

116TH CONGRESS
2D SESSION

S. 4924

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

NOVEMBER 30, 2020

Mr. MURPHY (for himself, Mrs. MURRAY, Mr. CASEY, Mr. KAINE, Ms. HASSAN, Ms. BALDWIN, Mr. VAN HOLLEN, Ms. DUCKWORTH, Mr. BOOKER, Mr. BROWN, Mr. BLUMENTHAL, Mr. WYDEN, Ms. WARREN, Mr. SANDERS, Mr. DURBIN, and Mrs. GILLIBRAND) 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”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 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 of school.
 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.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

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

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

1 (B) administered as prescribed by the li-
2 censed physician or other qualified health pro-
3 fessional acting under the scope of the profes-
4 sional's authority under State law.

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

14 (3) MECHANICAL RESTRAINT.—The term “me-
15 chanical restraint” means the use of devices as a
16 means of restricting a student's freedom of move-
17 ment.

18 (4) PHYSICAL ESCORT.—The term “physical es-
19 cort” means the temporary touching or holding of
20 the hand, wrist, arm, shoulder, or back for the pur-
21 pose of inducing a student who is acting out to walk
22 to a safe location.

23 (5) PHYSICAL RESTRAINT.—The term “physical
24 restraint” means a personal restriction that immo-
25 bilizes or reduces the ability of an individual to move

1 the individual's arms, legs, torso, or head freely, ex-
 2 cept that such term does not include a physical es-
 3 cort, mechanical restraint, or chemical restraint.

4 (6) POSITIVE BEHAVIORAL INTERVENTIONS
 5 AND SUPPORTS.—The term “positive behavioral
 6 interventions and supports”—

7 (A) means a schoolwide, systematic ap-
 8 proach that embeds evidence-based practices
 9 and data-driven decision making to improve
 10 school climate and culture in order to achieve
 11 improved academic and social outcomes and in-
 12 crease learning for all students (including stu-
 13 dents with the most complex and intensive be-
 14 havioral needs); and

15 (B) encompasses a range of systemic and
 16 individualized positive strategies to teach and
 17 reinforce school-expected behaviors, while dis-
 18 couraging and diminishing undesirable behav-
 19 iors.

20 (7) PROGRAM.—The term “program” means—

21 (A) all of the operations of a local edu-
 22 cational agency, system of vocational education,
 23 or other school system;

24 (B) a program that serves children who re-
 25 ceive services for which financial assistance is

1 provided in accordance with the Head Start Act
2 (42 U.S.C. 9831 et seq.); or

3 (C) an elementary school or secondary
4 school that is not a public school that enrolls a
5 student who receives special education and re-
6 lated services under the Individuals with Dis-
7 abilities Education Act (20 U.S.C. 1400 et
8 seq.).

9 (8) PROGRAM PERSONNEL.—

10 (A) IN GENERAL.—Subject to subpara-
11 graph (B), the term “program personnel”
12 means any agent of a program, including an in-
13 dividual who is employed by a program, or who
14 performs services for a program on a contrac-
15 tual basis, including—

16 (i) school leaders;

17 (ii) teachers;

18 (iii) specialized instructional support
19 personnel;

20 (iv) paraprofessionals; or

21 (v) other staff.

22 (B) EXCLUSION.—Notwithstanding sub-
23 paragraph (A), program personnel shall not in-
24 clude a school resource officer or a school secu-
25 rity guard.

1 (9) PROTECTION AND ADVOCACY SYSTEM.—The
 2 term “protection and advocacy system” means a
 3 protection and advocacy system established under
 4 section 143 of the Developmental Disabilities Assist-
 5 ance and Bill of Rights Act of 2000 (42 U.S.C.
 6 15043).

7 (10) SCHOOL RESOURCE OFFICER.—The term
 8 “school resource officer” means a sworn law enforce-
 9 ment officer who is—

10 (A) assigned by the employing police de-
 11 partment to a program;

12 (B) contracting with a program; or

13 (C) employed by a program.

