

111TH CONGRESS  
1ST SESSION

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

To protect students from inappropriate seclusion and physical restraint, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

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**A BILL**

To protect students from inappropriate seclusion and  
physical restraint, 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.**

4 This Act may be cited as the “Preventing Harmful  
5 Restraint and Seclusion in Schools Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Seclusion and physical restraint have re-  
9 sulted in physical injury, psychological trauma, and  
10 death to children in public and private schools. Na-

1 tional research shows children have been subjected  
2 to inappropriate seclusion and physical restraint in  
3 schools as a means of discipline, to force compliance,  
4 or as a substitute for appropriate educational sup-  
5 port.

6 (2) Despite the widely recognized risks of seclu-  
7 sion and physical restraint, a substantial disparity  
8 exists between States and localities with regard to  
9 the protection and oversight of the rights of children  
10 to a safe learning environment.

11 (3) Children are protected from inappropriate  
12 physical restraint and seclusion in other settings,  
13 such as hospitals, health facilities, and non-medical  
14 community-based facilities. Similar protections are  
15 needed in schools, yet such protections must ac-  
16 knowledge the differences of the school environment.

17 (4) Research confirms that—

18 (A) seclusion and physical restraint are not  
19 therapeutic; and

20 (B) these practices are not effective means  
21 to calm or teach children and may have an op-  
22 posite effect while simultaneously decreasing a  
23 child's ability to learn.

24 (5) Children are subjected to seclusion and  
25 physical restraint at higher rates than adults, and

1 are at greater risk of injury. Physical restraint that  
2 restricts air flow to the lungs, as well as seclusion  
3 in the absence of continuous face-to-face monitoring,  
4 have resulted in the deaths of children in schools.

5 (6) Behavioral interventions for children must  
6 promote the right of all children to be treated with  
7 dignity. All children have the right to be free from  
8 physical or mental abuse, aversive behavioral inter-  
9 ventions that compromise health and safety, and any  
10 physical restraint or seclusion imposed for purposes  
11 of discipline or convenience.

12 (7) Safe, effective, evidence-based strategies are  
13 available to support children who display challenging  
14 behaviors in school settings. Staff training focused  
15 on the dangers of seclusion and physical restraint,  
16 as well as training in evidence-based positive behav-  
17 ioral interventions and supports, de-escalation tech-  
18 niques, and seclusion and physical restraint preven-  
19 tion, can reduce injury, trauma, and death.

20 (8) School personnel have the right to work in  
21 a safe environment and should be provided training  
22 and support to prevent injury and trauma to them-  
23 selves and others.

24 (9) The effective implementation of school-wide  
25 positive behavior supports is linked to greater aca-

1       demic achievement, significantly fewer disciplinary  
2       problems, increased instruction time, and staff per-  
3       ception of a safer teaching environment.

4           (10) Perspectives of relevant community and  
5       advocacy organizations, including those run by indi-  
6       viduals with disabilities, are important when devel-  
7       oping and implementing strategies, policies, and pro-  
8       cedures to prevent or reduce seclusion and physical  
9       restraint in schools.

10 **SEC. 3. PURPOSES.**

11       The purposes of this Act are to—

12           (1) prevent and reduce the use of seclusion and  
13       physical restraint;

14           (2) ensure the safety of all students and per-  
15       sonnel in schools and promote a positive school cul-  
16       ture and climate;

17           (3) protect students from—

18               (A) physical or mental abuse;

19               (B) aversive behavioral interventions that  
20       compromise health and safety; and

21               (C) any physical restraint or seclusion im-  
22       posed for purposes of discipline or convenience;

23           (4) ensure that seclusion and physical restraint  
24       are imposed in school only when a student's behavior

1 poses an imminent danger of physical injury to the  
2 student, school personnel, or others; and

3 (5) assist States, local educational agencies,  
4 and schools in—

5 (A) establishing policies and procedures to  
6 keep all students and school personnel safe, in-  
7 cluding students with the most complex and in-  
8 tensive behavioral needs;

9 (B) providing school personnel with the  
10 necessary tools, training, and support to ensure  
11 the safety of all students and promoting a posi-  
12 tive school culture and climate;

13 (C) collecting and analyzing data on seclu-  
14 sion and physical restraint in schools as a  
15 means to reduce such incidents; and

16 (D) identifying and implementing effective  
17 evidence-based models to prevent and reduce se-  
18 clusion and physical restraint in schools.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) **ESEA DEFINITIONS.**—The terms “edu-  
22 cational service agency”, “elementary school”, “local  
23 educational agency”, “parent”, “secondary school”,  
24 and “State” have the meanings given such terms in

1 section 9101 of the Elementary and Secondary Edu-  
2 cation Act of 1965 (20 U.S.C. 7801).

