

117TH CONGRESS
1ST SESSION

S. 1858

To prohibit and prevent seclusion, mechanical restraint, chemical restraint, and dangerous restraints that restrict breathing, and to prevent and reduce the use of physical restraint in schools, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2021

Mr. MURPHY (for himself, Mrs. MURRAY, Mr. CASEY, Mr. DURBIN, Mr. KAINE, Ms. WARREN, Mr. SANDERS, Ms. BALDWIN, Mr. VAN HOLLEN, Mr. BROWN, Mr. BLUMENTHAL, Mr. WYDEN, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit and prevent seclusion, mechanical restraint, chemical restraint, and dangerous restraints that restrict breathing, 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. Definitions.

TITLE I—PROHIBITIONS ON RESTRAINT AND SECLUSION AND ADDITIONAL REQUIREMENTS

Sec. 101. Prohibition, additional requirements.

TITLE II—STATE PLAN, REPORTING REQUIREMENTS, AND GRANTS FOR STATE EDUCATIONAL AGENCIES

Sec. 201. Definitions.

Sec. 202. State plan.

Sec. 203. Grants for State educational agencies.

TITLE III—GENERAL PROVISIONS

Sec. 301. National assessment.

Sec. 302. Protection and advocacy systems.

Sec. 303. Schools operated or funded by the Department of the Interior or the
Department of Defense.

Sec. 304. Rule of construction.

Sec. 305. Applicability to private schools and home schools.

Sec. 306. Severability.

Sec. 307. Authorization of appropriations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **CHEMICAL RESTRAINT.**—The term “chem-
4 ical restraint” means a drug or medication used on
5 a student to control behavior or restrict freedom of
6 movement that is not—

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

12 (B) administered as prescribed by the li-
13 censed physician or other qualified health pro-

1 fessional acting under the scope of the profes-
2 sional’s authority under State law.

3 (2) ESEA TERMS.—The terms “early childhood
4 education program”, “educational service agency”,
5 “elementary school”, “local educational agency”,
6 “other staff”, “paraprofessional”, “parent”, “school
7 leader”, “secondary school”, “specialized instruc-
8 tional support personnel”, “State”, and “State edu-
9 cational agency” have the meanings given the terms
10 in section 8101 of the Elementary and Secondary
11 Education Act of 1965 (20 U.S.C. 7801).

12 (3) LAW ENFORCEMENT OFFICER.—The term
13 “law enforcement officer”—

14 (A) means any person who—

15 (i) is a State, Tribal, or local law en-
16 forcement officer (as defined in section
17 1204 of title I of the Omnibus Crime Con-
18 trol and Safe Streets Act of 1968 (34
19 U.S.C. 10284); and

20 (ii) is assigned by the employing law
21 enforcement agency to a program, who is
22 contracting with a program, or who is em-
23 ployed by a program; and

1 (B) includes an individual referred to as a
 2 “school resource officer” if that individual
 3 meets the definition in subparagraph (A).

4 (4) MECHANICAL RESTRAINT.—The term “me-
 5 chanical restraint” means the use of devices as a
 6 means of restricting a student’s freedom of move-
 7 ment.

8 (5) PHYSICAL ESCORT.—The term “physical es-
 9 cort” means the temporary touching or holding of
 10 the hand, wrist, arm, shoulder, or back for the pur-
 11 pose of inducing a student who is acting out to walk
 12 to a safe location.

13 (6) PHYSICAL RESTRAINT.—The term “physical
 14 restraint” means a personal restriction that immo-
 15 bilizes or reduces the ability of an individual to move
 16 the individual’s arms, legs, torso, or head freely, ex-
 17 cept that such term does not include a physical es-
 18 cort, mechanical restraint, or chemical restraint.

19 (7) POSITIVE BEHAVIORAL INTERVENTIONS
 20 AND SUPPORTS.—The term “positive behavioral
 21 interventions and supports”—

22 (A) means a schoolwide, systematic ap-
 23 proach that embeds evidence-based practices
 24 and data-driven decision making to improve
 25 school climate and culture in order to achieve

1 improved academic and social outcomes and in-
2 crease learning for all students (including stu-
3 dents with the most complex and intensive be-
4 havioral needs); and

5 (B) encompasses a range of systemic and
6 individualized positive strategies to teach and
7 reinforce school-expected behaviors, while dis-
8 couraging and diminishing undesirable behav-
9 iors.