14 (11) SCHOOL SECURITY GUARD.—The term
 15 “school security guard” means an individual who is
 16 not a sworn law enforcement officer and who is re-
 17 sponsible for addressing one or more of the following
 18 safety and crime prevention activities in and around
 19 a program:

20 (A) Assisting program personnel in safety
 21 incidents.

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

24 (C) Developing or expanding community
 25 justice initiatives for students.

1 (D) Training students in conflict resolution
2 and supporting restorative justice programs.

3 (E) Serving as a liaison between the pro-
4 gram and outside agencies, including other law
5 enforcement agencies.

6 (F) Screening students or visitors to the
7 program for prohibited items.

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

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

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

22 (15) STATE-APPROVED CRISIS INTERVENTION
23 TRAINING PROGRAM.—The term “State-approved
24 crisis intervention training program” means a train-

1 ing program approved by a State and the Secretary
2 that, at a minimum, provides—

3 (A) training in evidence-based techniques
4 shown to be effective in the prevention of phys-
5 ical restraint;

6 (B) evidence-based skills training related
7 to positive behavioral interventions and sup-
8 ports, safe physical escort, conflict prevention,
9 understanding antecedents, deescalation, and
10 conflict management;

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

15 (D) training in first aid and
16 cardiopulmonary resuscitation;

17 (E) information describing State policies
18 and procedures to ensure compliance with sec-
19 tion 101; and

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

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

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

3 (B) for purposes of title II, a student en-
 4 rolled in an elementary school or secondary
 5 school.

6 (17) TIME OUT.—

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

11 (B) CLARIFICATION.—The term “time
 12 out” does not include—

13 (i) seclusion; or

14 (ii) a separation of the student de-
 15 scribed in subparagraph (A) from which
 16 such student is physically or otherwise pro-
 17 hibited from leaving.

18 **TITLE I—PROHIBITIONS ON RE-**
 19 **STRAINT AND SECLUSION**
 20 **AND ADDITIONAL REQUIRE-**
 21 **MENTS**

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

23 (a) PROHIBITION.—No student shall be subjected to
 24 unlawful seclusion or restraint by program personnel, a
 25 school resource officer, or a school security guard, while

1 attending any program that receives Federal financial as-
 2 sistance.

3 (b) UNLAWFUL SECLUSION OR RESTRAINT DE-
 4 FINED.—

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

7 (A) seclusion;

8 (B) mechanical restraint;

9 (C) chemical restraint;

10 (D) physical restraint or physical escort
 11 that is life threatening, that restricts breathing,
 12 or that restricts blood flow to the brain, includ-
 13 ing prone and supine restraint;

14 (E) physical restraint that is contra-
 15 indicated based on the student’s disability,
 16 health care needs, or medical or psychiatric con-
 17 dition, as documented in—

18 (i) a health care directive or medical
 19 management plan;

20 (ii) a behavior intervention plan;

21 (iii) an individualized education pro-
 22 gram or an individualized family service
 23 plan (as defined in section 602 of the Indi-
 24 viduals with Disabilities Education Act (20
 25 U.S.C. 1401));

1 (iv) a plan developed pursuant to sec-
 2 tion 504 of the Rehabilitation Act of 1973
 3 (29 U.S.C. 794) or title II of the Ameri-
 4 cans with Disabilities Act of 1990 (42
 5 U.S.C. 12131 et seq.); or

6 (v) another relevant record made
 7 available to the State or program involved;
 8 or

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

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

13 (A) a time out; or

14 (B) a device implemented by trained school
 15 personnel, or utilized by a student, for the spe-
 16 cific and approved therapeutic or safety pur-
 17 poses for which such devices were designed and,
 18 if applicable, prescribed, provided that such de-
 19 vices are not used to purposefully cause a stu-
 20 dent pain as a means of behavioral modifica-
 21 tion, including—

22 (i) restraints for medical immobiliza-
 23 tion;

24 (ii) adaptive devices or mechanical
 25 supports used to achieve proper body posi-

tion, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or

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

(c) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—A student who has been subjected to unlawful seclusion or restraint in violation of subsection (a), or the parent of such student, may file a civil action against the program under which the violation is alleged to have occurred in an appropriate district court of the United States or in State court for declaratory judgement, injunctive relief, compensatory relief, attorneys' fees, or expert fees.

