To prohibit and prevent seclusion and to prevent and reduce the use of physical restraint in schools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

November 14, 2018

Mr. Beyer (for himself, Mr. Scott of Virginia, Mr. Connolly, Mr. Tonko, Ms. Norton, Mr. Danny K. Davis of Illinois, Mr. Sablan, Ms. Wilson of Florida, Mr. Espaillat, Ms. Michelle Lujan Grisham of New Mexico, Ms. Lee, Mrs. Napolitano, Ms. Moore, Ms. Esty of Connecticut, Ms. Pingree, Mr. Sean Patrick Maloney of New York, Mr. Langevin, Mrs. Davis of California, Mr. Cárdenas, Mr. Price of North Carolina, Mr. McEachin, Ms. McCollum, Ms. Clark of Massachusetts, Mr. DeSaulnier, Mr. Himes, Ms. Blunt Rochester, Mr. Takano, Mr. Mcnerney, Ms. Jayapal, Mr. McGovern, Mr. Ryan of Ohio, Mr. Nadler, Mr. Kennedy, Mr. Pallone, Mr. Gomez, and Mr. Johnson of Georgia) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit and prevent seclusion 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 Representa-
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:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.
Sec. 5. Minimum standards; rules of construction.
Sec. 6. State plan and report requirements and enforcement.
Sec. 7. Grants for State educational agencies.
Sec. 8. National assessment.
Sec. 9. Protection and advocacy systems.
Sec. 10. Applicability to private schools and home schools.
Sec. 11. Authorization of appropriations.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Restraint and seclusion have resulted in serious physical injury, psychological trauma, and death to children in public and private schools. National research shows students have been subjected to restraint and seclusion in schools as a means of discipline, to force compliance, or as a substitute for appropriate educational and behavioral support.

(2) All children have the right to be free from physical or mental abuse, aversive behavioral interventions that compromise health and safety, and any restraint or seclusion imposed solely for purposes of discipline or convenience.
(3) Safe, effective, evidence-based strategies are available to support children who display challenging behaviors in school settings. Training for staff focused on the dangers of restraint and seclusion as well as training in evidence-based positive behavior supports, de-escalation techniques, and physical restraint and seclusion prevention, can reduce the incidence of injury, trauma, and death.

(4) School personnel have the right to work in a safe environment and should be provided training, resources, and support to prevent injury and trauma to themselves and others.

(5) Despite the widely recognized risks of restraint and seclusion, a substantial disparity exists among many States and localities with regard to the protection and oversight of the rights of children and school personnel to a safe learning environment.

(6) Children are subjected to restraint and seclusion at higher rates than adults. Physical restraint which restricts breathing or causes other body trauma, as well as seclusion in the absence of continuous face-to-face monitoring, have resulted in the deaths of children in schools.

(7) Children are protected from inappropriate restraint and the use of seclusion in other settings,
such as hospitals, health facilities, and nonmedical community-based facilities. Similar protections are needed in schools, yet such protections must acknowledge the differences of the school environment.

(8) Research confirms that restraint and seclusion are not therapeutic, nor are these practices effective means to calm, discipline, or teach children, and may have an opposite effect while simultaneously decreasing a child’s ability to learn.

(9) The effective implementation of schoolwide positive behavior supports is linked to greater academic achievement, significantly fewer disciplinary problems, increased instruction time, and staff perception of a safer teaching environment.

(10) The 2015 bipartisan reauthorization of the Elementary and Secondary Education Act requires States to support local educational agencies in improving school conditions through reducing the use of aversive behavioral interventions. The report issued by the Committee on Health, Education, Labor, and Pensions of the Senate regarding the authorization described aversive behavioral interventions as including seclusion and restraint. There is bipartisan agreement that schools must reduce seclu-
sion and restraint to improve school conditions for all children.

**SEC. 3. PURPOSES.**

The purposes of this Act are to—

(1) prohibit seclusion in schools;

(2) prevent seclusion, and prevent and reduce the use of physical restraint in schools;

(3) ensure the safety of all students and school personnel in schools and promote a positive school culture and climate;

(4) protect students from—

(A) physical and mental abuse;

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

(C) any seclusion;

(D) any physical restraint imposed solely for purposes of discipline or convenience;

(E) physical restraint and physical escort that is known to be life-threatening, including physical restraint that restricts breathing; and

(F) physical restraint if contraindicated based on the student’s disability, health care needs, or medical or psychiatric condition;

(5) ensure that physical restraint is imposed in school only when a student’s behavior poses an im-
minent danger of serious physical injury to the stu-
dent, school personnel, or others;

