as required under section 1111(g) of the Ele-  
24 mentary and Secondary Education Act of 1965 (20

1 U.S.C. 6311(g)) that reduce aversive behavioral  
2 interventions and improve school conditions;

3 (5) a description of the State efforts to engage  
4 stakeholders for input on the development of State  
5 policies and procedures to meet the minimum stand-  
6 ards of this Act, which shall include consultation  
7 with—

8 (A) parents;

9 (B) individuals with disabilities;

10 (C) advocacy organizations representing in-  
11 dividuals with disabilities;

12 (D) teachers;

13 (E) school personnel;

14 (F) administrators;

15 (G) civil rights organizations; and

16 (H) mental health experts; and

17 (6) a description of oversight of schools that in-  
18 cludes—

19 (A) monitoring use of restraint in the  
20 schools;

21 (B) monitoring compliance with the prohi-  
22 bition on seclusion in schools;

23 (C) not less than every 6 months, discus-  
24 sions between State educational agency officials

1 and school leaders to discuss the progress of re-  
2 ducing the use of physical restraint in schools;

3 (D) not less than annual site visits to the  
4 special education schools in the State; and

5 (E) technical assistance to focus on the use  
6 of proactive, positive interventions.

7 (b) REPORTING.—

8 (1) REPORTING REQUIREMENTS.—Not later  
9 than 2 years after the date the Secretary promul-  
10 gates regulations pursuant to section 5(a), and each  
11 year thereafter, each State educational agency shall  
12 (in compliance with the requirements of section 444  
13 of the General Education Provisions Act (commonly  
14 known as the Family Educational Rights and Pri-  
15 vacy Act of 1974) (20 U.S.C. 1232g)) prepare and  
16 submit to the Secretary, and make available to the  
17 public, a report that includes the information de-  
18 scribed in paragraph (2), with respect to each local  
19 educational agency, each special education school,  
20 and each school not under the jurisdiction of a local  
21 educational agency, located in the same State as  
22 such State educational agency.

23 (2) INFORMATION REQUIREMENTS.—

1 (A) GENERAL INFORMATION REQUIRE-  
2 MENTS.—The report described in paragraph (1)  
3 shall include—

4 (i) with respect to physical restraint  
5 imposed upon students in the preceding  
6 full academic year—

7 (I) the total number of such inci-  
8 dents;

9 (II) the total number of students  
10 upon whom such restraint was im-  
11 posed;

12 (III) in the case in which such  
13 restraint was imposed more than  
14 twice on a student, the number of  
15 times such student was so restrained;  
16 and

17 (IV) the total number of such in-  
18 cidents where the use of restraint is  
19 referred to law enforcement; and

20 (ii) other information relevant to im-  
21 plementation of this Act, as determined by  
22 the Secretary.

23 (B) DISAGGREGATION.—

24 (i) GENERAL DISAGGREGATION RE-  
25 QUIREMENTS.—The information described

1 in subparagraph (A) shall be disaggre-  
2 gated—

3 (I) by the total number of inci-  
4 dents in which physical restraint was  
5 imposed upon a student—

6 (aa) that resulted in injury;

7 (bb) that resulted in death;

8 and

9 (cc) in which the school per-  
10 sonnel imposing physical re-  
11 straint were not trained and cer-  
12 tified as described in section  
13 5(a)(3)(D)(i);

14 (II) by the demographic charac-  
15 teristics of all students upon whom  
16 physical restraint was imposed, in-  
17 cluding disaggregation—

18 (aa) by each major racial  
19 and ethnic group, economically  
20 disadvantaged students as com-  
21 pared to students who are not  
22 economically disadvantaged,  
23 English proficiency status, sex,  
24 and migrant status;

1 (bb) by students with an in-  
2 dividualized education program  
3 under section 614(d) of the Indi-  
4 viduals with Disabilities Edu-  
5 cation Act (20 U.S.C. 1414(d));