10 (8) PROGRAM.—The term “program” means—

11 (A) all of the operations of a local edu-
12 cational agency, system of vocational education,
13 or other school system;

14 (B) a program that serves children who re-
15 ceive services for which financial assistance is
16 provided in accordance with the Head Start Act
17 (42 U.S.C. 9831 et seq.); or

18 (C) an elementary school or secondary
19 school that is not a public school that enrolls a
20 student who receives special education and re-
21 lated services under the Individuals with Dis-
22 abilities Education Act (20 U.S.C. 1400 et
23 seq.).

24 (9) PROGRAM PERSONNEL.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “program personnel” means any agent of a program, including an individual who is employed by a program, or who performs services for a program on a contractual basis, including—

(i) school leaders;

(ii) teachers;

(iii) specialized instructional support personnel;

(iv) paraprofessionals; or

(v) other staff.

(B) EXCLUSION.—Notwithstanding subparagraph (A), program personnel shall not include a law enforcement officer or a school security guard.

(10) PROTECTION AND ADVOCACY SYSTEM.—

The term “protection and advocacy system” means a protection and advocacy system established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

(11) SCHOOL SECURITY GUARD.—The term

“school security guard” means an individual who is not a sworn law enforcement officer and who is re-

1 sponsible for addressing one or more of the following
2 safety and crime prevention activities in and around
3 a program:

4 (A) Assisting program personnel in safety
5 incidents.

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

8 (C) Developing or expanding community
9 justice initiatives for students.

10 (D) Training students in conflict resolution
11 and supporting restorative justice programs.

12 (E) Serving as a liaison between the pro-
13 gram and outside agencies, including other law
14 enforcement agencies.

15 (F) Screening students or visitors to the
16 program for prohibited items.

17 (12) SECLUSION.—The term “seclusion” means
18 the involuntary confinement of a student alone in a
19 room or area from which the student is physically
20 prevented from leaving, except that such term does
21 not include a time out.

22 (13) SECRETARY.—The term “Secretary”
23 means the Secretary of Education.

24 (14) SPECIAL EDUCATION SCHOOL.—The term
25 “special education school” means a school that fo-

cuses primarily on serving the needs of students with disabilities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

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

(A) training in evidence-based techniques shown to be effective in the prevention of physical restraint;

(B) evidence-based skills training related to positive behavioral interventions and supports, safe physical escort, conflict prevention, understanding antecedents, deescalation, and conflict management;

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

(D) training in first aid and cardiopulmonary resuscitation;

1 (E) information describing State policies
 2 and procedures to ensure compliance with sec-
 3 tion 101; and

4 (F) certification for school personnel, law
 5 enforcement officers, and school security guards
 6 in the techniques and skills described in sub-
 7 paragraphs (A) through (D), which shall be re-
 8 quired to be renewed on a periodic basis.

9 (16) STUDENT.—The term “student” means—

10 (A) for purposes of title I, a student en-
 11 rolled in a program; and

12 (B) for purposes of title II, a student en-
 13 rolled in an elementary school or secondary
 14 school.

15 (17) TIME OUT.—

16 (A) IN GENERAL.—The term “time out”
 17 means a behavior management technique that
 18 may involve the separation of the student from
 19 the group or classroom in a non-locked setting.

20 (B) CLARIFICATION.—The term “time
 21 out” does not include—

22 (i) seclusion; or

23 (ii) a separation of the student de-
 24 scribed in subparagraph (A) from which

1 such student is physically or otherwise pro-
 2 hibited from leaving.

3 **TITLE I—PROHIBITIONS ON RE-**
 4 **STRAINT AND SECLUSION**
 5 **AND ADDITIONAL REQUIRE-**
 6 **MENTS**

7 **SEC. 101. PROHIBITION, ADDITIONAL REQUIREMENTS.**

8 (a) PROHIBITION.—No student shall be subjected to
 9 unlawful seclusion or restraint by program personnel, a
 10 law enforcement officer, or a school security guard, while
 11 attending any program that receives Federal financial as-
 12 sistance.

13 (b) UNLAWFUL SECLUSION OR RESTRAINT DE-
 14 FINED.—

15 (1) IN GENERAL.—In this section, the term
 16 “unlawful seclusion or restraint” means—

17 (A) seclusion;

18 (B) mechanical restraint;

19 (C) chemical restraint;

20 (D) physical restraint or physical escort
 21 that is life threatening, that restricts breathing,
 22 or that restricts blood flow to the brain, includ-
 23 ing prone and supine restraint;

24 (E) physical restraint that is contra-
 25 indicated based on the student’s disability,

1 health care needs, or medical or psychiatric con-
 2 dition, as documented in—

3 (i) a health care directive or medical
 4 management plan;

5 (ii) a behavior intervention plan;

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

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

16 (v) another relevant record made
 17 available to the State or program involved;
 18 or

19 (F) physical restraint that is not in compli-
 20 ance with subsection (e)(1).