(2) LIMITATION ON LIABILITY.—Program personnel shall not be liable to any person in a proceeding described in paragraph (1) or in an arbitration proceeding for a violation of subsection (a).

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

1 (d) ENFORCEMENT.—

2 (1) INVESTIGATIONS.—

3 (A) IN GENERAL.—The Secretary shall ad-
4 dress any complaints alleging a violation of sub-
5 section (a) by an entity described in subpara-
6 graphs (A) or (C) of section 2(7) for an appro-
7 priate investigation.

8 (B) HEAD START.—The Secretary of
9 Health and Human Services shall address any
10 complaints alleging a violation of subsection (a)
11 by an entity described in section 2(7)(B) for an
12 appropriate investigation.

13 (2) WITHHOLDING PAYMENTS.—In the event a
14 student has been subjected to unlawful seclusion or
15 restraint in violation of subsection (a), the Secretary
16 shall withhold from the program under which the
17 violation occurred, in whole or in part, further pay-
18 ments (including payments for administrative costs)
19 in accordance with section 455 of the General Edu-
20 cation Provisions Act (20 U.S.C. 1234d).

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

1 (A) ensure that entities described in sec-
2 tion 2(7)(B) meet the requirements described in
3 subsection (e);

4 (B) promulgate regulations with respect to
5 how the reporting requirements described in
6 section 202(b) shall be carried out with respect
7 to Head Start agencies (including Early Head
8 Start agencies) under the Head Start Act (42
9 U.S.C. 9801 et seq.); and

10 (C) in the event a student served by a pro-
11 gram that serves children who receive services
12 for which financial assistance is provided in ac-
13 cordance with the Head Start Act (42 U.S.C.
14 9831 et seq.) has been subjected to unlawful se-
15 clusion or restraint in violation of subsection
16 (a), withhold from the program under which the
17 violation occurred, in whole or in part, further
18 payments (including payments for administra-
19 tive costs) in accordance with section 646 of the
20 Head Start Act (42 U.S.C. 9841).

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

24 (1) PHYSICAL RESTRAINT.—The use of physical
25 restraint by any program personnel, a school secu-

1 rity guard, or a school resource officer shall be con-
2 sidered in compliance with the requirements of this
3 subsection only if each of the following requirements
4 are met:

5 (A) The student's behavior poses an immi-
6 nent danger of serious physical injury to the
7 student, program personnel, a school security
8 guard, a school resource officer, or another in-
9 dividual.

10 (B) Before using physical restraint, less
11 restrictive interventions would be ineffective in
12 stopping such imminent danger of serious phys-
13 ical injury.

14 (C) Such physical restraint is imposed
15 by—

16 (i) program personnel, a school secu-
17 rity guard, or a school resource officer
18 trained and certified by a State-approved
19 crisis intervention training program; or

20 (ii) program personnel, a school secu-
21 rity guard, or a school resource officer not
22 trained and certified as described in clause
23 (i), in the case of a rare and clearly un-
24 avoidable emergency circumstance when
25 program personnel, a school security

1 guard, or a school resource officer trained
2 and certified as described in clause (i) is
3 not immediately available due to the un-
4 foreseeable nature of the emergency cir-
5 cumstance.

6 (D) Such physical restraint ends imme-
7 diately upon the cessation of the imminent dan-
8 ger of serious physical injury to the student,
9 any program personnel, a school security guard,
10 a school resource officer, or another individual.

11 (E) The physical restraint does not inter-
12 fere with the student's ability to communicate
13 in the student's primary language or primary
14 mode of communication.

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

18 (2) TRAINING.—Each State, in consultation
19 with program officials and State Directors of Head
20 Start Collaboration (as described in section 642B of
21 the Head Start Act (42 U.S.C. 9837b)), shall ensure
22 that a sufficient number of program personnel are
23 trained and certified by a State-approved crisis
24 intervention training program to meet the needs of
25 the specific student population in each program.