3 (2) PUBLIC HEALTH SERVICE ACT DEFINI-  
4 TIONS.—The terms “mechanical restraint”, “phys-  
5 ical escort”, “physical restraint”, “seclusion”, and  
6 “time out” have the meanings given such terms in  
7 section 595(d) of the Public Health Service Act (42  
8 U.S.C. 290jj(d)), except that the meanings of such  
9 terms shall be applied by substituting “student” or  
10 “student’s” for “resident” or “resident’s”, respec-  
11 tively.

12 (3) APPLICABLE PROGRAM.—The term “appli-  
13 cable program” has the meaning given the term in  
14 section 400(c) of the General Education Provisions  
15 Act (20 U.S.C. 1221(c)).

16 (4) CHEMICAL RESTRAINT.—The term “chem-  
17 ical restraint” means a drug or medication used on  
18 a student to control behavior or restrict freedom of  
19 movement that is not—

20 (A) prescribed by a licensed physician for  
21 standard treatment of the student’s medical or  
22 psychiatric condition; and

23 (B) administered for that purpose.

24 (5) POSITIVE BEHAVIOR SUPPORTS.—The term  
25 “positive behavior supports” means a systematic ap-



1           cational service agency, or other edu-  
2           cational institution or program; and

3           (B) receives, or serves students who re-  
4           ceive, support in any form from any program  
5           supported in whole or in part, directly or indi-  
6           rectly, with funds appropriated to the Depart-  
7           ment of Education.

8           (8) SCHOOL PERSONNEL.—The term “school  
9           personnel” means school personnel and school re-  
10          source officers, as such terms are defined in section  
11          4151 of the Elementary and Secondary Education  
12          Act of 1965 (20 U.S.C. 7161).

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

15          (10) STATE-APPROVED TRAINING PROGRAM.—  
16          The term “State-approved training program” means  
17          a training program approved by a State that, at a  
18          minimum, provides—

19                 (A) evidence-based techniques shown to be  
20                 effective in the prevention, and safe use, of se-  
21                 clusion and physical restraint;

22                 (B) evidence-based skills training that is  
23                 related to positive behavior supports, conflict  
24                 prevention, de-escalation, and conflict manage-  
25                 ment;



1 (C) first aid and cardiopulmonary resus-  
2 citation; and

3 (D) certification for school personnel in the  
4 techniques and skills described in subpara-  
5 graphs (A) through (C), which shall be required  
6 to be renewed on a periodic basis.

7 (11) STATE EDUCATIONAL AGENCY.—The term  
8 “State educational agency” means a State edu-  
9 cational agency, as defined in section 9101 of the  
10 Elementary and Secondary Education Act of 1965  
11 (20 U.S.C. 7801), that receives support in any form  
12 from an applicable program.

13 (12) STUDENT.—The term “student” means a  
14 student—

15 (A) who is enrolled in a school; and

16 (B) in the case of a student enrolled in a  
17 private school, who receives support in any form  
18 from any applicable program or any program  
19 supported in whole, in part, directly, or indi-  
20 rectly with funds appropriated to the Depart-  
21 ment of Education or under the Head Start Act  
22 (42 U.S.C. 9831 et seq.).

23 **SEC. 5. MINIMUM STANDARDS; RULE OF CONSTRUCTION.**

24 (a) MINIMUM STANDARDS.—Not later than 180 days  
25 after the date of enactment of this Act, the Secretary shall

1 prescribe regulations to protect each student from physical  
2 or mental abuse, aversive behavioral interventions that  
3 compromise student health and safety, or any physical re-  
4 straint or seclusion imposed for purposes of discipline or  
5 convenience or in a manner otherwise inconsistent with  
6 this Act. Such regulations shall, at a minimum, include  
7 regulations for the following standards:

8 (1) School personnel shall be prohibited from  
9 imposing on any student the following:

10 (A) Mechanical restraint.

11 (B) Chemical restraint.

12 (C) Physical restraint that restricts air  
13 flow to the lungs.

14 (D) Aversive behavioral intervention that  
15 compromises health and safety.

