

HOUSE WAYS AND MEANS COMMITTEE
HOUSE BILL 1043: PHYSICAL RESTRAINT AND SECLUSION-
GUIDELINES AND REPORTING

February 26, 2020

POSITION: SUPPORT

Disability Rights Maryland, the Public Justice Center, the Arc of Maryland, the Choice Program at University of Maryland Baltimore County, NARAL Pro-Choice Maryland, BMore Awesome Inc., Youth Education and Justice Clinic – University of Maryland Francis King Carey School of Law, Project HEAL at Kennedy Krieger Institute, Lindsay Gavin Ph.D, Lydia Z. Brown, Ryan Turner, and Gail Sunderman are advocates, service providers, and community members dedicated to transforming school discipline practices within Maryland’s public school systems. We are committed to making discipline responsive to students’ behavioral needs, fair, appropriate to the infraction, and designed to keep youth on track to graduate. **We support House Bill 1043, which aims to reduce the use of restraint and seclusion, which can be punitive and traumatic for students, in Maryland’s public and nonpublic schools.** This bill is critical to ensuring that school systems reduce reliance on the use of restraint and seclusion to manage students’ behaviors and instead implement positive behavioral interventions, strategies and supports, and trauma-informed interventions to better support and meet the needs of students with behavioral or social-emotional challenges.

This legislation contains several important provisions that will improve upon the existing law governing restraint and seclusion that was enacted in July 2017. First, the legislation requires the Maryland State Department of Education (MSDE) to analyze the data collected on restraint and seclusion incidents and to then make recommendations to local school systems on how to reduce the use of restraint and seclusion. Second, the legislation requires MSDE to develop a compliance and accountability structure to hold local school systems accountable for reducing the incidence of restraint and seclusion in their jurisdictions. This is critical because as the data demonstrates in the two reports provided to the General Assembly by MSDE for the 2017-18 and 2018-19 school years, in the absence of an accountability structure, the incidence of restraint and seclusion did not decrease and remained extremely high in many jurisdictions. Moreover, many districts disproportionately restrained and secluded students of color, and across all districts, the vast majority of students who were restrained and placed in seclusion were elementary-aged students with disabilities. A compliance and accountability structure is therefore necessary to hold local school systems accountable for their practices and to effectuate meaningful change in the use of restraint and seclusion.

The legislation also requires that MSDE work with institutions of higher education to issue guidelines to develop best practices for conducting functional behavioral assessments (FBAs) and developing behavior intervention plans (BIPs). This provision is absolutely critical to providing our local school systems with the guidance, knowledge and tools necessary to appropriately support students with behavior challenges in the classroom. FBAs and BIPs are the primary tools that schools use in addressing the needs of students with challenging behaviors,

and they require a systematic process of data collection and data analysis to determine the cause and function of the behavior and to develop intervention strategies for behavior change. School teams often do not have the knowledge, training, or expertise to appropriately conduct FBAs and develop BIPs, and in the absence of an effective behavior intervention plan, school staff are more apt to rely on restraint and seclusion to manage student behavior. House Bill 1043, in requiring MSDE to establish guidelines and best practices for FBAs and BIPs, would be a significant step forward in providing school teams with the guidance needed to develop appropriate behavior plans for students. House Bill 1043 further supports students and teachers dealing with student behavior challenges by requiring mandatory professional development for teachers to ensure they are competent to implement positive behavioral interventions, strategies and supports, and trauma-informed interventions.

Ultimately, HB 1043 takes an important step forward in ensuring that local school systems reduce their reliance on restraint and seclusion to manage student behavior and instead invest in rehabilitative strategies that foster positive student behavior and a positive school climate for all.

For these reasons, the below-signed organizations and individuals strongly support House Bill 1043.

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Organizational Signatories

Disability Rights Maryland
Public Justice Center
Arc of Maryland
Choice Program at University of Maryland Baltimore County
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Individual Signatories

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