1 (3) PROHIBITION ON PLANNED INTERVEN-
 2 TION.—The use of physical restraint as a planned
 3 intervention shall not be written into a student’s
 4 education plan, individual safety plan, behavioral
 5 intervention plan, or individualized education pro-
 6 gram (as defined in section 602 of the Individuals
 7 with Disabilities Education Act (20 U.S.C. 1401)),
 8 except that a program may establish policies and
 9 procedures for use of physical restraint in program
 10 safety or crisis plans, provided that such a plan is
 11 not specific to any individual student.

12 (4) PROCEDURES FOLLOWING PHYSICAL RE-
 13 STRAINT.—Each program shall establish procedures
 14 to be followed after an incident involving the imposi-
 15 tion of physical restraint upon a student, which shall
 16 include each of the following:

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

19 (i) an immediate verbal or electronic
 20 communication, as soon as is practicable
 21 and not later than the same day as the in-
 22 cident; and

23 (ii) written notification, as soon as is
 24 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, and not later than 5 school days following the incident (unless such meeting is delayed by written mutual agreement of the parent and program)—

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

(I) the parent of such student;

(II) the student involved (if appropriate);

1 (III) the program personnel,
 2 school resource officer, or school secu-
 3 rity guard who imposed the restraint;

4 (IV) a teacher of such student;

5 (V) a program leader of such stu-
 6 dent; and

7 (VI) an expert on behavior inter-
 8 ventions, who may be a special edu-
 9 cation teacher;

10 (ii) the purpose of which shall be to
 11 discuss the incident, as described by both
 12 the student and the program personnel,
 13 school resource officer, or school security
 14 guard involved, including—

15 (I) any precipitating events;

16 (II) how the incident occurred;

17 and

18 (III) prior positive behavioral
 19 interventions and supports used to de-
 20 escalate the situation; and

21 (iii) which meeting shall include—

22 (I) the discussion of proactive
 23 strategies to prevent future need for
 24 the use of physical restraint;

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

14 (bb) for a student not identified
15 as eligible to receive accommodations
16 under the provisions of law described
17 in item (aa), evidence of a referral for
18 such accommodations or special edu-
19 cation or related services, or docu-
20 mentation of the basis for declining to
21 make such a referral for the student;
22 and

23 (III) providing to the parent, for
24 use during the meeting, a written
25 statement from each adult witness

1 who was in the proximity of the stu-
2 dent immediately before and during
3 the time of the physical restraint, but
4 was not directly involved in such re-
5 straint.

6 **TITLE II—STATE PLAN, REPORT-**
7 **ING REQUIREMENTS, AND**
8 **GRANTS FOR STATE EDU-**
9 **CATIONAL AGENCIES**

10 **SEC. 201. DEFINITIONS.**

11 In this title:

12 (1) SCHOOL.—The term “school” means an ele-
13 mentary school, secondary school, or special edu-
14 cation school.

15 (2) HEAD START PROGRAM.—The term “Head
16 Start program” means a program that serves chil-
17 dren who receive services for which financial assist-
18 ance is provided in accordance with the Head Start
19 Act (42 U.S.C. 9831 et seq.).

20 **SEC. 202. STATE PLAN.**

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

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

3 (A) State policies and procedures that
4 comply with section 101, including with respect
5 to State-approved crisis intervention training
6 programs; and

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

9 (2) a description of the State policies and pro-
10 cedures, including a description of the State-ap-
11 proved crisis intervention training programs in such
12 State and how the State ensures accurate and timely
13 reporting to the Department of Education;

14 (3) a description of the State plan to ensure
15 program personnel, students, and parents (including
16 private school personnel, students, and parents) are
17 aware of the State policies and procedures;

18 (4) a description of the State activities de-
19 scribed in the State's plan under section 1111(g) of
20 the Elementary and Secondary Education Act of
21 1965 (20 U.S.C. 6311(g)) that reduce aversive be-
22 havioral interventions and improve school conditions;

23 (5) for public comment—

24 (A) not less than 60 days prior to submis-
25 sion of the State plan, which shall provide

1 stakeholders with the opportunity to provide
2 written comments on the State plan, which
3 shall be included in the State plan, including—

4 (i) how the policies and procedures
5 comply with section 101;

