

# **SB705\_The Arc Maryland\_Support.pdf**

Uploaded by: Ande Kolp

Position: FAV



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## Senate Education, Health, and Environmental Affairs Committee

March 2, 2022

### SB 705: Education - Physical Restraint and Seclusion - Limitations, Reporting, and Training

#### Position: Support

The Arc Maryland is the largest statewide advocacy organization dedicated to protecting and advancing the rights and quality of life of people with intellectual and developmental disabilities and we support SB 705 as we believe a full and active life supported by caring relationships can reduce the occurrence of challenging behaviors in people with intellectual and/or developmental disabilities<sup>i</sup>.

However, if such behaviors occur, people with intellectual and/or developmental disabilities and those who support them **must have access to positive behavioral supports** that focus on improved quality of life as well as reductions in the behaviors.

Research-based positive behavioral supports should be readily available in school settings. Educators, other professionals, and paraprofessionals should be provided with training and support in implementing effective positive behavioral interventions and supports in the school environment. Behavioral supports should be individually designed and positive, emphasize learning, offer choice and social integration, be culturally appropriate, and include modifying environments as needed.

Restraint and seclusion cause physical and/or psychological pain or result in humiliation or discomfort. Inevitably, students experience a trauma that will follow them and shape their views of themselves, others, and the world for their lifetimes. Physical restraints should only be used as a last resort to eliminate the danger of physical injury to self or others.<sup>ii</sup>

In 2017, SB 786 (Ch. 611) passed requiring the development of a task force to look at restraint and seclusion and also requiring that each public agency, public school system, and nonpublic special education school in Maryland submit annual data on physical restraint and seclusion to the Maryland State Department of Education. These data points are then compiled into a report that is shared with the General Assembly.<sup>iii</sup>

**State data from the 2019-2020 school year shows that restraint and seclusion continued to be used disproportionately with students who have disabilities.** This is a consistent finding from previous Maryland school restraint and seclusion data sets.

In Maryland, restraint was used over 12,000 times and close to 60% of all students involved were students with disabilities. Seclusion was used over 6000 times and 57% of those incidents involved students with disabilities. **Almost all of the seclusion incidents and almost 90% of all restraint incidents happen to students in special education settings** to include self-contained, special education classrooms, public/private separate day schools, and child residential settings.



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Despite regulations, policy, and known national best practices, many Maryland local school systems and many of its nonpublic schools use restraint and seclusion routinely to manage student behavior.

SB705 will prohibit seclusion in public schools and create specific requirements for nonpublic special education schools before seclusion may be years. It will also require clearer data requirements to disaggregate students in the report, include demographics, and require details on length of seclusions.

The bill will also require MSDE to develop an accountability structure and measurable plan to reduce the use of restraint and seclusion in schools. Lastly, to ensure teachers are equipped with the tools they need to successfully support and educate students, educators will receive professional development training and support on evidence-based positive behavior interventions and trauma-informed care.

**The time to take action to protect students from the harms of restraint and seclusion is now!** It is the right thing to do for our children and teachers. If we do not act, it is very possible that the recent Department of Justice settlement with Frederick County Public Schools<sup>iv</sup> will be only the first in a long line of investigations and lawsuits that rock Maryland. It is our hope that state and county resources are put into improving training and positive behavioral supports for educators as opposed to settling lawsuits that could have been avoided with our expeditious action.

We urge a favorable report on SB 705.

Please contact: Ande Kolp, Executive Director of The Arc Maryland  
[akolp@thearcmd.org](mailto:akolp@thearcmd.org)

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<sup>i</sup> Intellectual Disability (ID) is a lifelong condition where significant limitations in both intellectual functioning and adaptive behavior emerge during the developmental period (before adulthood). Developmental Disabilities (DD), first defined in 1975 federal legislation now known as “The DD Act”, are a group of lifelong conditions that emerge during the developmental period and result in some level of functional limitation in learning, language, communication, cognition, behavior, socialization, or mobility. The most common DD conditions are intellectual disability, Down syndrome, autism, cerebral palsy, spina bifida, fetal alcohol syndrome, and fragile X syndrome. The acronym “IDD” is used to describe a group that includes either people with both ID and another DD or a group that includes people with ID or another DD. The supports that people with IDD need to meet their goals vary in intensity from intermittent to pervasive.

