H. R. 116

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 HOUSE OF REPRESENTATIVES

Mr. BEYER introduced the following bill; which was referred to the Committee on

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Keeping All Students Safe Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

3 (a) Short Title.—This Act may be cited as the “Keeping All Students Safe Act”.

4 (b) Table of Contents.—The table of contents for 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. Definition of school.
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.

SEC. 2. DEFINITIONS.

In this Act:

(1) CHEMICAL RESTRANT.—The term “chemical restraint” means a drug or medication used on a student to control behavior or restrict freedom of movement that is not—

(A) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional’s authority under State law, for the standard treatment of a student’s medical or psychiatric condition; and

(B) administered as prescribed by the licensed physician or other qualified health pro-
professional acting under the scope of the professional’s authority under State law.

(2) ESEA TERMS.—The terms “early childhood education program”, “educational service agency”, “elementary school”, “local educational agency”, “other staff”, “paraprofessional”, “parent”, “school leader”, “secondary school”, “specialized instructional support personnel”, “State”, and “State educational agency” have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) MECHANICAL RESTRAINT.—The term “mechanical restraint” means the use of devices as a means of restricting a student’s freedom of movement.

(4) PHYSICAL ESCORT.—The term “physical escort” means the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

(5) PHYSICAL RESTRAINT.—The term “physical restraint” means a personal restriction that immobilizes or reduces the ability of an individual to move the individual’s arms, legs, torso, or head freely, ex-
except that such term does not include a physical escort, mechanical restraint, or chemical restraint.

(6) **Positive Behavioral Interventions and Supports.**—The term “positive behavioral interventions and supports”—

(A) means a schoolwide, systematic approach that embeds evidence-based practices and data-driven decisionmaking to improve school climate and culture in order to achieve improved academic and social outcomes and increase learning for all students (including students with the most complex and intensive behavioral needs); and

(B) encompasses a range of systemic and individualized positive strategies to teach and reinforce school-expected behaviors, while discouraging and diminishing undesirable behaviors.

(7) **Program.**—The term “program” means—

(A) all of the operations of a local educational agency, system of vocational education, or other school system;

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

(C) an elementary school or secondary school that is not a public school that enrolls a student who receives special education and related services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(8) PROGRAM PERSONNEL.—

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

(i) school leaders;

(ii) teachers;

(iii) specialized instructional support personnel;

(iv) paraprofessionals; or

(v) other staff.

(B) EXCLUSION.—Notwithstanding subparagraph (A), program personnel shall not include a school resource officer or a school security guard.
(9) Protection and Advocacy System.—The term “protection and advocacy system” means a protection and advocacy system established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

(10) School Resource Officer.—The term “school resource officer” means a sworn law enforcement officer who is—

(A) assigned by the employing police department to a program;

(B) contracting with a program; or

(C) employed by a program.

(11) School Security Guard.—The term “school security guard” means an individual who is not a sworn law enforcement officer and who is responsible for addressing one or more of the following safety and crime prevention activities in and around a program:

(A) Assisting program personnel in safety incidents.

(B) Educating students in crime and illegal drug use prevention and safety.

(C) Developing or expanding community justice initiatives for students.
(D) Training students in conflict resolution and supporting restorative justice programs.

(E) Serving as a liaison between the program and outside agencies, including other law enforcement agencies.

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

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

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

(14) SPECIAL EDUCATION SCHOOL.—The term “special education school” means a school that focuses primarily on serving the needs of students with disabilities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

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

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

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

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

(D) training in first aid and cardiopulmonary resuscitation;

(E) information describing State policies and procedures to ensure compliance with section 101; and

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

(16) STUDENT.—The term “student” means—
(A) for purposes of title I, a student enrolled in a program; and

(B) for purposes of title II, a student enrolled in an elementary school or secondary school.

(17) TIME OUT.—

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

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

(i) seclusion; or

(ii) a separation of the student described in subparagraph (A) from which such student is physically or otherwise prohibited from leaving.