21 (2) NOT INCLUDED.—The term “unlawful se-
 22 clusion or restraint” shall not include—

23 (A) a time out; or

24 (B) a device implemented by trained school
 25 personnel, or utilized by a student, for the spe-

1 cific and approved therapeutic or safety pur-
 2 poses for which such devices were designed and,
 3 if applicable, prescribed, provided that such de-
 4 vices are not used to purposefully cause a stu-
 5 dent pain as a means of behavioral modifica-
 6 tion, including—

7 (i) restraints for medical immobiliza-
 8 tion;

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

15 (iii) vehicle safety restraints when
 16 used as intended during the transport of a
 17 student in a moving vehicle.

18 (c) PRIVATE RIGHT OF ACTION.—

19 (1) IN GENERAL.—A student who has been sub-
 20 jected to unlawful seclusion or restraint in violation
 21 of subsection (a), or the parent of such student, may
 22 file a civil action against the program under which
 23 the violation is alleged to have occurred in an appro-
 24 priate district court of the United States or in State

1 court for declaratory judgement, injunctive relief,
 2 compensatory relief, attorneys' fees, or expert fees.

3 (2) LIMITATION ON LIABILITY.—Program per-
 4 sonnel shall not be liable to any person in a pro-
 5 ceeding described in paragraph (1) or in an arbitra-
 6 tion proceeding for a violation of subsection (a).

7 (3) NO SOVEREIGN IMMUNITY.—No program
 8 shall be immune under the Eleventh Amendment of
 9 the Constitution of the United States from suit in
 10 Federal or State court for a violation of subsection
 11 (a) of this section.

12 (d) ENFORCEMENT.—

13 (1) INVESTIGATIONS.—

14 (A) IN GENERAL.—The Secretary shall ad-
 15 dress any complaints alleging a violation of sub-
 16 section (a) by an entity described in subpara-
 17 graphs (A) or (C) of section 2(8) for an appro-
 18 priate investigation.

19 (B) HEAD START.—The Secretary of
 20 Health and Human Services shall address any
 21 complaints alleging a violation of subsection (a)
 22 by an entity described in section 2(8)(B) for an
 23 appropriate investigation.

24 (2) WITHHOLDING PAYMENTS.—In the event a
 25 student has been subjected to unlawful seclusion or

1 restraint in violation of subsection (a), the Secretary
2 shall withhold from the program under which the
3 violation occurred, in whole or in part, further pay-
4 ments (including payments for administrative costs)
5 in accordance with section 455 of the General Edu-
6 cation Provisions Act (20 U.S.C. 1234d).

7 (3) HEAD START PROGRAMS.—The Secretary of
8 Health and Human Services, in coordination with
9 the Secretary, shall—

10 (A) ensure that entities described in sec-
11 tion 2(8)(B) meet the requirements described in
12 subsection (e);

13 (B) promulgate regulations with respect to
14 how the reporting requirements described in
15 section 202(b) shall be carried out with respect
16 to Head Start agencies (including Early Head
17 Start agencies) under the Head Start Act (42
18 U.S.C. 9801 et seq.); and

19 (C) in the event a student served by a pro-
20 gram that serves children who receive services
21 for which financial assistance is provided in ac-
22 cordance with the Head Start Act (42 U.S.C.
23 9831 et seq.) has been subjected to unlawful se-
24 clusion or restraint in violation of subsection
25 (a), withhold from the program under which the

1 violation occurred, in whole or in part, further
2 payments (including payments for administra-
3 tive costs) in accordance with section 646 of the
4 Head Start Act (42 U.S.C. 9841).

5 (e) ADDITIONAL REQUIREMENTS.—The Secretary
6 shall ensure that each program that receives Federal fi-
7 nancial assistance meets the following requirements:

8 (1) PHYSICAL RESTRAINT.—The use of physical
9 restraint by any program personnel, a school secu-
10 rity guard, or a law enforcement officer shall be con-
11 sidered in compliance with the requirements of this
12 subsection only if each of the following requirements
13 are met:

14 (A) The student’s behavior poses an immi-
15 nent danger of serious physical injury to the
16 student, program personnel, a school security
17 guard, a law enforcement officer, or another in-
18 dividual.

19 (B) Before using physical restraint, less
20 restrictive interventions would be ineffective in
21 stopping such imminent danger of serious phys-
22 ical injury.

23 (C) Such physical restraint is imposed
24 by—

1 (i) program personnel, a school secu-
2 rity guard, or a law enforcement officer
3 trained and certified by a State-approved
4 crisis intervention training program; or

5 (ii) program personnel, a school secu-
6 rity guard, or a law enforcement officer
7 not trained and certified as described in
8 clause (i), in the case of a rare and clearly
9 unavoidable emergency circumstance when
10 program personnel, a school security
11 guard, or a law enforcement officer trained
12 and certified as described in clause (i) is
13 not immediately available due to the un-
14 foreseeable nature of the emergency cir-
15 cumstance.

