

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

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 \_\_\_\_\_

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**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:

## 2

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.—

1           (A) IN GENERAL.—Subject to subpara-  
2           graph (B), the term “program personnel”  
3           means any agent of a program, including an in-  
4           dividual who is employed by a program, or who  
5           performs services for a program on a contrac-  
6           tual basis, including—

7                       (i) school leaders;

8                       (ii) teachers;

9                       (iii) specialized instructional support  
10           personnel;

11                      (iv) paraprofessionals; or

12                      (v) other staff.

13           (B) EXCLUSION.—Notwithstanding sub-  
14           paragraph (A), program personnel shall not in-  
15           clude a law enforcement officer or a school se-  
16           curity guard.

17           (10) PROTECTION AND ADVOCACY SYSTEM.—

18           The term “protection and advocacy system” means  
19           a protection and advocacy system established under  
20           section 143 of the Developmental Disabilities Assist-  
21           ance and Bill of Rights Act of 2000 (42 U.S.C.  
22           15043).

23           (11) SCHOOL SECURITY GUARD.—The term  
24           “school security guard” means an individual who is  
25           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-

1 cuses primarily on serving the needs of students  
2 with disabilities under the Individuals with Disabil-  
3 ities Education Act (20 U.S.C. 1400 et seq.) or sec-  
4 tion 504 of the Rehabilitation Act of 1973 (29  
5 U.S.C. 794).

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

11 (A) training in evidence-based techniques  
12 shown to be effective in the prevention of phys-  
13 ical restraint;

14 (B) evidence-based skills training related  
15 to positive behavioral interventions and sup-  
16 ports, safe physical escort, conflict prevention,  
17 understanding antecedents, deescalation, and  
18 conflict management;

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

23 (D) training in first aid and  
24 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-

1       tion of physical restraint upon a student, which shall  
2       include 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 that occurred or was about to  
22      occur that necessitated the use of re-  
23      straint.

24               (B) A meeting between parents of the stu-  
25      dent 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

1 in item (aa), evidence of a referral for  
2 such accommodations or special edu-  
3 cation or related services, or docu-  
4 mentation of the basis for declining to  
5 make such a referral for the student;  
6 and

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

15 **TITLE II—STATE PLAN, REPORT-**  
16 **ING REQUIREMENTS, AND**  
17 **GRANTS FOR STATE EDU-**  
18 **CATIONAL AGENCIES**

19 **SEC. 201. DEFINITIONS.**

20 In this title:

21 (1) **SCHOOL.**—The term “school” means an ele-  
22 mentary school, secondary school, or special edu-  
23 cation school.

24 (2) **HEAD START PROGRAM.**—The term “Head  
25 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.