<sup>ii</sup> <https://www.copaa.org/blogpost/895540/234517/Trauma-Informed-Care-Child-Safety-Without-Seclusion-and-Restraint>

<sup>iii</sup> The Annotated Code of Maryland Education Article 7-1102. [https://marylandpublicschools.org/programs/Documents/TFRS/Ch\\_611\\_sb0786T.pdf](https://marylandpublicschools.org/programs/Documents/TFRS/Ch_611_sb0786T.pdf)

<sup>iv</sup> <https://www.justice.gov/opa/pr/justice-department-reaches-settlement-maryland-school-district-protect-students-disabilities>

# **HCAS Testimony 705.pdf**

Uploaded by: Andrew Stettner

Position: FAV

**SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE  
SENATE BILL 705  
EDUCATION—PHYSICAL RESTRAINT AND SECLUSION—LIMITATIONS, REPORTING,  
AND TRAINING**

**MARCH 2, 2022  
POSITION: SUPPORT**

**Howard County Autism Society  
9770 Patuxent Woods Dr Suite 308  
Columbia, MD 21046  
Andrew Stettner, Vice President**

The Howard County Autism Society is pleased to offer this written testimony in support of SB705, which would ban the use of seclusion in public schools across Maryland, and provide additional protections and monitoring of the use of physical restraints. In addition to eliminating seclusion in public schools, the act would bar public schools from using restraint as part of a behavioral intervention plan, and thus limit it to a last resort in emergency situations.

The Howard County Autism Society is especially concerned about this issue based on our experience with restraining and seclusion in Howard County.

As highlighted in a recent Howard County Board of Education board report, 91 percent of restraints or seclusions occur with individuals with IEPs and roughly one in four of these individuals have a primary educational disability of autism. African-American students are disproportionately subjected in Howard County and numerous other counties statewide. The parents and self-advocates involved in the Howard County Autism Society view restraint and seclusion as an anachronistic policy that is traumatic to students, parents and educators. While many autistic students benefit from calm, quiet spaces, they should be free to enter and leave them, not locked in at the discretion of adults. Each time restraint and seclusion is used it represents a time when the schools plan to educate a child has not succeeded.

The law proposed today builds on a movement growing across our state. An increasing number of districts and health care providers are eliminating seclusion and putting restrictions on the use of restraint, addressing the underlying causes of conflicts and finding alternatives to keep staff safe. As of last year, Anne Arundel, Baltimore City, Caroline, Dorchester, Kent, Prince George's, Queen Anne's, Somerset, Wicomico, and Worcester did not report using seclusion. Frederick County will stop secluding as a condition of its settlement with the US Department of Justice. Howard County voted to eliminate the use of restraint in the next school year, and is piloting an alternative conflict resolution system that could soon go District wide.

Eliminating seclusion altogether and eradicating restraint as an option for positive behavioral intervention will actually protect staff and students. When de-escalation strategies and trauma informed approaches are used, students are able to manage their behaviors without being triggered into violent acts. For example, Ukeru is a physical alternative to restraining which has been demonstrated to reduce injuries and was part of a dramatic reduction of restraints in Calvert County and in health and education settings across the nation.

It's time for the state to be clear to its schools and the disabled community that they are looking forward not backward. It's time to eliminate seclusion and find alternatives to restraint in our schools.

**MCF\_Fav\_SB 705.pdf**

Uploaded by: Ann Geddes

Position: FAV



## **SB 705 – Education – Physical Restraint and Seclusion – Limitations, Reporting and Training**

**Committee: Education, Health and Environmental Affairs**

**Date: March 1, 2022**

**POSITION: Support**

**The Maryland Coalition of Families:** Maryland Coalition of Families (MCF) helps families who care for a loved one with behavioral health needs. Using personal experience, our staff provide one-to-one peer support and navigation services to family members with a child, youth or adult with a mental health, substance use or gambling issue.

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MCF enthusiastically supports SB 705.