16 (D) Such physical restraint ends imme-
17 diately upon the cessation of the imminent dan-
18 ger of serious physical injury to the student,
19 any program personnel, a school security guard,
20 a law enforcement officer, or another individual.

21 (E) The physical restraint does not inter-
22 fere with the student's ability to communicate
23 in the student's primary language or primary
24 mode of communication.

1 (F) During the physical restraint, the least
2 amount of force necessary is used to protect the
3 student or others from the threatened injury.

4 (2) TRAINING.—Each State, in consultation
5 with program officials and State Directors of Head
6 Start Collaboration (as described in section 642B of
7 the Head Start Act (42 U.S.C. 9837b)), shall ensure
8 that a sufficient number of program 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 program.

12 (3) 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 intervention plan, or individualized education pro-
17 gram (as defined in section 602 of the Individuals
18 with Disabilities Education Act (20 U.S.C. 1401)),
19 except that a program may establish policies and
20 procedures for use of physical restraint in program
21 safety or crisis plans, provided that such a plan is
22 not specific to any individual student.

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

tion of physical restraint upon a student, which shall include each of the following:

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

(i) an immediate verbal or electronic communication, as soon as is practicable and not later than the same day as the incident; and

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

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

(II) positive interventions used prior to restraint;

(III) the length of time of restraint; and

(IV) a description of the serious physical injury of the student or others that occurred or was about to occur that necessitated the use of restraint.

(B) A meeting between parents of the student and the program, as soon as is practicable,

1 and not later than 5 school days following the
2 incident (unless such meeting is delayed by
3 written mutual agreement of the parent and
4 program)—

5 (i) which meeting shall include, at a
6 minimum—

7 (I) the parent of such student;

8 (II) the student involved (if ap-
9 propriate);

10 (III) the program personnel, law
11 enforcement officer, or school security
12 guard who imposed the restraint;

13 (IV) a teacher of such student;

14 (V) a program leader of such stu-
15 dent; and

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

19 (ii) the purpose of which shall be to
20 discuss the incident, as described by both
21 the student and the program personnel,
22 law enforcement officer, or school security
23 guard involved, including—

24 (I) any precipitating events;

1 (II) how the incident occurred;
2 and

3 (III) prior positive behavioral
4 interventions and supports used to de-
5 escalate the situation; and

6 (iii) which meeting shall include—

7 (I) the discussion of proactive
8 strategies to prevent future need for
9 the use of physical restraint;

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

23 (bb) for a student not identified
24 as eligible to receive accommodations
25 under the provisions of law described

in item (aa), evidence of a referral for such accommodations or special education or related services, or documentation of the basis for declining to make such a referral for the student; and

(III) providing to the parent, for use during the meeting, a written statement from each adult witness who was in the proximity of the student immediately before and during the time of the physical restraint, but was not directly involved in such restraint.

TITLE II—STATE PLAN, REPORTING REQUIREMENTS, AND GRANTS FOR STATE EDUCATIONAL AGENCIES

SEC. 201. DEFINITIONS.

In this title:

(1) **SCHOOL.**—The term “school” means an elementary school, secondary school, or special education school.

(2) **HEAD START PROGRAM.**—The term “Head Start program” means a program that serves chil-

1 dren who receive services for which financial assist-
2 ance is provided in accordance with the Head Start
3 Act (42 U.S.C. 9831 et seq.).

4 **SEC. 202. STATE PLAN.**

5 (a) STATE PLAN.—Not later than 2 years after the
6 date of enactment of this Act and each year thereafter,
7 each State educational agency shall submit to the Sec-
8 retary a State plan that provides—

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

11 (A) State policies and procedures that
12 comply with section 101, including with respect
13 to State-approved crisis intervention training
14 programs; and

15 (B) a State mechanism to effectively mon-
16 itor and enforce compliance with section 101;

17 (2) a description of the State policies and pro-
18 cedures, including a description of the State-ap-
19 proved crisis intervention training programs in such
20 State and how the State ensures accurate and timely
21 reporting to the Department of Education;

22 (3) a description of the State plan to ensure
23 program personnel, students, and parents (including
24 private school personnel, students, and parents) are
25 aware of the State policies and procedures;

1 (4) a description of the State activities de-
2 scribed in the State’s plan under section 1111(g) of
3 the Elementary and Secondary Education Act of
4 1965 (20 U.S.C. 6311(g)) that reduce aversive be-
5 havioral interventions and improve school conditions;