6 (ii) the policies and procedures related
7 to State-approved crisis intervention pro-
8 grams;

9 (iii) training provided to program per-
10 sonnel; and

11 (iv) notification procedures for par-
12 ents; and

13 (B) notice of which shall be provided in an
14 accessible format, which is compliant with the
15 most recent Web Content Accessibility Guide-
16 lines, or successor guidelines, for stakeholders
17 and posted on a website;

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

20 (7) a description of State oversight of schools
21 that includes—

22 (A) monitoring use of restraint in the
23 schools;

24 (B) monitoring compliance with the prohi-
25 bition on seclusion in schools;

1 (C) not less than every 6 months, discus-
 2 sions between State educational agency officials
 3 and school leaders to examine the progress of
 4 reducing the use of physical restraint in
 5 schools;

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

8 (E) technical assistance to focus on the use
 9 of proactive, positive behavioral interventions
 10 and supports.

11 (b) REPORTING.—

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

15 (A) each State educational agency shall (in
 16 compliance with the requirements of section
 17 444 of the General Education Provisions Act
 18 (commonly known as the Family Educational
 19 Rights and Privacy Act of 1974) (20 U.S.C.
 20 1232g)) prepare and submit to the Secretary,
 21 and make available to the public, a report that
 22 includes the information described in paragraph
 23 (2), with respect to each local educational agen-
 24 cy, each special education school, and each
 25 school not under the jurisdiction of a local edu-

1 cational agency, located in the same State as
 2 such State educational agency; and

3 (B) each Head Start agency (including
 4 each Early Head Start agency) designated
 5 under the Head Start Act (42 U.S.C. 9831 et
 6 seq.) shall prepare and submit to the Secretary
 7 and the Secretary of Health and Human Serv-
 8 ices, and make available to the public, a report
 9 that includes the information described in para-
 10 graph (2), except that—

11 (i) such information shall be provided
 12 with respect to each program served by the
 13 agency and with respect to children en-
 14 rolled in Head Start programs; and

15 (ii) the information described in sub-
 16 clause (II)(bb), subclause (III), and sub-
 17 clause (IV) of paragraph (2)(B)(i) shall
 18 not be required.

19 (2) INFORMATION REQUIREMENTS.—

20 (A) GENERAL INFORMATION REQUIRE-
 21 MENTS.—The report described in paragraph (1)
 22 shall include with respect to physical restraint
 23 imposed upon students in the preceding full
 24 academic or program year—

25 (i) the total number of such incidents;

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

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

(iv) the total number of such incidents where the use of physical restraint is referred to law enforcement.

(B) DISAGGREGATION.—

(i) GENERAL DISAGGREGATION REQUIREMENTS.—The information described in subparagraph (A) shall be disaggregated as follows:

(I) With respect to the total number of incidents in which physical restraint was imposed upon a student, disaggregated by each of the following:

(aa) By those that resulted in injury.

(bb) By those that resulted in death.

(cc) By those in which the program personnel imposing

1 physical restraint was not trained
2 and certified, as described in sec-
3 tion 101(e)(1)(C)(i).

4 (II) By the demographic charac-
5 teristics of all students upon whom
6 physical restraint was imposed, in-
7 cluding disaggregation—

8 (aa) by each major racial
9 and ethnic group, economically
10 disadvantaged students as com-
11 pared to students who are not
12 economically disadvantaged,
13 English proficiency status, and
14 sex;

15 (bb) by students with an in-
16 dividualized education program
17 under section 614(d) of the Indi-
18 viduals with Disabilities Edu-
19 cation Act (20 U.S.C. 1414(d));

20 (cc) by students who have a
21 plan developed pursuant to sec-
22 tion 504 of the Rehabilitation
23 Act of 1973 (29 U.S.C. 794);
24 and

1 (dd) by students who have a
 2 plan developed pursuant to title
 3 II of the Americans with Disabil-
 4 ities Act of 1990 (42 U.S.C.
 5 12131 et seq.).

6 (III) By the total number of inci-
 7 dents of physical restraint in which a
 8 school resource officer or school secu-
 9 rity guard was involved, which may
 10 include the school resource officer or
 11 school security guard imposing the
 12 physical restraint or assisting with the
 13 physical restraint.