The bill would primarily do five things:

- Prohibit the use of seclusion in public schools and limit its use in non-public schools
- Strictly limit the use of restraint
- Require more data collection on the use of restraint and seclusion in both public and non-public schools and analysis of the data
- Require that MSDE ensure that strong regulations are in place and implemented
- Provide better training of school staff to avoid the use of restraint and seclusion

Children who have significant mental health needs often have experienced trauma in their lives. Studies on Adverse Childhood Experiences (ACEs) consistently show that children who have experienced four or more traumatic events, including physical or mental abuse, parental mental health or substance use problems, domestic violence, bullying, poverty, or community violence, to name a few, are at much greater risk of developing mental health problems such as depression, anxiety, behavioral disorders and suicidality. Behavioral disorders in children include ADHD, Conduct Disorder, and Oppositional Defiant Disorder, behaviors which are often addressed in schools with the use of restraint and seclusion. These interventions can be extremely re-traumatizing to a child.

MSDE has collected data on the use of restraint and seclusion in schools. The number of incidents of restraint and seclusion are alarmingly high. For the 2020-21 school year most students were in virtual education for the entire year, so only the 2018-19 and 2019-March 16,



2020 data are presented here. These are the schools with the highest number of restraints in 2018-19, compared with 2019-March 2020:

<u>Incidents of restraint – 2018-19</u>	<u>2019 - March 2020</u>
Frederick County: 1,966	599
Montgomery County: 1,356	778
Baltimore County: 1,053	926
Anne Arundel County: 1,002	834
Howard County: 889	616

Frederick County, under a US. Department of Justice Order, showed a decline, as did Montgomery and Howard Counties. Baltimore and Anne Arundel Counties were on track, had the school year not ended in March, to reach or surpass their number of restraints used in the 2018-19 school year.

These are the schools with the highest number of seclusions in 2018-19, compared with 2019-March 2020.

<u>Incidents of seclusion 2018-19</u>	<u>2019 – March 2020</u>
Frederick County: 1,604	348
Harford County: 1,153	817
Montgomery County: 602	615
Charles County: 391	36
Baltimore County 218	330

While the incidents of seclusion declined in both Frederick (again, under a US Justice Department Order) and Charles Counties, Harford County showed no decline and Montgomery and Baltimore Counties saw an increase.

**Clearly, despite various efforts, the problem of the use of restraint and seclusion has not gone away.**

Students with disabilities, especially those who have been determined to have an Emotional Disability (ED) under the Individuals with Disabilities Education Act, are far more likely to experience restraint and seclusion than other students. Students coded with ED experienced the highest number of incidents of restraint and seclusion of all disability groups. Students coded with ED are also much more likely to be youth of color. In the 2019 – March 2020 school year, students with ED were restrained 1,732 times and subject to the use of seclusion 1,265 times in public schools. These numbers increase significantly for students coded ED in non-public schools.

Schools with well-trained personnel do not resort to the traumatizing interventions of restraint and seclusion. Children with mental health disabilities are not subjected to further re-traumatization. Instead, school personnel know how to implement policies, procedures and

practices designed to alleviate the impact of trauma. These have been well-researched and have a strong evidence-base, and include relationship-building, helping traumatized children regulate their emotions, and collaborating across child-serving systems to coordinate care.

SB 705 puts a number of mechanisms in place to reduce the use of restraint and seclusion. Therefore we urge a favorable report.

**Ann Geddes**  
**Director of Public Policy**  
**The Maryland Coalition of Families**  
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**SB0705.pdf**

Uploaded by: Dianne Henry

Position: FAV

## Physical Restraint and Seclusion – Limitations, Reporting, and Training

I want to express my voice in favor of this bill. As a parent of a child that receives special education it is imperative that we continue to ensure that school systems are doing their best not to engage in harmful practices that cause life long trauma for our children. It is important for staff to be well trained in de escalation, it is a must that staff report accurately any interaction with students during an emergency situation, to examine and understand root causes and adjust services so that this does not occur. Parents should never be left wondering what happened to their child during the school day.

I support a total ban on the use of

seclusion in our public schools and limited use of restraint in situations that call for it. Thank you for listening and I hope you vote in favor of this bill.