TITLE I—PROHIBITIONS ON RESTRAINT AND SECLUSION AND ADDITIONAL REQUIREMENTS

SEC. 101. PROHIBITION, ADDITIONAL REQUIREMENTS.

(a) Prohibition.—No student shall be subjected to unlawful seclusion or restraint by program personnel, a school resource officer, or a school security guard, while
attending any program that receives Federal financial assistance.

(b) **UNLAWFUL SECLUSION OR RESTRAINT DEFINED.**—

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

(A) seclusion;

(B) mechanical restraint;

(C) chemical restraint;

(D) physical restraint or physical escort that is life threatening, that restricts breathing, or that restricts blood flow to the brain, including prone and supine restraint;

(E) physical restraint that is contraindicated based on the student’s disability, health care needs, or medical or psychiatric condition, as documented in—

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

(ii) a behavior intervention plan;

(iii) an individualized education program or an individualized family service plan (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401));
(iv) a plan developed pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.); or

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

(F) physical restraint that is not in compliance with subsection (e)(1).

(2) NOT INCLUDED.—The term “unlawful seclusion or restraint” shall not include—

(A) a time out; or

(B) a device implemented by trained school personnel, or utilized by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed, provided that such devices are not used to purposefully cause a student pain as a means of behavioral modification, including—

(i) restraints for medical immobilization;

(ii) adaptive devices or mechanical 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.
(d) ENFORCEMENT.—

(1) INVESTIGATIONS.—

(A) IN GENERAL.—The Secretary shall ad-

dress any complaints alleging a violation of sub-

section (a) by an entity described in subpara-

graphs (A) or (C) of section 2(7) for an appro-

priate investigation.

(B) HEAD START.—The Secretary of

Health and Human Services shall address any

complaints alleging a violation of subsection (a)

by an entity described in section 2(7)(B) for an

appropriate investigation.

(2) WITHHOLDING PAYMENTS.—In the event a

student has been subjected to unlawful seclusion or

restraint in violation of subsection (a), the Secretary

shall withhold from the program under which the

violation occurred, in whole or in part, further pay-

ments (including payments for administrative costs)

in accordance with section 455 of the General Edu-


(3) HEAD START PROGRAMS.—The Secretary of

Health and Human Services, in coordination with

the Secretary, shall—
(A) ensure that entities described in section 2(7)(B) meet the requirements described in subsection (e); 

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

(C) in the event a student served by a program that serves children who receive services for which financial assistance is provided in accordance with the Head Start Act (42 U.S.C. 9831 et seq.) has been subjected to unlawful seclusion or restraint in violation of subsection (a), withhold from the program under which the violation occurred, in whole or in part, further payments (including payments for administrative costs) in accordance with section 646 of the Head Start Act (42 U.S.C. 9841). 

(e) ADDITIONAL REQUIREMENTS.—The Secretary shall ensure that each program that receives Federal financial assistance meets the following requirements:

(1) PHYSICAL RESTRAINT.—The use of physical restraint by any program personnel, a school secu-
A security guard, or a school resource officer shall be considered in compliance with the requirements of this subsection only if each of the following requirements are met:

(A) The student’s behavior poses an imminent danger of serious physical injury to the student, program personnel, a school security guard, a school resource officer, or another individual.

(B) Before using physical restraint, less restrictive interventions would be ineffective in stopping such imminent danger of serious physical injury.

(C) Such physical restraint is imposed by—

(i) program personnel, a school security guard, or a school resource officer trained and certified by a State-approved crisis intervention training program; or

(ii) program personnel, a school security guard, or a school resource officer not trained and certified as described in clause (i), in the case of a rare and clearly unavoidable emergency circumstance when program personnel, a school security
guard, or a school resource officer trained
and certified as described in clause (i) is
not immediately available due to the un-
foreseeable nature of the emergency cir-
cumstance.