14 (IV) By the type of school, in-
 15 cluding disaggregation by special edu-
 16 cation school, charter school, and pri-
 17 vate school.

18 (ii) UNDUPLICATED COUNT; EXCEP-
 19 TION.—The information and
 20 disaggregation required under subpara-
 21 graphs (A) and (B) shall—

22 (I) be carried out in a manner to
 23 ensure an unduplicated count of the
 24 total number of incidents in the pre-
 25 ceding full academic year in which

1 physical restraint was imposed upon a
2 student; and

3 (II) not be required in a case in
4 which the number of students in a
5 category would reveal personally iden-
6 tifiable information about an indi-
7 vidual student.

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

9 (a) GRANTS AUTHORIZED.—

10 (1) IN GENERAL.—From the amount appro-
11 priated under section 307 to carry out this section
12 for a fiscal year, the Secretary shall award grants to
13 State educational agencies with an application ap-
14 proved under subsection (c), on the basis of their
15 relative need, as determined with the Secretary in
16 accordance with paragraph (2), to assist the State
17 educational agencies in—

18 (A) establishing, implementing, and enforce-
19 ing the policies and procedures that ensure
20 compliance with section 101;

21 (B) improving State and local capacity to
22 collect and analyze data related to physical re-
23 straint; and

24 (C) improving school climate and culture
25 by implementing schoolwide positive behavioral

1 interventions and supports, mental health sup-
 2 ports, restorative justice programs, trauma-in-
 3 formed care, and crisis and de-escalation inter-
 4 ventions.

5 (2) DETERMINATION OF RELATIVE NEED.—In
 6 determining the relative need of State educational
 7 agencies under paragraph (1), the Secretary shall
 8 consider—

9 (A) the physical restraint and seclusion in-
 10 cidents that occurred at a school served by the
 11 State educational agencies for the most recent
 12 academic year for which data are available;

13 (B) the capacity needs of the State edu-
 14 cational agency and the local educational agen-
 15 cies served by the State educational agency to
 16 collect and analyze the data described in para-
 17 graph (1)(B); and

18 (C) whether the State educational agency
 19 has been carrying out the activities described in
 20 paragraph (1)(C) and, if so, how the activities
 21 are being implemented.

22 (3) REPORT.—The Secretary shall provide a re-
 23 port to the Committee on Health, Education, Labor,
 24 and Pensions of the Senate and the Committee on
 25 Education and Labor of the House of Representa-

1 tives not later than 60 days after the date the Sec-
2 retary awards a grant to a State under this section
3 detailing why the State was chosen and how the cri-
4 teria described in subparagraphs (A), (B), and (C)
5 of paragraph (2) were applied to select the State.

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

9 (c) APPLICATION.—

10 (1) IN GENERAL.—To be eligible to receive a
11 grant under this section, each State educational
12 agency desiring a grant shall submit an application
13 to the Secretary at such time, in such manner, and
14 accompanied by such information as the Secretary
15 may require.

16 (2) CONTENTS.—Each application submitted
17 under paragraph (1) shall include—

18 (A) the total number of incidents in which
19 physical restraint was imposed upon students
20 for the most recent school year;

21 (B) the total number of incidents in which
22 seclusion was imposed upon students for the
23 most recent school year;

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

1 (D) a description of crisis intervention or
 2 prevention trainings used in the State to pre-
 3 vent or reduce physical restraint and seclusion
 4 (if applicable);

5 (E) a description of statewide initiatives
 6 regarding school climate and culture (if applica-
 7 ble), such as schoolwide positive behavioral
 8 interventions and supports, mental health sup-
 9 ports, restorative justice programs, trauma-in-
 10 formed care, and crisis and de-escalation inter-
 11 ventions;

12 (F) a description of activities to be funded
 13 under the grant and the goals of such activities,
 14 including how the activities will eliminate seclu-
 15 sion and reduce and prevent physical restraint;
 16 and

17 (G) a description of how the activities
 18 under the grant will coordinate and align with
 19 current Federal, State, and local policies, pro-
 20 grams, or activities regarding seclusion and
 21 physical restraint, crisis intervention, and
 22 school climate or culture.