6 (5) for public comment—

7 (A) not less than 60 days prior to submis-
8 sion of the State plan, which shall provide
9 stakeholders with the opportunity to provide
10 written comments on the State plan, which
11 shall be included in the State plan, including—

12 (i) how the policies and procedures
13 comply with section 101;

14 (ii) the policies and procedures related
15 to State-approved crisis intervention pro-
16 grams;

17 (iii) training provided to program per-
18 sonnel; and

19 (iv) notification procedures for par-
20 ents; and

21 (B) notice of which shall be provided in an
22 accessible format, which is compliant with the
23 most recent Web Content Accessibility Guide-
24 lines, or successor guidelines, for stakeholders
25 and posted on a website;

1 (6) written response to the public comments
2 provided by stakeholders under paragraph (5); and

3 (7) a description of State oversight of schools
4 that includes—

5 (A) monitoring use of restraint in the
6 schools;

7 (B) monitoring compliance with the prohi-
8 bition on seclusion in schools;

9 (C) not less than every 6 months, discus-
10 sions between State educational agency officials
11 and school leaders to examine the progress of
12 reducing the use of physical restraint in
13 schools;

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

16 (E) technical assistance to focus on the use
17 of proactive, positive behavioral interventions
18 and supports.

19 (b) REPORTING.—

20 (1) REPORTING REQUIREMENTS.—Not later
21 than 2 years after the date of enactment of this Act,
22 and each year thereafter—

23 (A) each State educational agency shall (in
24 compliance with the requirements of section
25 444 of the General Education Provisions Act

1 (commonly known as the Family Educational
2 Rights and Privacy Act of 1974) (20 U.S.C.
3 1232g)) prepare and submit to the Secretary,
4 and make available to the public, a report that
5 includes the information described in paragraph
6 (2), with respect to each local educational agen-
7 cy, each special education school, and each
8 school not under the jurisdiction of a local edu-
9 cational agency, located in the same State as
10 such State educational agency; and

11 (B) each Head Start agency (including
12 each Early Head Start agency) designated
13 under the Head Start Act (42 U.S.C. 9831 et
14 seq.) shall prepare and submit to the Secretary
15 and the Secretary of Health and Human Serv-
16 ices, and make available to the public, a report
17 that includes the information described in para-
18 graph (2), except that—

19 (i) such information shall be provided
20 with respect to each program served by the
21 agency and with respect to children en-
22 rolled in Head Start programs; and

23 (ii) the information described in sub-
24 clause (II)(bb), subclause (III), and sub-

1 clause (IV) of paragraph (2)(B)(i) shall
2 not be required.

3 (2) INFORMATION REQUIREMENTS.—

4 (A) GENERAL INFORMATION REQUIRE-
5 MENTS.—The report described in paragraph (1)
6 shall include with respect to physical restraint
7 imposed upon students in the preceding full
8 academic or program year—

9 (i) the total number of such incidents;

10 (ii) the total number of students upon
11 whom such physical restraint was imposed;

12 (iii) in the case in which such physical
13 restraint was imposed more than twice on
14 a student, the number of times such stu-
15 dent or child was so restrained; and

16 (iv) the total number of such incidents
17 where the use of physical restraint is re-
18 ferred to law enforcement.

19 (B) DISAGGREGATION.—

20 (i) GENERAL DISAGGREGATION RE-
21 QUIREMENTS.—The information described
22 in subparagraph (A) shall be disaggregated
23 as follows:

24 (I) With respect to the total
25 number of incidents in which physical

1 restraint was imposed upon a student,
2 disaggregated by each of the fol-
3 lowing:

4 (aa) By those that resulted
5 in injury.

6 (bb) By those that resulted
7 in death.

8 (cc) By those in which the
9 program personnel imposing
10 physical restraint was not trained
11 and certified, as described in sec-
12 tion 101(e)(1)(C)(i).

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

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

24 (bb) by students with an in-
25 dividualized education program

1 under section 614(d) of the Indi-
2 viduals with Disabilities Edu-
3 cation Act (20 U.S.C. 1414(d));

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

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

14 (III) By the total number of inci-
15 dents of physical restraint in which a
16 law enforcement officer or school se-
17 curity guard was involved, which may
18 include the law enforcement officer or
19 school security guard imposing the
20 physical restraint or assisting with the
21 physical restraint.

22 (IV) By the type of school, in-
23 cluding disaggregation by special edu-
24 cation school, charter school, and pri-
25 vate school.