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

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

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

(2) TRAINING.—Each State, in consultation
with program officials and State Directors of Head
Start Collaboration (as described in section 642B of
the Head Start Act (42 U.S.C. 9837b)), shall ensure
that a sufficient number of program personnel are
trained and certified by a State-approved crisis
intervention training program to meet the needs of
the specific student population in each program.
(3) PROHIBITION ON PLANNED INTERVENTION.—The use of physical restraint as a planned intervention shall not be written into a student’s education plan, individual safety plan, behavioral intervention plan, or individualized education program (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)), except that a program may establish policies and procedures for use of physical restraint in program safety or crisis plans, provided that such a plan is not specific to any individual student.

(4) PROCEDURES FOLLOWING PHYSICAL RESTRAINT.—Each program shall establish procedures to be followed after an incident involving the imposition of physical restraint upon a student, which shall include each of the following:

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

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

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

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

(II) positive interventions used prior to restraint;

(III) the length of time of restraint; and

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

(B) A meeting between parents of the student and the program, as soon as is practicable, 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);
(III) the program personnel, school resource officer, or school security guard who imposed the restraint;

(IV) a teacher of such student;

(V) a program leader of such student; and

(VI) an expert on behavior interventions, who may be a special education teacher;

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

(I) any precipitating events;

(II) how the incident occurred; and

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

(iii) which meeting shall include—

(I) the discussion of proactive strategies to prevent future need for the use of physical restraint;
(II)(aa) for a student identified as eligible to receive accommodations under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), or accommodations or special education or related services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), a discussion of the need for a functional behavioral assessment and a behavior intervention plan; or

(bb) for a student not identified as eligible to receive accommodations under the provisions of law described in item (aa), evidence of a referral for such accommodations or special education or related services, or documentation of the basis for declining to make such a referral for the student; and

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

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

SEC. 201. DEFINITIONS.

In this title:

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

(2) HEAD START PROGRAM.—The term “Head Start program” means a program that serves children who receive services for which financial assistance is provided in accordance with the Head Start Act (42 U.S.C. 9831 et seq.).

SEC. 202. STATE PLAN; REPORTING REQUIREMENTS.

(a) STATE PLAN.—Not later than 2 years after the date of enactment of this Act and each year thereafter, each State educational agency shall submit to the Secretary a State plan that provides—
(1) demonstrations to the Secretary that the State has in effect—

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

   (B) a State mechanism to effectively monitor and enforce compliance with section 101;

(2) a description of the State policies and procedures, including a description of the State-approved crisis intervention training programs in such State and how the State ensures accurate and timely reporting to the Department of Education;

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

(4) a description of the State activities described in the State’s plan under section 1111(g) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(g)) that reduce aversive behavioral interventions and improve school conditions;

(5) for public comment—

   (A) not less than 60 days prior to submission of the State plan, which shall provide
stakeholders with the opportunity to provide
written comments on the State plan, which
shall be included in the State plan, including—

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

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

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

(iv) notification procedures for par-
ents; and

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

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

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

(A) monitoring use of restraint in the
schools;

(B) monitoring compliance with the prohi-
bition on seclusion in schools;
(C) not less than every 6 months, discussions between State educational agency officials and school leaders to examine the progress of reducing the use of physical restraint in schools;

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

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

(b) REPORTING.—

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

(A) each State educational agency shall (in compliance with the requirements of section 444 of the General Education Provisions Act (commonly known as the Family Educational Rights and Privacy Act of 1974 ) (20 U.S.C. 1232g)) prepare and submit to the Secretary, and make available to the public, a report that includes the information described in paragraph (2), with respect to each local educational agency, each special education school, and each school not under the jurisdiction of a local edu-
cational agency, located in the same State as
such State educational agency; and

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

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

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

(2) INFORMATION REQUIREMENTS.—

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

(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
physical restraint was not trained and certified, as described in section 101(e)(1)(C)(i).