Dianne Henry

# **Graham, Elizabeth in favor of SB705.pdf**

Uploaded by: Elizabeth Graham

Position: FAV

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[Lizzyq0816@gmail.com](mailto:Lizzyq0816@gmail.com)

Tuesday, March 1, 2022

## **Written Testimony in Favor of SB0705 Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training**

To the Chair Senator Paul Pinsky, Vice-Chair Senator Cheryl Kagan, and members of the Education, Health, and Environmental Affairs Committee:

I am writing this testimony from the personal perspective of a person on the autism spectrum. I have a bachelor's degree in psychology. I also work full-time in the capacity of a case manager supporting autistic children with significant support needs. Straight out of montessori school to high school graduation, I grew up going to a private special education school for students with learning disabilities, where I was diagnosed with Asperger's Syndrome (now diagnosed based Autism Spectrum Disorder) in my high school years. While my lived experience does not speak for every student with learning disabilities or in the special education system, I would like to share my experience of not having been restrained or secluded - to show that alternatives to seclusion and restraint do work.

To my memory, I was never secluded or restrained. Especially during my elementary school years, teachers took time to talk to me and ask me what was bothering me, whenever I might have shown signs something was bothering me; they would pull me aside and talk the situation through with me or see if the elementary school level social worker was available. There would be times I would just need to work on an assignment outside of the classroom, away from the distracting stimuli.

Unnecessary seclusion and restraint is cruel treatment for students with disabilities. Such cruel intervention creates lasting trauma. While I wasn't secluded or restrained in school, I can't even begin to imagine what students have gone through who have been secluded and restrained. It is more effective to teach and reinforce the desired behavior and address any psychological and/or mental health issues that may be contributing to any dysregulation or other actual or perceived behavioral concerns.

There may be exceptional times when restraining a person is warranted for the safety of the student and those in the immediate area; as a case manager in the developmental disability field I have witnessed such situations. In those situations the paraprofessionals or direct support staff utilized every non-restrictive measure first and the restraint was implemented only long enough to help calm the person down before release and was done so in a manner to maintain both the student's and staff's safety - these often lasted less than 1 minute - and an incident report was done each time that included me following up with the child's parent or legal guardian.

It is important that teachers and paraprofessionals look to the cause of the behavior or dysregulation and find ways to redirect and address any dysregulation the student may be having. There might be a medical reason for such behavior. For students who do not communicate through speech, it can be a challenge but it is important that faculty working with the student get to know the student's signs of dysregulation before it reaches the level of a meltdown.

Seclusion and restraint should only be reserved as an absolute last resort when safety cannot be maintained.

I ask that this committee pass this bill forward and I ask for a favorable report. Thank you for your attention to my testimony.

Ms. Elizabeth Graham  
District 19, Silver Spring



# **S705 Testimony .pdf**

Uploaded by: Emily LaMarca

Position: FAV

March 1, 2022

**Education, Health & Environmental Affairs Committee**

**11 Bladen Street**

**Annapolis, Maryland 21401**

RE: S705-Addressing the Use of Physical Restraint and Seclusion

Members of the Education, Health & Environmental Affairs Committee,

My name is Emily LaMarca, and I am writing to support S705, which addresses the use of physical restraint and seclusion. I am speaking to you today as members of this committee, but I also hope that you will be able to hear our son's story as a mom, dad, brother sister, or family member.

Our son Cole was born with Down syndrome fifteen years ago. I often say that when he was born, he flipped our world upside down in the best way. Cole's love of life and ability to appreciate each and every moment is something we can all learn from. He has always been a loving, kind, and funny little boy, just as he was when he started being restrained and secluded at the age of ten years old.

It was during this time Cole started being brought into, what we can only describe as a storage space off a classroom, where he would remain for close to an hour with the door shut and a paraprofessional that was instructed to ignore him. The storage room needed a key to be accessed. I felt anxious the one time I was allowed to see the space, and I simply couldn't imagine Cole being brought and held there. We do not know how many times a day or for how long Cole was brought to, what he called, the naughty room. We only learned that it was a consistent practice after requesting his data sheets from his school record.

The incidents of restraint for Cole were many and undoubtedly began to impact him emotionally. During a 9-day period, he was restrained at least 13 times. We could not get answers as to how the restraints transpired, only that our son escalated, which was the blanket term used for his behavior. During this difficult time, Cole regressed to wetting the bed at night, having nightmares, communicating angry eyes at school and started to resist school all together. He was able to communicate to us that it hurt when they held him and that he was scared. If we asked anything further, he would simply say "I can't tell you."