1 (ii) UNDUPLICATED COUNT; EXCEP-
 2 TION.—The information and
 3 disaggregation required under subpara-
 4 graphs (A) and (B) shall—

5 (I) be carried out in a manner to
 6 ensure an unduplicated count of the
 7 total number of incidents in the pre-
 8 ceding full academic year in which
 9 physical restraint was imposed upon a
 10 student; and

11 (II) not be required in a case in
 12 which the number of students in a
 13 category would reveal personally iden-
 14 tifiable information about an indi-
 15 vidual student.

16 **SEC. 203. GRANTS FOR STATE EDUCATIONAL AGENCIES.**

17 (a) GRANTS AUTHORIZED.—

18 (1) IN GENERAL.—From the amount appro-
 19 priated under section 307 to carry out this section
 20 for a fiscal year, the Secretary shall award grants to
 21 State educational agencies with an application ap-
 22 proved under subsection (c), on the basis of their
 23 relative need, as determined with the Secretary in
 24 accordance with paragraph (2), to assist the State
 25 educational agencies in—

1 (A) establishing, implementing, and enforce-
2 ing the policies and procedures that ensure
3 compliance with section 101;

4 (B) improving State and local capacity to
5 collect and analyze data related to physical re-
6 straint; and

7 (C) improving school climate and culture
8 by implementing schoolwide positive behavioral
9 interventions and supports, mental health sup-
10 ports, restorative justice programs, trauma-in-
11 formed care, and crisis and de-escalation inter-
12 ventions.

13 (2) DETERMINATION OF RELATIVE NEED.—In
14 determining the relative need of State educational
15 agencies under paragraph (1), the Secretary shall
16 consider—

17 (A) the physical restraint and seclusion in-
18 cidents that occurred at a school served by the
19 State educational agencies for the most recent
20 academic year for which data are available;

21 (B) the capacity needs of the State edu-
22 cational agency and the local educational agen-
23 cies served by the State educational agency to
24 collect and analyze the data described in para-
25 graph (1)(B); and

1 (C) whether the State educational agency
2 has been carrying out the activities described in
3 paragraph (1)(C) and, if so, how the activities
4 are being implemented.

5 (3) REPORT.—The Secretary shall provide a re-
6 port to the Committee on Health, Education, Labor,
7 and Pensions of the Senate and the Committee on
8 Education and Labor of the House of Representa-
9 tives not later than 60 days after the date the Sec-
10 retary awards a grant to a State under this section
11 detailing why the State was chosen and how the cri-
12 teria described in subparagraphs (A), (B), and (C)
13 of paragraph (2) were applied to select the State.

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

17 (c) APPLICATION.—

18 (1) IN GENERAL.—To be eligible to receive a
19 grant under this section, each State educational
20 agency desiring a grant shall submit an application
21 to the Secretary at such time, in such manner, and
22 accompanied by such information as the Secretary
23 may require.

24 (2) CONTENTS.—Each application submitted
25 under paragraph (1) shall include—

1 (A) the total number of incidents in which
2 physical restraint was imposed upon students
3 for the most recent school year;

4 (B) the total number of incidents in which
5 seclusion was imposed upon students for the
6 most recent school year;

7 (C) a description of the State's data collec-
8 tion policies and procedures;

9 (D) a description of crisis intervention or
10 prevention trainings used in the State to pre-
11 vent or reduce physical restraint and seclusion
12 (if applicable);

13 (E) a description of statewide initiatives
14 regarding school climate and culture (if applica-
15 ble), such as schoolwide positive behavioral
16 interventions and supports, mental health sup-
17 ports, restorative justice programs, trauma-in-
18 formed care, and crisis and de-escalation inter-
19 ventions;

20 (F) a description of activities to be funded
21 under the grant and the goals of such activities,
22 including how the activities will eliminate seclu-
23 sion and reduce and prevent physical restraint;
24 and

1 (G) a description of how the activities
 2 under the grant will coordinate and align with
 3 current Federal, State, and local policies, pro-
 4 grams, or activities regarding seclusion and
 5 physical restraint, crisis intervention, and
 6 school climate or culture.

7 (d) AUTHORITY TO MAKE SUBGRANTS.—

8 (1) IN GENERAL.—A State educational agency
 9 receiving a grant under this section may use such
 10 grant funds to award subgrants, in the manner de-
 11 termined by the State educational agency, to local
 12 educational agencies served by the State educational
 13 agency.

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

20 (3) EARLY CHILDHOOD EDUCATION PROGRAM
 21 PARTICIPATION.—A local educational agency receiv-
 22 ing subgrant funds under this section shall ensure
 23 that educators working in an early childhood edu-
 24 cation program, as defined in section 103 of the
 25 Higher Education Act of 1965 (20 U.S.C. 1003),

1 may participate, to the extent practicable, on an eq-
2 uitable basis in activities supported by subgrant
3 funds under this section that are trainings on devel-
4 opmentally appropriate practices for meeting the
5 needs of young children.