(II) By the demographic characteristics of all students upon whom physical restraint was imposed, including disaggregation—

(aa) by each major racial and ethnic group, economically disadvantaged students as compared to students who are not economically disadvantaged, English proficiency status, and sex;

(bb) by students with an individualized education program under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d));

(cc) by students who have a plan developed pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and
(dd) by students who have a plan developed pursuant to title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.);

(III) By the total number of incidents of physical restraint in which a school resource officer or school security guard was involved, which may include the school resource officer or school security guard imposing the physical restraint or assisting with the physical restraint.

(IV) By the type of school, including disaggregation by special education school, charter school, and private school.

(ii) UN DUPLICATED COUNT; EXCEPTION.—The information and disaggregation required under subparagraphs (A) and (B) shall—

(I) be carried out in a manner to ensure an unduplicated count of the total number of incidents in the preceding full academic year in which
physical restraint was imposed upon a
student; and

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

SEC. 203. GRANTS FOR STATE EDUCATIONAL AGENCIES.

(a) Grants Authorized.—

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

(A) establishing, implementing, and enforc-
ing the policies and procedures that ensure
compliance with section 101;

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

(C) improving school climate and culture
by implementing schoolwide positive behavioral
interventions and supports, mental health supports, restorative justice programs, trauma-informed care, and crisis and de-escalation interventions.

(2) Determination of relative need.—In determining the relative need of State educational agencies under paragraph (1), the Secretary shall consider—

(A) the physical restraint and seclusion incidents that occurred at a school served by the State educational agencies for the most recent academic year for which data are available;

(B) the capacity needs of the State educational agency and the local educational agencies served by the State educational agency to collect and analyze the data described in paragraph (1)(B); and

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

(3) Report.—The Secretary shall provide a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representa-
atives not later than 60 days after the date the Secretary awards a grant to a State under this section detailing why the State was chosen and how the criteria described in subparagraphs (A), (B), and (C) of paragraph (2) were applied to select the State.

(b) Duration of Grant.—A grant under this section shall be awarded to a State educational agency for a 3-year period.

c) Application.—

(1) In general.—To be eligible to receive a grant under this section, each State educational agency desiring a grant shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(2) Contents.—Each application submitted under paragraph (1) shall include—

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

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

(C) a description of the State’s data collection policies and procedures;
(D) a description of crisis intervention or prevention trainings used in the State to prevent or reduce physical restraint and seclusion (if applicable);

(E) a description of statewide initiatives regarding school climate and culture (if applicable), such as schoolwide positive behavioral interventions and supports, mental health supports, restorative justice programs, trauma-informed care, and crisis and de-escalation interventions;

(F) a description of activities to be funded under the grant and the goals of such activities, including how the activities will eliminate seclusion and reduce and prevent physical restraint; and

(G) a description of how the activities under the grant will coordinate and align with current Federal, State, and local policies, programs, or activities regarding seclusion and physical restraint, crisis intervention, and school climate or culture.

(d) AUTHORITY TO MAKE SUBGRANTS.—

(1) IN GENERAL.—A State educational agency receiving a grant under this section may use such
grant funds to award subgrants, in the manner determined by the State educational agency, to local educational agencies served by the State educational agency.

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

(3) EARLY CHILDHOOD EDUCATION PROGRAM PARTICIPATION.—A local educational agency receiving subgrant funds under this section shall ensure that educators working in an early childhood education program, as defined in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003), may participate, to the extent practicable, on an equitable basis in activities supported by subgrant funds under this section that are trainings on developmentally appropriate practices for meeting the needs of young children.