6 (cc) by students who have a  
7 plan developed pursuant to sec-  
8 tion 504 of the Rehabilitation  
9 Act of 1973 (29 U.S.C. 794);  
10 and

11 (dd) by students who have a  
12 plan developed pursuant to title  
13 II of the Americans with Disabil-  
14 ities Act of 1990 (42 U.S.C.  
15 12131 et seq.);

16 (III) by the total number of inci-  
17 dents of restraint in which school per-  
18 sonnel, or a school resource officer or  
19 school security guard was involved,  
20 which may include the school per-  
21 sonnel, school resource officer, or  
22 school security guard imposing the  
23 physical restraint or assisting with the  
24 physical restraint; and

1 (IV) by the type of school, in-  
2 cluding disaggregation by special edu-  
3 cation school, charter school, and pri-  
4 vate school.

5 (ii) UNDUPLICATED COUNT; EXCEP-  
6 TION.—The disaggregation required under  
7 clause (i)—

8 (I) shall be carried out in a man-  
9 ner to ensure an unduplicated count  
10 of the total number of incidents in the  
11 preceding full academic year in which  
12 physical restraint was imposed upon a  
13 student; and

14 (II) shall not be required in a  
15 case in which the number of students  
16 in a category would reveal personally  
17 identifiable information about an indi-  
18 vidual student.

19 (c) ENFORCEMENT.—

20 (1) IN GENERAL.—

21 (A) USE OF REMEDIES.—If a State edu-  
22 cational agency fails to comply with subsection  
23 (a) or (b), the Secretary shall—

24 (i)(I) withhold, in whole or in part,  
25 further payments under an applicable pro-



1           gram in accordance with section 455 of the  
2           General Education Provisions Act (20  
3           U.S.C. 1234d);

4           (II) require a State educational agen-  
5           cy to submit, and implement, within 1 year  
6           of such failure to comply, a corrective plan  
7           of action, which shall include specific time-  
8           frames and actions, and which may include  
9           redirection of funds received under an ap-  
10          plicable program; or

11          (III) issue a complaint to compel com-  
12          pliance of the State educational agency  
13          through a cease and desist order, in the  
14          same manner the Secretary is authorized  
15          to take such action under section 456 of  
16          the General Education Provisions Act (20  
17          U.S.C. 1234e); and

18          (ii) refer the State to the Civil Rights  
19          Division of the Department of Justice and  
20          the Office for Civil Rights of the Depart-  
21          ment of Education for an investigation.

22          (B) CESSATION OF WITHHOLDING OF  
23          FUNDS.—Whenever the Secretary determines  
24          (whether by certification or other appropriate  
25          evidence) that a State educational agency that

1 is subject to the withholding of payments under  
2 subparagraph (A)(i) has cured the failure pro-  
3 viding the basis for the withholding of pay-  
4 ments, the Secretary shall cease the withholding  
5 of payments with respect to the State edu-  
6 cational agency under such subparagraph.

7 (2) RULE OF CONSTRUCTION.—Nothing in this  
8 subsection shall be construed to limit the Secretary’s  
9 authority under the General Education Provisions  
10 Act (20 U.S.C. 1221 et seq.).

11 (3) RIGHTS AND REMEDIES OF STUDENTS AND  
12 PARENTS.—

13 (A) IN GENERAL.—Nothing in this Act  
14 shall be construed—

15 (i) to restrict or limit, or allow the  
16 Secretary to restrict or limit, any other  
17 rights or remedies otherwise available to  
18 students or parents under Federal, State,  
19 or local law; or

20 (ii) to restrict or limit Federal, State,  
21 or local laws, regulations, or policies that  
22 provide for more stringent prohibitions or  
23 limitations on the use of seclusion, re-  
24 straint, or aversive interventions than the

1 prohibitions or limitations that are pro-  
2 vided for in this Act.