(6) ensure that—

(A) parents are fully informed of the pro-
hibitions and requirements of this Act;

(B) parents are fully informed of the poli-
cies on restraint and seclusion of the applicable
school, local educational agency, and the State;

(C) parents are notified when physical re-
straint has been utilized on their child or chil-
dren; and

(D) a meeting with parents occurs to dis-
cuss the incident in which physical restraint is
imposed on their child pursuant to section
5(a)(6)(B); and

(7) assist States, local educational agencies,
and schools in—

(A) establishing policies and procedures to
keep all students, including students with the
most complex and intensive behavioral needs,
and school personnel safe;

(B) providing school personnel with the
necessary tools, training, and support to ensure
the safety of all students and school personnel;
(C) collecting and analyzing data on physical restraint in schools; and

(D) identifying and implementing effective evidence-based models to prevent seclusion and reduce and prevent physical restraint in schools.

SEC. 4. DEFINITIONS.

In this Act:

(1) APPLICABLE PROGRAM.—The term “applicable program” has the meaning given the term in section 400(c) of the General Education Provisions Act (20 U.S.C. 1221(c)).

(2) CHEMICAL RESTRAINT.—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 professional acting under the scope of the professional’s authority under State law.
(3) 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).

(4) MECHANICAL RESTRAINT.—The term “mechanical restraint” has the meaning given the term in section 595(d)(1) of the Public Health Service Act (42 U.S.C. 290jj(d)(1)), except that the meaning shall be applied by substituting “student’s” for “resident’s”.

(5) MILITARY-CONNECTED DEPENDENTS.—The term “military-connected dependents” means children described in subparagraphs (B) and (D)(i) of section 7003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(6) PHYSICAL ESCORT.—The term “physical escort” has the meaning given the term in section 595(d)(2) of the Public Health Service Act (42 U.S.C. 290jj(d)(2)), except that the meaning shall be applied by substituting “student” for “resident”.
(7) 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, except that such term does not include a physical escort, mechanical restraint, or chemical restraint.

(8) POSITIVE BEHAVIOR INTERVENTIONS AND SUPPORTS.—The term “positive behavior interventions and supports”—

(A) means a schoolwide, systematic approach to embed evidence-based practices and data-driven decisionmaking to improve school climate and culture (including a range of systemic and individualized positive strategies to reinforce desired behaviors and diminish reoccurrence of challenging behaviors), 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 reinforce desired behaviors, diminish reoccurrence of challenging behaviors, and teach appropriate behaviors to students.
(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.**—The term “school” means—

(A) an elementary school or secondary school; or

(B) an entity that—

(i) provides elementary and secondary education; and

(ii) receives, or serves students who receive, support in any form from any program supported, in whole or in part, with Federal funds.

(11) **SCHOOL PERSONNEL.**—The term “school personnel” means individuals who are employed by a school, or who perform services for a school on a contractual basis as—

(A) school leaders;

(B) teachers;

(C) specialized instructional support personnel;

(D) paraprofessionals; or
(E) other staff.

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

(A) assigned by the employing police de-
dpartment to a local educational agency or
school;

(B) contracting with a local educational
agency or school; or

(C) employed by a local educational agen-
cy.

(13) SCHOOL SECURITY GUARD.—The term “school security guard” means a contractor or an
employee of a local educational agency or school re-
sponsible for addressing one or more of the following
safety and crime prevention activities in and around
a school:

(A) Assisting school personnel in school
safety incidents.

(B) Educating students in crime and ille-
gal 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 school and outside agencies, including other law enforcement agencies.

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

(14) **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.

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

(16) **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).

(17) **STATE-APPROVED CRISIS INTERVENTION TRAINING PROGRAM.**—The term “State-approved crisis intervention training program” means a training program approved by a State and the Secretary that, at a minimum, provides—
(A) training in evidence-based techniques shown to be effective in the prevention of physical restraint;

(B) evidence-based skills training related to positive behavior supports, safe physical escort, conflict prevention, understanding antecedents, de-escalation, 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 that meet the minimum standards established by regulations promulgated pursuant to section 5(a); 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.

(18) STUDENT.—The term “student” means a student enrolled in a school, except that in the case
of a student enrolled in a private school or private
program, such term means a student who receives
support in any form from any program or activity
supported, in whole or in part, with Federal funds.

(19) **TIME OUT.**—The term “time out” has the
meaning given the term in section 595(d)(5) of the
Public Health Service Act (42 U.S.C. 290jj(d)(5)),
except that the meaning shall be applied by sub-
stituting “student” for “resident”.