6 (e) PRIVATE SCHOOL PARTICIPATION.—

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

14 (2) PUBLIC CONTROL OF FUNDS.—The control
15 of grant and subgrant funds under this section, and
16 title to materials, equipment, and property pur-
17 chased with such funds, shall be in a public agency
18 for the uses and purposes provided in this Act, and
19 a public agency shall administer such funds, mate-
20 rials, equipment, and property.

21 (3) PROVISION OF SERVICES.—

22 (A) IN GENERAL.—Services described
23 under this section shall be provided—

24 (i) by employees of a public agency; or

1 (ii) through contract by the public
2 agency with an individual or entity.

3 (B) INDEPENDENCE; PUBLIC AGENCY.—

4 An individual or entity described in subpara-
5 graph (A)(ii) that contracts with a public agen-
6 cy to provide services under this section shall be
7 independent of a private school and of any reli-
8 gious organization. Individuals providing such
9 services shall be employed by and under the
10 control and supervision of the public agency.

11 (C) COMMINGLING OF FUNDS PROHIB-
12 ITED.—Funds used to provide services under
13 this section shall not be commingled with non-
14 Federal funds.

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

19 (1) Establishing and implementing policies to
20 prohibit seclusion, mechanical restraint, chemical re-
21 straint, and other forms of prohibited restraint in
22 schools, consistent with section 101.

23 (2) Implementing and evaluating strategies and
24 procedures to prevent seclusion and to prevent and

1 reduce physical restraint in schools, consistent with
2 such policies.

3 (3) Providing professional development, train-
4 ing, and certification for school personnel to comply
5 with such policies.

6 (4) Analyzing the information included in a re-
7 port prepared under section 202(b) to identify stu-
8 dent, school personnel, and school needs related to
9 preventing seclusion, and preventing and reducing
10 the use of physical restraint.

11 (5) Providing training to school security guards
12 and, as appropriate, school personnel, on how to
13 comply with education and civil rights laws, includ-
14 ing the Individuals with Disabilities Education Act
15 (20 U.S.C. 1400 et seq.) and the Americans with
16 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.),
17 when interacting with students with disabilities, in-
18 cluding, when conducting disciplinary actions involv-
19 ing students with disabilities.

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

1 (1) Developing and implementing high-quality
2 professional development and training programs to
3 implement evidence-based systematic approaches to
4 schoolwide positive behavioral interventions and sup-
5 ports, including improving coaching, facilitation, and
6 training capacity for administrators, school leaders,
7 teachers, specialized instructional support personnel,
8 paraprofessionals, and other staff.

9 (2) Providing technical assistance to implement
10 evidence-based systematic approaches to schoolwide
11 positive behavioral interventions and supports, in-
12 cluding technical assistance for data-driven decision
13 making related to behavioral supports and interven-
14 tions in the classroom.

15 (3) Researching, evaluating, and disseminating
16 high-quality evidence-based programs and activities
17 that implement schoolwide positive behavioral inter-
18 ventions and supports with fidelity.

19 (4) Supporting other local positive behavioral
20 interventions and supports implementation activities
21 consistent with this subsection.

22 (5) Developing, implementing, and providing
23 technical assistance to support evidence-based pro-
24 grams that reduce the likelihood of physical re-
25 straint, such as mental health supports, restorative

1 justice programs, trauma-informed care, and crisis
2 and de-escalation interventions.

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

6 (1) evaluate the State’s progress toward the
7 elimination of seclusion and the prevention and re-
8 duction of physical restraint in the schools located in
9 the State, consistent with section 101;

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

12 (3) publish such report on the State educational
13 agency website in an accessible format.

14 **TITLE III—GENERAL** 15 **PROVISIONS**

16 **SEC. 301. NATIONAL ASSESSMENT.**

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

20 (1) analyzing data related to incidents of phys-
21 ical restraint in schools and programs that serve
22 children who receive services for which financial as-
23 sistance is provided in accordance with the Head
24 Start Act (42 U.S.C. 9831 et seq.) (referred to in
25 this title as “Head Start programs”);

1 (2) analyzing the effectiveness of Federal,
2 State, and local efforts to eliminate seclusion and
3 prevent and reduce the number of physical restraint
4 incidents in schools and Head Start programs;

5 (3) identifying the types of programs and serv-
6 ices that have demonstrated the greatest effective-
7 ness in eliminating and preventing seclusion and
8 preventing and reducing the number of physical re-
9 straint incidents in schools and Head Start pro-
10 grams; and

11 (4) identifying evidence-based personnel train-
12 ing models with demonstrated success in preventing
13 seclusion and preventing and reducing the number
14 of physical restraint incidents in schools and Head
15 Start programs, including models that emphasize
16 positive behavioral interventions and supports and
17 de-escalation techniques over physical intervention.