In one instance, Cole was restrained for a ten-minute period, another restrained while wearing a weighted vest, although he has a cardiac condition. The last incident before we ultimately removed our son from this school for fear of his safety, was about an hour and a half long, where he was physically moved twice and restrained multiple times. The paperwork did not show an end time to the restraint and Cole was shut in an empty classroom with the door closed, being monitored from the outside, where he eventually disrobed and lost control of his bladder-a trauma response.

From what we could understand many of incidents involving restraint began with clearing the students out of the classroom, shutting the door and most times, having three adults block Cole, and ultimately restrain him. I know that each person here, including myself, would be traumatized if we were repeatedly put in the position that Cole was, and this trauma would undoubtedly stay with us well after the physical act had concluded. This was the case for Cole.

We found a new placement for Cole and moved to a new town. During this time, I remember Cole telling me; "Mom, I might like a new school, I might, but one where my teachers don't hurt me." He told his sister over breakfast one morning how he used to be locked in a room at his old school and in his words "I tried to get out but couldn't." When he started therapy, he focused on him being a bad boy and having to be locked in a crate. It then moved on to the stuffed animals being bad and they too, had to be locked in the crate.

When Cole transitioned to his new school, he was anxious and fearful and the trauma from being previously restrained and secluded once again appeared. Initially, Cole couldn't attend school for more than 2 hours at a time and his teachers communicated Cole's worry and distrust of any adult that was new to Cole. Cole was constantly triggered, and his teachers described him as being in fight or flight mode. It took months before we could even pull into the school's driveway without Cole hitting his head against the seat of the car and repeating "turn, turn, turn."

He was afraid of his new principal for the sole reason that his principal at his old school "used to attack him." He communicated to his teachers that he still thinks of his old school and tells us his brain tells him he must fight. When a Scholastic Book Fair came to his school, Cole communicated his fear of his old teachers being there because he remembered book fairs at his old school. He still had nightmares and talked about being afraid of being held.

For anyone that has gone through trauma, but specifically for Cole, his processing and being ready to share his experiences has taken time. Two and a half years passed before he was ready to share that an aide would withhold food from him. Suddenly, it made sense as to why the first thing he would do at his new school was intensely eat all the food that was packed in his lunchbox.

He talked of two friends of his former school who were held and then taken to, again his words; "the room." He talked of the sounds they made when they were being held and then asked why did they do that? At the end of this conversation, the longest and most in depth he's been about the incidents there, he said to me: "Even though they hurt me, I still love them."

And after incidents of seclusion at his new school, Cole once again regressed to wetting the bed, having nightmares and being afraid to go to school. He was constantly triggered in the school environment and would arrive home stressed, which would leave him self-talking for hours. We decided to remove our son and homeschool him. It has been three years since we made this decision and Cole is finally in a place where he is thriving and happy. He is supported and feels safe. We finally have our son back.

I share all of this with you because Cole's story is not his alone. Thousands of children are subjected to these traumatic and dangerous practices each year. Many do not have the language to relay what is happening behind closed doors. This legislation has the power to protect our most vulnerable of children. It has the ability to introduce methodologies of training that are safe and effective, they are proactive, and they are built upon current neuroscience. These methodologies-CPS, Ukeru, Applied

Educational Neuroscience, the Polyvagal Theory, the Low Arousal Approach, and the Neurosequential Model of Therapeutics have shown to reduce the use of restraint and seclusion and in turn create safe and supportive classrooms for everyone. So, I ask that you please vote favorably for S705 and help Maryland move away from the dangerous and traumatic practices of restraint and seclusion.

Thank you for considering this testimony. Please feel free to reach out with any questions.

Sincerely,

Emily LaMarca

Ph: 978-835-1330

# **SB0705 Testimony.pdf**

Uploaded by: Emily Shrieves

Position: FAV

## **SB0705 Written Testimony**

I support Senate Bill 705. As a recent graduate in the Maryland public education system, I have seen firsthand that while our schools have many strengths, there are also many significant challenges. One of these prevalent challenges is the use of seclusion and restraint tactics on students. For too long, I have heard of students being restrained or secluded in our schools, specifically and disproportionately disabled students. For these students, especially those who cannot fully express their needs, being restrained and secluded is a terrifying experience, often leaving them traumatized for the remainder of their lives.