**SEC. 5. MINIMUM STANDARDS; RULES OF CONSTRUCTION.**

(a) **MINIMUM STANDARDS.**—

(1) **REGULATIONS.**—

(A) **IN GENERAL.**—Not later than 180
days after the date of enactment of this Act, to
protect each student from physical or mental
abuse, aversive behavioral interventions that
compromise student health and safety, seclu-
sion, or physical restraint imposed solely for
purposes of discipline or convenience or in a
manner otherwise inconsistent with this Act,
the Secretary shall promulgate regulations es-
tablishing minimum standards consistent with
this subsection.

(B) **HEAD START.**—
(i) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Secretary, shall promulgate regulations under this subsection with respect to Head Start agencies (including Early Head Start agencies) under the Head Start Act (24 U.S.C. 9801 et seq.).

(ii) FUNDS.—From the amount appropriated under section 11, the Secretary may allocate funds to the Secretary of Health and Human Services to assist the Head Start agencies (including Early Head Start agencies) in establishing, implementing, and enforcing policies and procedures to meet the requirements established by regulations promulgated by the Secretary of Health and Human Services under clause (i).

(2) PROHIBITED ACTIONS.—Each school personnel, school security guard, and school resource officer shall be prohibited from imposing on any student the following:

(A) Seclusion.

(B) Mechanical restraints.

(C) Chemical restraints.
(D) Physical restraint or physical escort that is life threatening or that restricts breathing.

(E) Physical restraint if 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) other relevant record made available to the State or local educational agency involved.

(F) Physical restraint that is not in compliance with paragraph (3).
(G) Any other form of aversive behavioral interventions.

(3) PHYSICAL RERAINT.—The use of physical restraint by any school personnel, school security guard, or school resource officer shall be considered in compliance with the minimum standards promulgated under 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, school personnel, school security guard, school resource officer, or others.

(B) Less restrictive interventions would be ineffective in stopping such imminent danger of serious physical injury.

(C) Such physical restraint is imposed by school personnel, or a school security guard or school resource officer, who—

   (i) continuously monitors the student face-to-face; or

   (ii) if school personnel safety, or the safety of a school security guard or school resource officer, is significantly compromised by such face-to-face monitoring, such personnel, guard, or officer, is in con-
continuous direct visual contact with the student by looking directly at the student from a distance rather than electronically monitoring the student using a security camera or other system.

(D) Such physical restraint is imposed by—

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

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

(E) Such physical restraint ends immediately upon the cessation of the conditions described in subparagraph (A).
(F) The physical restraint does not interfere with the student’s ability to communicate in the student’s primary language or primary mode of communication.

(G) The physical restraint uses the least amount of force necessary to protect the student or others from the threatened injury.

(4) Training.—Each State, in consultation with local educational agency officials, shall ensure that a sufficient number of school personnel are trained and certified by a State-approved crisis intervention training program to meet the needs of the specific student population in each school.

(5) 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 plan, or individualized education program (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)), except that local educational agencies or schools may establish policies and procedures for use of physical restraint in school safety or crisis plans, provided that such a plan is not specific to any individual student.
(6) Procedures following physical restraint.—Each school 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 to necessitate the use of restraint.
(B) A meeting between parents of the student and the school, 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 school)—

(i) which shall include, at a minimum—

(I) the parent of such student;

(II) the student involved (if appropriate);

(III) the school personnel, school resource officer, or school security guard who imposed the restraint;

(IV) a teacher of such student;

(V) a school 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 school personnel, or the school resource officer or school security guard involved, including—
(I) any precipitating events;

(II) how the incident occurred;

and

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

(iii) which shall include—

(I) the discussion of proactive strategies to prevent future need for the use of 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 such a referral for the student;

(III) provision 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; and

(IV) an assurance that in a case in which the student attends the meeting, the information communicated by the student in that meeting will be for purposes of debriefing an incident where restraint was imposed upon the student, and—

(aa) may only be shared to the extent necessary to protect the safety of the student or others; and
(bb) may not be used against the student in any disciplinary, criminal, or civil investigations or proceedings.

(C) Any other procedures consistent with this Act that the Secretary determines appropriate.

(b) SCHOOLS OPERATED OR FUNDED BY DEPARTMENT OF THE INTERIOR.—The Secretary of the Interior shall ensure that schools operated or funded by the Department of the Interior comply with the regulations promulgated by the Secretary under subsection (a).

(c) SCHOOLS OPERATED OR FUNDED BY THE DEPARTMENT OF DEFENSE.—The Secretary of Defense shall 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 comply with the regulations promulgated by the Secretary under subsection (a).