23 (d) AUTHORITY TO MAKE SUBGRANTS.—

24 (1) IN GENERAL.—A State educational agency
 25 receiving a grant under this section may use such

1 grant funds to award subgrants, in the manner de-
 2 termined by the State educational agency, to local
 3 educational agencies served by the State educational
 4 agency.

5 (2) APPLICATION.—A local educational agency
 6 desiring to receive a subgrant under this section
 7 shall submit an application to the applicable State
 8 educational agency at such time, in such manner,
 9 and containing such information as the State edu-
 10 cational agency may require.

11 (3) EARLY CHILDHOOD EDUCATION PROGRAM
 12 PARTICIPATION.—A local educational agency receiv-
 13 ing subgrant funds under this section shall ensure
 14 that educators working in an early childhood edu-
 15 cation program, as defined in section 103 of the
 16 Higher Education Act of 1965 (20 U.S.C. 1003),
 17 may participate, to the extent practicable, on an eq-
 18 uitable basis in activities supported by subgrant
 19 funds under this section that are trainings on devel-
 20 opmentally appropriate practices for meeting the
 21 needs of young children.

22 (e) PRIVATE SCHOOL PARTICIPATION.—

23 (1) IN GENERAL.—A local educational agency
 24 receiving subgrant funds under this section shall,
 25 after timely and meaningful consultation with appro-

1 priate private school officials, ensure that private
 2 school personnel may participate, on an equitable
 3 basis, in activities supported by subgrant funds
 4 under this section.

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

12 (3) PROVISION OF SERVICES.—

13 (A) IN GENERAL.—Services described
 14 under this section shall be provided—

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

16 (ii) through contract by the public
 17 agency with an individual or entity.

18 (B) INDEPENDENCE; PUBLIC AGENCY.—

19 An individual or entity described in subpara-
 20 graph (A)(ii) that contracts with a public agen-
 21 cy to provide services under this section shall be
 22 independent of a private school and of any reli-
 23 gious organization. Individuals providing such
 24 services shall be employed by and under the
 25 control and supervision of the public agency.

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

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

9 (1) Establishing and implementing policies to
10 prohibit seclusion, mechanical restraint, chemical re-
11 straint, and other forms of prohibited restraint in
12 schools, consistent with section 101.

13 (2) Implementing and evaluating strategies and
14 procedures to prevent seclusion and to prevent and
15 reduce physical restraint in schools, consistent with
16 such policies.

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

20 (4) Analyzing the information included in a re-
21 port prepared under section 202(b) to identify stu-
22 dent, school personnel, and school needs related to
23 preventing seclusion, and preventing and reducing
24 the use of physical restraint.

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

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

17 (1) Developing and implementing high-quality
18 professional development and training programs to
19 implement evidence-based systematic approaches to
20 schoolwide positive behavioral interventions and sup-
21 ports, including improving coaching, facilitation, and
22 training capacity for administrators, school leaders,
23 teachers, specialized instructional support personnel,
24 paraprofessionals, and other staff.

1 (2) Providing technical assistance to implement
 2 evidence-based systematic approaches to schoolwide
 3 positive behavioral interventions and supports, in-
 4 cluding technical assistance for data-driven decision
 5 making related to behavioral supports and interven-
 6 tions in the classroom.

7 (3) Researching, evaluating, and disseminating
 8 high-quality evidence-based programs and activities
 9 that implement schoolwide positive behavioral inter-
 10 ventions and supports with fidelity.

11 (4) Supporting other local positive behavioral
 12 interventions and supports implementation activities
 13 consistent with this subsection.

14 (5) Developing, implementing, and providing
 15 technical assistance to support evidence-based pro-
 16 grams that reduce the likelihood of physical re-
 17 straint, such as mental health supports, restorative
 18 justice programs, trauma-informed care, and crisis
 19 and de-escalation interventions.