3 (B) RELIEF UNDER FEDERAL, STATE, AND  
4 LOCAL LAW.—A student or parent may file a  
5 civil action under the Constitution, the Ameri-  
6 cans with Disabilities Act of 1990 (42 U.S.C.  
7 12101 et seq.), title V of the Rehabilitation Act  
8 of 1973 (29 U.S.C. 791 et seq.), or other appli-  
9 cable Federal, State, or local law in the case of  
10 the use of seclusion or restraint in violation of  
11 this Act seeking relief from the use of seclusion  
12 or restraint, or other available remedies with re-  
13 spect of such student.

14 (C) NONAPPLICABILITY.—Section 615(l) of  
15 the Individuals with Disabilities Education Act  
16 (20 U.S.C. 1415(l)) shall not apply to an action  
17 filed pursuant to this paragraph, regardless of  
18 whether or not the student is seeking relief that  
19 is also available under the Individuals with Dis-  
20 abilities Education Act (20 U.S.C. 1400 et  
21 seq.).

22 (d) HEAD START.—The Secretary of Health and  
23 Human Services, in coordination with the Secretary,  
24 shall—

1           (1) promulgate regulations with respect to how  
2           the reporting requirements described under sub-  
3           section (b) shall be carried out with respect to Head  
4           Start agencies (including Early Head Start agen-  
5           cies) under the Head Start Act (42 U.S.C. 9801 et  
6           seq.); and

7           (2) carry out the enforcement activities de-  
8           scribed in subsection (c) with respect to such agen-  
9           cies.

10 **SEC. 7. GRANTS FOR STATE EDUCATIONAL AGENCIES.**

11           (a) IN GENERAL.—From the amount appropriated  
12           under section 11, the Secretary may award, on a competi-  
13           tive basis, grants to State educational agencies to assist  
14           the agencies in—

15           (1) establishing, implementing, and enforcing  
16           the policies and procedures to meet the minimum  
17           standards established by regulations promulgated by  
18           the Secretary pursuant to section 5(a);

19           (2) improving State and local capacity to collect  
20           and analyze data related to physical restraint; and

21           (3) improving school climate and culture by im-  
22           plementing schoolwide positive behavior interventions  
23           and supports, mental health supports, restorative  
24           justice programs, trauma-informed care, and crisis  
25           and de-escalation interventions.

1 (b) DURATION OF GRANT.—A grant under this sec-  
2 tion shall be awarded to a State educational agency for  
3 a 3-year period.

4 (c) APPLICATION.—Each State educational agency  
5 desiring a grant under this section shall submit an appli-  
6 cation to the Secretary at such time, in such manner, and  
7 accompanied by such information as the Secretary may  
8 require, including information on how the State edu-  
9 cational agency will target resources to schools and local  
10 educational agencies in need of assistance related to pre-  
11 venting seclusion, and preventing and reducing physical  
12 restraint.

13 (d) AUTHORITY TO MAKE SUBGRANTS.—

14 (1) IN GENERAL.—A State educational agency  
15 receiving a grant under this section may use such  
16 grant funds to award subgrants, on a competitive  
17 basis, to local educational agencies.

18 (2) APPLICATION.—A local educational agency  
19 desiring to receive a subgrant under this section  
20 shall submit an application to the applicable State  
21 educational agency at such time, in such manner,  
22 and containing such information as the State edu-  
23 cational agency may require.

24 (e) PRIVATE SCHOOL PARTICIPATION.—

1           (1) IN GENERAL.—A local educational agency  
2 receiving subgrant funds under this section shall,  
3 after timely and meaningful consultation with appro-  
4 priate private school officials, ensure that private  
5 school personnel may participate, on an equitable  
6 basis, in activities supported by subgrant funds  
7 under this section.

8           (2) PUBLIC CONTROL OF FUNDS.—The control  
9 of grant and subgrant funds under this section, and  
10 title to materials, equipment, and property pur-  
11 chased with such funds, shall be in a public agency  
12 for the uses and purposes provided in this Act, and  
13 a public agency shall administer such funds, mate-  
14 rials, equipment, and property.