(d) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this Act shall be construed to authorize the Secretary to promulgate regulations prohibiting the use of—

(A) time out; and
(B) devices 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, including—

(i) restraints for medical immobilization;

(ii) adaptive devices or mechanical supports used to achieve proper body position, 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.

(2) LAW ENFORCEMENT.—Nothing in this Act shall be construed to prevent a sworn law enforcement officer from carrying out the duties of the officer under otherwise applicable law.

SEC. 6. STATE PLAN AND REPORT REQUIREMENTS AND ENFORCEMENT.

(a) STATE PLAN.—Not later than 2 years after the Secretary promulgates regulations pursuant to section 5(a), and each year thereafter, each State educational
agency shall submit to the Secretary a State plan that pro-
vides—

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

(A) State policies and procedures that meet the minimum standards, including the standards with respect to State-approved crisis intervention training programs, established by regulations promulgated pursuant to section 5(a); and

(B) a State mechanism to effectively monitor and enforce the minimum standards;

(2) a description of the State policies and pro-
cedures, including a description of the State-ap-
proved crisis intervention training programs in such State and how the State ensures accurate and timely reporting to the Office for Civil Rights of the De-
partment of Education;

(3) a description of the State plans to ensure school 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 de-
scribed in the State plan and approved by the Sec-
retary as required under section 1111(g) of the Ele-
primary and Secondary Education Act of 1965 (20
U.S.C. 6311(g)) that reduce aversive behavioral
interventions and improve school conditions;

(5) a description of the State efforts to engage
stakeholders for input on the development of State
policies and procedures to meet the minimum stand-
ards of this Act, which shall include consultation
with—

(A) parents;

(B) individuals with disabilities;

(C) advocacy organizations representing in-
dividuals with disabilities;

(D) teachers;

(E) school personnel;

(F) administrators;

(G) civil rights organizations; and

(H) mental health experts; and

(6) a description of oversight of schools that in-
cludes—

(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, discus-
sions between State educational agency officials
and school leaders to discuss the progress of re-
ducing 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 interventions.

(b) REPORTING.—

(1) Reporting requirements.—Not later
than 2 years after the date the Secretary promul-
gates regulations pursuant to section 5(a), and each
year thereafter, 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 Pri-
vacy 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 de-
scribed in paragraph (2), with respect to each local
educational agency, each special education school,
and each school not under the jurisdiction of a local
educational agency, located in the same State as
such State educational agency.

(2) Information requirements.—
(A) General Information Requirements.—The report described in paragraph (1) shall include—

(i) with respect to physical restraint imposed upon students in the preceding full academic year—

(I) the total number of such incidents;

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

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

(IV) the total number of such incidents where the use of restraint is referred to law enforcement; and

(ii) other information relevant to implementation of this Act, as determined by the Secretary.

(B) Disaggregation.—

(i) General Disaggregation Requirements.—The information described
in subparagraph (A) shall be disaggregated—

(I) by the total number of incidents in which physical restraint was imposed upon a student—

(a) that resulted in injury;

(b) that resulted in death;

and

(cc) in which the school personnel imposing physical restraint were not trained and certified as described in section 5(a)(3)(D)(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, sex,

and migrant status;
(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 restraint in which school personnel, or a school resource officer or school security guard was involved, which may include the school personnel, school resource officer, or school security guard imposing the physical restraint or assisting with the physical restraint; and
(IV) by the type of school, including disaggregation by special education school, charter school, and private school.

(ii) UNDuplicated COUNT; EXCepPTION.—The disaggregation required under clause (i)—

(I) shall 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) shall not be required in a case in which the number of students in a category would reveal personally identifiable information about an individual student.

(c) Enforcement.—

(1) IN GENERAL.—

(A) USE OF REMEDIES.—If a State educational agency fails to comply with subsection (a) or (b), the Secretary shall—

(i)(I) withhold, in whole or in part,
gram in accordance with section 455 of the General Education Provisions Act (20 U.S.C. 1234d);

(II) require a State educational agency to submit, and implement, within 1 year of such failure to comply, a corrective plan of action, which shall include specific time-frames and actions, and which may include redirection of funds received under an applicable program; or

(III) issue a complaint to compel compliance of the State educational agency through a cease and desist order, in the same manner the Secretary is authorized to take such action under section 456 of the General Education Provisions Act (20 U.S.C. 1234e); and

(ii) refer the State to the Civil Rights Division of the Department of Justice and the Office for Civil Rights of the Department of Education for an investigation.

(B) CESSATION OF WITHHOLDING OF FUNDS.—Whenever the Secretary determines (whether by certification or other appropriate evidence) that a State educational agency that
is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments with respect to the State educational agency under such subparagraph.