16 (2) School personnel shall be prohibited from  
17 imposing physical restraint or seclusion on a student  
18 unless—

19 (A) the student's behavior poses an immi-  
20 nent danger of physical injury to the student,  
21 school personnel, or others; and

22 (B) less restrictive interventions would be  
23 ineffective in stopping such imminent danger of  
24 physical injury.

1           (3) In the event physical restraint or seclusion  
2 is imposed upon a student, such physical restraint or  
3 seclusion shall—

4           (A) end upon the cessation of the condi-  
5 tions described in paragraph (2);

6           (B) be imposed by school personnel who—

7           (i) continuously monitor the student  
8 face-to-face; or

9           (ii) if school personnel safety is sig-  
10 nificantly compromised by such face-to-face  
11 monitoring, are in continuous direct visual  
12 contact with the student; and

13          (C) be imposed by—

14          (i) school personnel trained and cer-  
15 tified by a State-approved training pro-  
16 gram that is approved by the Secretary; or

17          (ii) other school personnel in the case  
18 of a rare and clearly unavoidable emer-  
19 gency circumstance when school personnel  
20 trained and certified as described in clause  
21 (i) are not immediately available due to the  
22 unforeseeable nature of the emergency cir-  
23 cumstance.

24          (4) Each State and local educational agency  
25 shall ensure that a sufficient number of school per-

1       sonnel are trained and certified by a State-approved  
2       training program to meet the needs of the specific  
3       student population in each school in the State or  
4       served by the local educational agency, respectively.

5               (5) The use of physical restraint or seclusion as  
6       a planned intervention shall not be written into a  
7       student's education plan, individual safety plan, be-  
8       havioral plan, or individualized education program  
9       (as defined in section 614(d) of the Individuals with  
10      Disabilities Education Act (20 U.S.C. 1414(d))).

11              (6) Within 72 hours after the imposition of  
12      physical restraint or seclusion upon a student, all  
13      school personnel involved in the physical restraint or  
14      seclusion and appropriate supervisory and adminis-  
15      trative staff shall participate in a debriefing session,  
16      which shall include—

17                      (A) documentation of antecedents to the  
18                      physical restraint or seclusion; and

19                      (B) prevention planning.

20              (7) Each school shall establish procedures to be  
21      followed after each incident involving the imposition  
22      of physical restraint or seclusion upon a student, in-  
23      cluding—

1 (A) procedures to provide to the parent of  
2 the student, with respect to each such inci-  
3 dent—

4 (i) a documented, reasonable attempt  
5 to provide immediate verbal or electronic  
6 communication on the same day as each  
7 such incident;

8 (ii) within 24 hours of each such inci-  
9 dent, written notification; and

10 (iii) advance notice of the debriefing  
11 session described in paragraph (6) that will  
12 be held regarding such incident and an op-  
13 portunity to attend the debriefing session;  
14 and

15 (B) in a case where serious bodily injury  
16 (as defined in section 1365(h) of title 18,  
17 United States Code) or death of a student of  
18 the school occurs from the use of seclusion or  
19 physical restraint, procedures to notify, in writ-  
20 ing, the State protection and advocacy system  
21 within 24 hours after such incident occurs.

22 (b) RULE OF CONSTRUCTION.—Nothing in this sec-  
23 tion shall be construed to authorize the Secretary to pro-  
24 mulgate regulations prohibiting the use of—

25 (1) time out; and

1           (2) devices implemented by a trained school  
2           personnel, or utilized by a student, for the specific  
3           and approved therapeutic or safety purposes for  
4           which such devices were designed, and, if applicable,  
5           prescribed, including—

6                   (A) restraints for medical immobilization;

7                   (B) adaptive devices or mechanical sup-  
8                   ports used to achieve proper body position, bal-  
9                   ance, or alignment to allow greater freedom of  
10                  mobility than would be possible without the use  
11                  of such a mechanical support; or

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

15 **SEC. 6. STATE PLAN AND DATA COLLECTION REQUIRE-**  
16 **MENTS AND ENFORCEMENT.**

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

21                   (1) assurances to the Secretary that the State  
22                   has in effect—

23                           (A) State policies and procedures that  
24                           meet the minimum standards required by the

1 regulations prescribed by the Secretary pursu-  
2 ant to section 5(a); and

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

5 (2) a description of the State policies and pro-  
6 cedures described in paragraph (1)(A); and

7 (3) a description of the plans to ensure school  
8 personnel and parents are aware of the State poli-  
9 cies and procedures.