15           (3) PROVISION OF SERVICES.—

16           (A) IN GENERAL.—Services described  
17 under this section shall be provided—

18                   (i) by employees of a public agency; or  
19                   (ii) through contract by the public  
20 agency with an individual or entity.

21           (B) INDEPENDENCE; PUBLIC AGENCY.—

22 An individual or entity described in subpara-  
23 graph (A)(ii) that contracts with a public agen-  
24 cy to provide services under this section shall be  
25 independent of a private school and of any reli-

1           gious organization. Individuals providing such  
2           services shall be employed by and under the  
3           control and supervision of the public agency.

4           (C) COMMINGLING OF FUNDS PROHIB-  
5           ITED.—Funds used to provide services under  
6           this section shall not be commingled with non-  
7           Federal funds.

8           (f) REQUIRED ACTIVITIES.—A State educational  
9           agency receiving a grant, or a local educational agency re-  
10          ceiving a subgrant, under this section shall use such grant  
11          or subgrant funds to carry out the following:

12           (1) Establishing and implementing policies to  
13          prohibit seclusion, mechanical restraint, chemical re-  
14          straint, and other forms of prohibited restraint in  
15          schools, consistent with the minimum standards es-  
16          tablished by regulations promulgated by the Sec-  
17          retary pursuant to section 5(a).

18           (2) Implementing and evaluating strategies and  
19          procedures to prevent seclusion and to prevent and  
20          reduce physical restraint in schools, consistent with  
21          such standards.

22           (3) Providing professional development, train-  
23          ing, and certification for school personnel to meet  
24          such standards.

1           (4) Analyzing the information included in a re-  
2           port prepared under section 6(b) to identify student,  
3           school personnel, and school needs related to pre-  
4           venting seclusion, and preventing and reducing the  
5           use of physical restraint.

6           (5) Providing training to school resource offi-  
7           cers, school security guards, and, as appropriate,  
8           school personnel, on how to comply with education  
9           and civil rights laws, including the Individuals with  
10          Disabilities Education Act (20 U.S.C. 1400 et seq.)  
11          and the Americans with Disabilities Act of 1990 (42  
12          U.S.C. 12101 et seq.), when interacting with stu-  
13          dents with disabilities, including, as applicable, when  
14          conducting law enforcement activities involving a  
15          students with disabilities.

16          (g) *ADDITIONAL AUTHORIZED ACTIVITIES.*—In addi-  
17          tion to the required activities described in subsection (f),  
18          a State educational agency receiving a grant, or a local  
19          educational agency receiving a subgrant, under this sec-  
20          tion may use such grant or subgrant funds for one or more  
21          of the following:

22               (1) Developing and implementing high-quality  
23               professional development and training programs to  
24               implement evidence-based systematic approaches to  
25               schoolwide positive behavior interventions and sup-



1 ports, including improving coaching, facilitation, and  
2 training capacity for administrators, teachers, spe-  
3 cialized instructional support personnel, and other  
4 staff.

5 (2) Providing technical assistance to implement  
6 evidence-based systematic approaches to schoolwide  
7 positive behavior interventions and supports, includ-  
8 ing technical assistance for data-driven decision-  
9 making related to behavioral supports and interven-  
10 tions in the classroom.

11 (3) Researching, evaluating, and disseminating  
12 high-quality evidence-based programs and activities  
13 that implement schoolwide positive behavior inter-  
14 ventions and supports with fidelity.

15 (4) Supporting other local positive behavior  
16 interventions and supports implementation activities  
17 consistent with this subsection.

18 (5) Developing, implementing, and providing  
19 technical assistance to support evidence-based pro-  
20 grams that reduce the likelihood of physical re-  
21 straint, and support students in reducing behavior  
22 that can result in physical restraint, such as mental  
23 health supports, restorative justice programs, trau-  
24 ma-informed care, and crisis and de-escalation inter-  
25 ventions.