(e) PRIVATE SCHOOL PARTICIPATION.—

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

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

(3) PROVISION OF SERVICES.—

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

(i) by employees of a public agency; or

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

(B) INDEPENDENCE; PUBLIC AGENCY.—
An individual or entity described in subpara-
graph (A)(ii) that contracts with a public agen-
cy to provide services under this section shall be
independent of a private school and of any reli-
gious organization. Individuals providing such
services shall be employed by and under the
control and supervision of the public agency.
(C) COMMINGLING OF FUNDS PROHIBITED.—Funds used to provide services under this section shall not be commingled with non-Federal funds.

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

(1) Establishing and implementing policies to prohibit seclusion, mechanical restraint, chemical restraint, and other forms of prohibited restraint in schools, consistent with section 101.

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

(3) Providing professional development, training, and certification for school personnel to comply with such policies.

(4) Analyzing the information included in a report prepared under section 202(b) to identify student, school personnel, and school needs related to preventing seclusion, and preventing and reducing the use of physical restraint.
(5) Providing training to school resource officers, school security guards, and, as appropriate, school personnel, on how to comply with education and civil rights laws, including the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), when interacting with students with disabilities, including, when conducting law enforcement activities involving students with disabilities.

(g) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to the required activities described in subsection (f), a State educational agency receiving a grant, or a local educational agency receiving a subgrant, under this section may use such grant or subgrant funds for one or more of the following:

(1) Developing and implementing high-quality professional development and training programs to implement evidence-based systematic approaches to schoolwide positive behavioral interventions and supports, including improving coaching, facilitation, and training capacity for administrators, school leaders, teachers, specialized instructional support personnel, paraprofessionals, and other staff.
(2) Providing technical assistance to implement evidence-based systematic approaches to schoolwide positive behavioral interventions and supports, including technical assistance for data-driven decision-making related to behavioral supports and interventions in the classroom.

(3) Researching, evaluating, and disseminating high-quality evidence-based programs and activities that implement schoolwide positive behavioral interventions and supports with fidelity.

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

(5) Developing, implementing, and providing technical assistance to support evidence-based programs that reduce the likelihood of physical restraint, such as mental health supports, restorative justice programs, trauma-informed care, and crisis and de-escalation interventions.

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

(1) evaluate the State’s progress toward the 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 phys-
ical restraint in schools and programs that serve
children who receive services for which financial as-
sistance 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 serv-
ces that have demonstrated the greatest effectiveness in eliminating and preventing seclusion and
preventing and reducing the number of physical restraint incidents in schools and Head Start programs; and

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

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

(1) not later than 3 years after the date of the enactment of this Act, an interim report that summarizes the preliminary findings of the assessment described in subsection (a); and

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

SEC. 302. PROTECTION AND ADVOCACY SYSTEMS.

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

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

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

(B) the local law enforcement agency; and

(C) the relevant protection and advocacy
system; and

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

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

SEC. 303. SCHOOLS OPERATED OR FUNDED BY THE DEPARTMENT OF THE INTERIOR OR THE DEPARTMENT OF DEFENSE.

(a) SCHOOLS OPERATED OR FUNDED BY DEPARTMENT OF THE INTERIOR.—The Secretary of the Interior shall promulgate regulations to ensure that schools operated or funded by the Department of the Interior comply with the requirements of title I and section 202(b).

(b) SCHOOLS OPERATED OR FUNDED BY THE DEPARTMENT OF DEFENSE.—The Secretary of Defense shall promulgate regulations to ensure that schools operated or funded by the Department of Defense Education Activity or otherwise operated or funded by the Department of Defense for the education of military-connected dependents (as described in subparagraph (B) or (D)(i) of section 7003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1))) comply with the requirements of title I and section 202(b).

SEC. 304. RULE OF CONSTRUCTION.

Subject to section 101(e), nothing in this Act shall be construed to prohibit a sworn law enforcement officer with probable cause from arresting a student for violating a Federal or State criminal law.
SEC. 305. APPLICABILITY TO PRIVATE SCHOOLS AND HOME SCHOOLS.

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

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

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

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

SEC. 306. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

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