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

23 (1) evaluate the State’s progress toward the
 24 elimination of seclusion and the prevention and re-

duction of physical restraint in the schools located in the State, consistent with section 101;

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

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

TITLE III—GENERAL PROVISIONS

SEC. 301. NATIONAL ASSESSMENT.

(a) NATIONAL ASSESSMENT.—The Secretary shall carry out a national assessment to determine the effectiveness of this Act, which shall include—

(1) analyzing data related to incidents of physical restraint in schools and programs that serve children who receive services for which financial assistance is provided in accordance with the Head Start Act (42 U.S.C. 9831 et seq.) (referred to in this title as “Head Start programs”);

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

(3) identifying the types of programs and services that have demonstrated the greatest effectiveness in eliminating and preventing seclusion and

1 preventing and reducing the number of physical re-
 2 straint incidents in schools and Head Start pro-
 3 grams; and

4 (4) identifying evidence-based personnel train-
 5 ing models with demonstrated success in preventing
 6 seclusion and preventing and reducing the number
 7 of physical restraint incidents in schools and Head
 8 Start programs, including models that emphasize
 9 positive behavioral interventions and supports and
 10 de-escalation techniques over physical intervention.

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

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

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

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

23 (a) NOTIFICATION.—In a case in which physical in-
 24 jury or death of a student or of a child enrolled in a Head
 25 Start program occurs in conjunction with the use of seclu-

1 sion or physical restraint or any intervention used to con-
 2 trol behavior at a school or Head Start program, the local
 3 educational agency serving such school or the agency ad-
 4 ministering a Head Start program under the Head Start
 5 Act (42 U.S.C. 9801 et seq.) shall have procedures to—

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

8 (A) the State educational agency, or in the
 9 case of an agency administering a Head Start
 10 program, the appropriate official at the Depart-
 11 ment of Health and Human Services;

12 (B) the local law enforcement agency; and

13 (C) the relevant protection and advocacy
 14 system; and

15 (2) provide any information that the protection
 16 and advocacy system may require.

17 (b) RESTATEMENT OF AUTHORITY.—Protection and
 18 advocacy systems shall have the same authorities and
 19 rights provided under subtitle C of title I of the Develop-
 20 mental Disabilities Assistance and Bill of Rights Act of
 21 2000 (42 U.S.C. 15041 et seq.) with respect to protections
 22 provided for students or children enrolled in Head Start
 23 programs under this Act when such students or children
 24 are otherwise eligible to be clients of the protection and

1 advocacy system, including investigating, monitoring, and
2 enforcing such protections.

3 **SEC. 303. SCHOOLS OPERATED OR FUNDED BY THE DE-**
4 **PARTMENT OF THE INTERIOR OR THE DE-**
5 **PARTMENT OF DEFENSE.**

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

11 (b) SCHOOLS OPERATED OR FUNDED BY THE DE-
12 PARTMENT OF DEFENSE.—The Secretary of Defense shall
13 promulgate regulations to ensure that schools operated or
14 funded by the Department of Defense Education Activity
15 or otherwise operated or funded by the Department of De-
16 fense for the education of military-connected dependents
17 (as described in subparagraph (B) or (D)(i) of section
18 7003(a)(1) of the Elementary and Secondary Education
19 Act of 1965 (20 U.S.C. 7703(a)(1))) comply with the re-
20 quirements of title I and section 202(b).

21 **SEC. 304. RULE OF CONSTRUCTION.**

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

1 **SEC. 305. APPLICABILITY TO PRIVATE SCHOOLS AND HOME**
2 **SCHOOLS.**

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

8 (b) HOME SCHOOLS.—Nothing in this Act shall be
9 construed to—

10 (1) affect a home school, whether or not a home
11 school is treated as a private school or home school
12 under State law; or

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

15 **SEC. 306. SEVERABILITY.**

16 If any provision of this Act, an amendment made by
17 this Act, or the application of such provision or amend-
18 ment to any person or circumstance is held to be unconsti-
19 tutional, the remainder of this Act, the amendments made
20 by this Act, and the application of the provisions of such
21 to any person or circumstance shall not be affected there-
22 by.

1 **SEC. 307. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out this Act for fiscal year
4 2021 and each succeeding fiscal year.

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