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

(3) RIGHTS AND REMEDIES OF STUDENTS AND PARENTS.—

(A) IN GENERAL.—Nothing in this Act shall be construed—

(i) to restrict or limit, or allow the Secretary to restrict or limit, any other rights or remedies otherwise available to students or parents under Federal, State, or local law; or

(ii) to restrict or limit Federal, State, or local laws, regulations, or policies that provide for more stringent prohibitions or limitations on the use of seclusion, restraint, or aversive interventions than the
prohibitions or limitations that are provided for in this Act.

(B) RELIEF UNDER FEDERAL, STATE, AND LOCAL LAW.—A student or parent may file a civil action under the Constitution, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), or other applicable Federal, State, or local law in the case of the use of seclusion or restraint in violation of this Act seeking relief from the use of seclusion or restraint, or other available remedies with respect of such student.

(C) NONAPPLICABILITY.—Section 615(l) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(l)) shall not apply to an action filed pursuant to this paragraph, regardless of whether or not the student is seeking relief that is also available under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(d) HEAD START.—The Secretary of Health and Human Services, in coordination with the Secretary,
(1) promulgate regulations with respect to how the reporting requirements described under subsection (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

(2) carry out the enforcement activities described in subsection (c) with respect to such agencies.

SEC. 7. GRANTS FOR STATE EDUCATIONAL AGENCIES.

(a) IN GENERAL.—From the amount appropriated under section 11, the Secretary may award, on a competitive basis, grants to State educational agencies to assist the agencies in—

(1) establishing, implementing, and enforcing the policies and procedures to meet the minimum standards established by regulations promulgated by the Secretary pursuant to section 5(a);

(2) improving State and local capacity to collect and analyze data related to physical restraint; and

(3) improving school climate and culture by implementing schoolwide positive behavior interventions and supports, mental health supports, restorative justice programs, trauma-informed care, and crisis and de-escalation interventions.
(b) **Duration of Grant.**—A grant under this section shall be awarded to a State educational agency for a 3-year period.

(c) **Application.**—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require, including information on how the State educational agency will target resources to schools and local educational agencies in need of assistance related to preventing seclusion, and preventing and reducing physical restraint.

(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, on a competitive basis, to local educational agencies.

(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.

(e) **Private School Participation.**—
(1) IN GENERAL.—A local educational agency receiving subgrant funds under this section shall, after timely and meaningful consultation with appropriate 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 purchased 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, materials, 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 subparagraph (A)(ii) that contracts with a public agency to provide services under this section shall be independent of a private school and of any reli-
igious 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 the minimum standards established by regulations promulgated by the Secretary pursuant to section 5(a).

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

(3) Providing professional development, training, and certification for school personnel to meet such standards.
(4) Analyzing the information included in a report prepared under section 6(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, as applicable, when conducting law enforcement activities involving a 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 behavior interventions and sup-
ports, including improving coaching, facilitation, and training capacity for administrators, teachers, specialized instructional support personnel, and other staff.

(2) Providing technical assistance to implement evidence-based systematic approaches to schoolwide positive behavior 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 behavior interventions and supports with fidelity.

(4) Supporting other local positive behavior 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, and support students in reducing behavior that can result in 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 prevention of seclusion and the prevention and reduction of physical restraint in the schools located in the State, consistent with the minimum standards established by regulations promulgated by the Secretary pursuant to section 5(a); and

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

**SEC. 8. NATIONAL ASSESSMENT.**

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

(1) analyzing data related to incidents of physical restraint in schools;

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

(3) identifying the types of programs and services that have demonstrated the greatest effectiveness in preventing seclusion and preventing and re-
ducing the number of physical restraint incidents in
schools; and

(4) identifying evidence-based personnel train-
ing models with demonstrated success in preventing
seclusion and preventing and reducing the number
of physical restraint incidents in schools, including
models that emphasize positive behavior supports
and de-escalation techniques over physical interven-
tion.

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

(1) not later than 3 years after the date of en-
actment of this Act, an interim report that summa-
rizes the preliminary findings of the assessment de-
scribed 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. 9. PROTECTION AND ADVOCACY SYSTEMS.

(a) NOTIFICATION.—In a case in which physical in-
jury or death of a student occurs in conjunction with the
use of seclusion or physical restraint or any intervention
used to control behavior at a school, the local educational
agency serving such school or the agency administering
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;
(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 under this Act when such students
are otherwise eligible to be clients of the protection and
advocacy system, including investigating, monitoring, and
enforcing such protections.

SEC. 10. 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 re-
ceive, 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 school personnel.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 2020 and each succeeding fiscal year.