10 (b) REPORTING.—

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

25 (2) INFORMATION REQUIREMENTS.—

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

4                   (i) the total number of incidents in  
5                   the preceding full academic year in which  
6                   physical restraint was imposed upon a stu-  
7                   dent; and

8                   (ii) the total number of incidents in  
9                   the preceding full academic year in which  
10                  seclusion was imposed upon a student.

11          (B) DISAGGREGATION.—

12               (i) GENERAL DISAGGREGATION RE-  
13               QUIREMENTS.—The information described  
14               in subparagraph (A) shall be disaggregated  
15               by—

16                   (I) the total number of incidents  
17                   in which physical restraint or seclu-  
18                   sion was imposed upon a student—

19                           (aa) that resulted in injury;

20                           (bb) that resulted in death;

21                           and

22                           (cc) in which the school per-  
23                           sonnel imposing physical re-  
24                           straint or seclusion were not



1 trained and certified as described  
2 in section 5(a)(3)(C)(i); and

3 (II) the demographic characteris-  
4 tics of all students upon whom phys-  
5 ical restraint or seclusion was im-  
6 posed, including—

7 (aa) the categories described  
8 in section 1111(h)(1)(C)(i) of the  
9 Elementary and Secondary Edu-  
10 cation Act of 1965 (20 U.S.C.  
11 6311(h)(1)(C)(i));

12 (bb) age; and

13 (cc) disability status, which  
14 has the meaning given the term  
15 “individual with a disability” in  
16 paragraph (20) (except for sub-  
17 paragraph (A)) of section 7 of  
18 the Rehabilitation Act of 1973)  
19 (29 U.S.C. 705(20)).

20 (ii) UNDUPLICATED COUNT; EXCEP-  
21 TION.—The disaggregation required under  
22 clause (i) shall—

23 (I) be carried out in a manner to  
24 ensure an unduplicated count of the—

1 (aa) total number of inci-  
2 dents in the preceding full-aca-  
3 demic year in which physical re-  
4 straint was imposed upon a stu-  
5 dent; and

6 (bb) total number of inci-  
7 dents in the preceding full-aca-  
8 demic year in which seclusion  
9 was imposed upon a student; and

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

15 (c) ENFORCEMENT.—

16 (1) IN GENERAL.—

17 (A) USE OF REMEDIES.—If a State edu-  
18 cational agency fails to comply with subsection  
19 (a) or (b)(2), the Secretary shall—

20 (i) withhold from the State edu-  
21 cational agency, in whole or in part, fur-  
22 ther payments under an applicable pro-  
23 gram in accordance with section 455 of the  
24 General Education Provisions Act (20  
25 U.S.C. 1234d);



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

5 **SEC. 7. GRANT AUTHORITY.**

6           (a) **IN GENERAL.**—From the amount appropriated  
7           under section 12, the Secretary may award grants to State  
8           educational agencies to assist the State educational agen-  
9           cies in—

10           (1) establishing, implementing, and enforcing  
11           the policies and procedures to meet the minimum  
12           standards required by regulations prescribed by the  
13           Secretary pursuant to section 5(a); and

14           (2) improving school climate and culture by im-  
15           plementing school-wide positive behavior support ap-  
16           proaches.

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

20           (c) **APPLICATION.**—Each State educational agency  
21           desiring a grant under this section shall submit an appli-  
22           cation to the Secretary at such time, in such manner, and  
23           accompanied by such information as the Secretary may  
24           require, including information on how the State edu-  
25           cational agency will target resources to schools and local

1 educational agencies in need of assistance related to pre-  
2 venting and reducing physical restraint and seclusion.

3 (d) AUTHORITY TO MAKE SUBGRANTS.—

4 (1) IN GENERAL.—A State educational agency  
5 receiving a grant under this section may carry out  
6 the activities described in subsections (e) and (f), as  
7 required under the grant, by awarding subgrants, on  
8 a competitive basis, to local educational agencies.

9 (2) APPLICATION.—A local educational agency  
10 desiring to receive a subgrant under paragraph (1)  
11 shall submit an application to the applicable State  
12 educational agency at such time, in such manner,  
13 and containing such information as the State edu-  
14 cational agency may require.

15 (e) REQUIRED ACTIVITIES.—A State educational  
16 agency receiving a grant under this section shall use such  
17 grant funds to carry out all of the following:

18 (1) Researching, developing, implementing, and  
19 evaluating strategies, policies, and procedures to re-  
20 duce or eliminate seclusion and physical restraint in  
21 schools, consistent with the minimum standards re-  
22 quired by regulations prescribed by the Secretary  
23 pursuant to section 5(a).