18 (b) REPORT.—The Secretary shall submit to the
19 Committee on Health, Education, Labor, and Pensions of
20 the Senate and the Committee on Education and Labor
21 of the House of Representatives—

22 (1) not later than 3 years after the date of the
23 enactment of this Act, an interim report that sum-
24 marizes the preliminary findings of the assessment
25 described in subsection (a); and

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

4 **SEC. 302. PROTECTION AND ADVOCACY SYSTEMS.**

5 (a) NOTIFICATION.—In a case in which physical in-
 6 jury or death of a student or of a child enrolled in a Head
 7 Start program occurs in conjunction with the use of seclu-
 8 sion or physical restraint or any intervention used to con-
 9 trol behavior at a school or Head Start program, the local
 10 educational agency serving such school or the agency ad-
 11 ministering a Head Start program under the Head Start
 12 Act (42 U.S.C. 9801 et seq.) shall have procedures to—

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

15 (A) the State educational agency, or in the
 16 case of an agency administering a Head Start
 17 program, the appropriate official at the Depart-
 18 ment of Health and Human Services;

19 (B) the local law enforcement agency; and

20 (C) the relevant protection and advocacy
 21 system; and

22 (2) provide any information that the protection
 23 and advocacy system may require.

24 (b) RESTATEMENT OF AUTHORITY.—Protection and
 25 advocacy systems shall have the same authorities and

1 rights provided under subtitle C of title I of the Develop-
 2 mental Disabilities Assistance and Bill of Rights Act of
 3 2000 (42 U.S.C. 15041 et seq.) with respect to protections
 4 provided for students or children enrolled in Head Start
 5 programs under this Act when such students or children
 6 are otherwise eligible to be clients of the protection and
 7 advocacy system, including investigating, monitoring, and
 8 enforcing such protections.

9 **SEC. 303. SCHOOLS OPERATED OR FUNDED BY THE DE-**
 10 **PARTMENT OF THE INTERIOR OR THE DE-**
 11 **PARTMENT OF DEFENSE.**

12 (a) SCHOOLS OPERATED OR FUNDED BY DEPART-
 13 MENT OF THE INTERIOR.—The Secretary of the Interior
 14 shall promulgate regulations to ensure that schools oper-
 15 ated or funded by the Department of the Interior comply
 16 with the requirements of title I and section 202(b).

17 (b) SCHOOLS OPERATED OR FUNDED BY THE DE-
 18 PARTMENT OF DEFENSE.—The Secretary of Defense shall
 19 promulgate regulations to ensure that schools operated or
 20 funded by the Department of Defense Education Activity
 21 or otherwise operated or funded by the Department of De-
 22 fense for the education of military-connected dependents
 23 (as described in subparagraph (B) or (D)(i) of section
 24 7003(a)(1) of the Elementary and Secondary Education

1 Act of 1965 (20 U.S.C. 7703(a)(1))) comply with the re-
2 quirements of title I and section 202(b).

3 **SEC. 304. RULE OF CONSTRUCTION.**

4 Subject to section 101(e), nothing in this Act shall
5 be construed to prohibit a sworn law enforcement officer
6 with probable cause from arresting a student for violating
7 a Federal or State criminal law.

8 **SEC. 305. APPLICABILITY TO PRIVATE SCHOOLS AND HOME**
9 **SCHOOLS.**

10 (a) PRIVATE SCHOOLS.—Nothing in this Act shall be
11 construed to affect any private school that does not re-
12 ceive, or does not serve students who receive, support in
13 any form from any program or activity supported, in whole
14 or in part, with Federal funds.

15 (b) HOME SCHOOLS.—Nothing in this Act shall be
16 construed to—

17 (1) affect a home school, whether or not a home
18 school is treated as a private school or home school
19 under State law; or

20 (2) consider parents who are schooling a child
21 at home as program personnel.

22 **SEC. 306. SEVERABILITY.**

23 If any provision of this Act, an amendment made by
24 this Act, or the application of such provision or amend-
25 ment to any person or circumstance is held to be unconsti-

1 tutional, the remainder of this Act, the amendments made
2 by this Act, and the application of the provisions of such
3 to any person or circumstance shall not be affected there-
4 by.

5 **SEC. 307. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated such sums
7 as may be necessary to carry out this Act for fiscal year
8 2022 and each succeeding fiscal year.

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