1 (h) EVALUATION AND REPORT.—Each State edu-  
2 cational agency receiving a grant under this section shall,  
3 at the end of the 3-year grant period for such grant—

4 (1) evaluate the State’s progress toward the  
5 prevention of seclusion and the prevention and re-  
6 duction of physical restraint in the schools located in  
7 the State, consistent with the minimum standards  
8 established by regulations promulgated by the Sec-  
9 retary pursuant to section 5(a); and

10 (2) submit to the Secretary a report on such  
11 progress.

12 **SEC. 8. NATIONAL ASSESSMENT.**

13 (a) NATIONAL ASSESSMENT.—The Secretary shall  
14 carry out a national assessment to determine the effective-  
15 ness of this Act, which shall include—

16 (1) analyzing data related to incidents of phys-  
17 ical restraint in schools;

18 (2) analyzing the effectiveness of Federal,  
19 State, and local efforts to prevent seclusion and pre-  
20 vent and reduce the number of physical restraint in-  
21 cidents in schools;

22 (3) identifying the types of programs and serv-  
23 ices that have demonstrated the greatest effective-  
24 ness in preventing seclusion and preventing and re-

1 ducing the number of physical restraint incidents in  
2 schools; and

3 (4) identifying evidence-based personnel train-  
4 ing models with demonstrated success in preventing  
5 seclusion and preventing and reducing the number  
6 of physical restraint incidents in schools, including  
7 models that emphasize positive behavior supports  
8 and de-escalation techniques over physical interven-  
9 tion.

10 (b) REPORT.—The Secretary shall submit to the  
11 Committee on Education and the Workforce of the House  
12 of Representatives and the Committee on Health, Edu-  
13 cation, Labor, and Pensions of the Senate—

14 (1) not later than 3 years after the date of en-  
15 actment of this Act, an interim report that summa-  
16 rizes the preliminary findings of the assessment de-  
17 scribed in subsection (a); and

18 (2) not later than 5 years after the date of the  
19 enactment of this Act, a final report of the findings  
20 of the assessment.

21 **SEC. 9. PROTECTION AND ADVOCACY SYSTEMS.**

22 (a) NOTIFICATION.—In a case in which physical in-  
23 jury or death of a student occurs in conjunction with the  
24 use of seclusion or physical restraint or any intervention  
25 used to control behavior at a school, the local educational

1 agency serving such school or the agency administering  
2 a Head Start program under the Head Start Act (42  
3 U.S.C. 9801 et seq.) shall have procedures to—

4 (1) notify, in writing, not later than 24 hours  
5 after such injury or death occurs—

6 (A) the State educational agency;

7 (B) the local law enforcement agency; and

8 (C) the relevant protection and advocacy  
9 system; and

10 (2) provide any information that the protection  
11 and advocacy system may require.

12 (b) RESTATEMENT OF AUTHORITY.—Protection and  
13 advocacy systems shall have the same authorities and  
14 rights provided under subtitle C of title I of the Develop-  
15 mental Disabilities Assistance and Bill of Rights Act of  
16 2000 (42 U.S.C. 15041 et seq.) with respect to protections  
17 provided for students under this Act when such students  
18 are otherwise eligible to be clients of the protection and  
19 advocacy system, including investigating, monitoring, and  
20 enforcing such protections.

21 **SEC. 10. APPLICABILITY TO PRIVATE SCHOOLS AND HOME**  
22 **SCHOOLS.**

23 (a) PRIVATE SCHOOLS.—Nothing in this Act shall be  
24 construed to affect any private school that does not re-  
25 ceive, or does not serve students who receive, support in

1 any form from any program or activity supported, in whole  
2 or in part, with Federal funds.

3 (b) HOME SCHOOLS.—Nothing in this Act shall be  
4 construed to—

5 (1) affect a home school, whether or not a home  
6 school is treated as a private school or home school  
7 under State law; or

8 (2) consider parents who are schooling a child  
9 at home as school personnel.

10 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated such sums  
12 as may be necessary to carry out this Act for fiscal year  
13 2020 and each succeeding fiscal year.

○