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

4           (3) Carrying out the reporting requirements  
5           under section 6(b) and analyzing the information in-  
6           cluded in a report prepared under such section to  
7           identify student, school personnel, and school needs  
8           related to use of physical restraint and seclusion.

9           (f) AUTHORIZED ACTIVITIES.—A State educational  
10          agency receiving a grant under this section may use such  
11          grant funds for one or more of the following:

12           (1) Developing and implementing high-quality  
13           professional development and training programs to  
14           implement evidence-based systematic approaches to  
15           school-wide positive behavior supports, including im-  
16           proving coaching, facilitation, and training capacity  
17           for administrators, teachers, specialized instructional  
18           support personnel, and other staff.

19           (2) Providing technical assistance to develop  
20           and implement evidence-based systematic approaches  
21           to school-wide positive behavior supports, including  
22           technical assistance for data-driven decision-making  
23           related to behavioral supports and interventions in  
24           the classroom.

1           (3) Researching, evaluating, and disseminating  
2           high-quality evidence-based programs and activities  
3           that implement school-wide positive behavior sup-  
4           ports with fidelity.

5           (g) EVALUATION AND REPORT.—Each State edu-  
6           cational agency receiving a grant under this section shall,  
7           at the end of the grant period—

8           (1) evaluate the State’s progress toward the re-  
9           duction and elimination of seclusion and physical re-  
10          straint in the schools located in the State, consistent  
11          with the minimum standards required by regulations  
12          prescribed by the Secretary pursuant to section 5(a);  
13          and

14          (2) submit to the Secretary a report on such  
15          progress.

16 **SEC. 8. 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) collecting and analyzing data related to se-  
21          clusion, physical restraint, and aversive behavioral  
22          interventions in schools;

23          (2) analyzing the effectiveness of Federal,  
24          State, and local efforts to reduce the number of se-  
25          clusion and physical restraint incidents in schools;

1           (3) identifying the types of programs and serv-  
2           ices that have demonstrated the greatest effective-  
3           ness in preventing and reducing the number of phys-  
4           ical restraint and seclusion incidents in schools; and

5           (4) identifying personnel training models with  
6           demonstrated success in reducing the number of se-  
7           clusion and physical restraint incidents in schools,  
8           including models that emphasize positive behavior  
9           supports and de-escalation techniques over physical  
10          intervention.

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

15                (1) an interim report that summarizes the pre-  
16                liminary findings of the assessment described in sub-  
17                section (a) not later than 3 years after the date of  
18                enactment of this Act; and

19                (2) a final report of the findings of the assess-  
20                ment not later than 5 years after the date of the en-  
21                actment of this Act.

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

23          Protection and advocacy systems shall have the au-  
24          thority provided under section 143 of the Developmental  
25          Disabilities Assistance and Bill of Rights Act of 2000 (42



1 U.S.C. 15043) to investigate, monitor, and enforce protec-  
2 tions provided for students under this Act.

3 **SEC. 10. HEAD START PROGRAMS.**

4 (a) REGULATIONS.—The Secretary of Health and  
5 Human Services, in consultation with the Secretary of  
6 Education, shall promulgate regulations with respect to  
7 Head Start agencies administering Head Start programs  
8 under the Head Start Act (42 U.S.C. 9801 et seq.) that  
9 establish requirements consistent with—

10 (1) the requirements established by regulations  
11 promulgated pursuant to section 5(a); and

12 (2) the reporting and enforcement requirements  
13 described in subsections (b) and (c) of section 6.

14 (b) GRANT AUTHORITY.—From the amount appro-  
15 priated under section 12, the Secretary of Education may  
16 allocate funds to the Secretary of Health and Human  
17 Services to assist the Head Start agencies in establishing,  
18 implementing, and enforcing policies and procedures to  
19 meet the requirements established by regulations promul-  
20 gated pursuant to subsection (a).

21 **SEC. 11. LIMITATION OF AUTHORITY.**

22 Nothing in this Act shall be construed to restrict or  
23 limit, or allow the Secretary to restrict or limit, any other  
24 rights or remedies otherwise available to students or the  
25 families of students under Federal or State law.

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated to carry out  
3 this Act such sums as may be necessary for fiscal year  
4 2011 and each of the 4 succeeding fiscal years.