You are lawmakers. You have been voted in by your constituents, many of whom are parents, to protect and defend the experience of public school students across the state. And not just those who can speak up and stand up for themselves, but for those that cannot. Disabled students and their needs are constantly overlooked and overshadowed in public schools. It's time to change the status quo and make a difference for them. Schools should be a place that fosters curiosity and sparks possibility, not a constant reminder of painfully endured trauma. You are in a position to make change and improve the lives of students, educators, and staff. Stand up for our students and support Senate Bill 705.

**MONNERON\_SB0705 testimony.pdf**

Uploaded by: Emmanuel Monneron

Position: FAV

Dr. Emmanuel Monneron  
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+33 622767622  
Email : [emmanuelmonneron@hotmail.fr](mailto:emmanuelmonneron@hotmail.fr)

Lyon, the 1st of March, 2022

Dear members of the Education, Health, and Environmental Affairs Committee,

My name is Doctor Emmanuel Monneron. I am 34 years old and live in Lyon, France. I am a medical doctor and a psychiatrist. I work in a public services consultation center and take care of more than 200 patients suffering from severe mental health diseases.

I support Bill SB0705 « Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training ».

As a psychiatrist, I frequently work at my hometown psychiatric hospital emergency room and during these shifts, I happen to make decisions about seclusion and restraint measures. I want to stress the fact that, no matter the circumstances, these measures are always traumatizing for the patients. Physically restraining someone is also quite dangerous and sadly, I have already witnessed some accidents during my relatively short professional career.

Using seclusion and physical restraint measures is justified only when the security of a person or the people surrounding them is seriously threatened. These measures should only be used as last resort measures. To me, the decision should be made by a properly trained professional, for a limited amount of time and the person's state should be frequently and closely monitored.

Seclusion and restraint measures are not behavioral health interventions. There is no scientific evidence showing that these practices have a positive impact on children's or teenagers' mental health. Most of the time, when a youth becomes agitated or aggressive, it's because they are experiencing anxiety or emotional pain. Secluding them or restraining

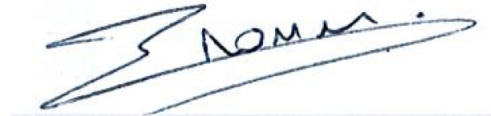


them when they actually need appropriate support can worsen the symptoms and lead to dissociation phenomena and post-traumatic stress disorders. It's very important to always remember that a quiet child is not necessarily a healthy child.

For all these reasons, I ask you to vote in favor of Bill SB0705 because this text will protect children and teenagers against unnecessary dangerous, and unethical practices.

I thank you very much for your time and your attention.

Dr. Emmanuel Monneron  
M.D., Psychiatrist

A handwritten signature in blue ink, appearing to read "E. Monneron", is written over a horizontal blue line.

**sb0705.pdf**

Uploaded by: Felice Eliscu

Position: FAV

Senator Zucker,

I made this video from a compilation of Actual Kids in Restraint and seclusion

It's over 20 minutes long so think about how long hours and days are for these Children.

<https://youtu.be/CAzZKuL83FY>

The Department of Education broadly defines restraint as restricting a student's ability to move their torso, arms, legs, or head freely, and seclusion as confinement alone to an area they can't leave.

Education has said these practices should only be used when a child poses imminent danger.

for the latest GAO Report and recommendations for Executive actions:

[https://www.gao.gov/products/gao-19-551r#summary\\_recommend](https://www.gao.gov/products/gao-19-551r#summary_recommend)

Every Administration has allowed Child Abuse.

Felice Eliscu

**Letter wwt marryland.pdf**

Uploaded by: Gabriel Gonzalez

Position: FAV



[www.wewarnedthem.org](http://www.wewarnedthem.org)

**March 01, 2022**

**Dear Honorable Committee Members,**

The We Warned them campaign is writing to support the passage of SB 0705 **“Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training”**. This bill will protect young people from the mispractice of seclusion as a behavioral health intervention. The passage of SB 0705 will provide better protection for young people and provide accountability in public education, and that is why we urge you to pass this crucial legislation.

We Warned Them is a grassroots group focused on protecting at-risk youth from institutional abuse, including but not limited to: conversion therapy, seclusion, restraint, exploitation, neglect, and abuse. For more information about our group, please visit [wewarnedthem.org](http://wewarnedthem.org) .

Respectfully,

,

**Gabriel Joseph Gonzalez**

We Warned Them

(Co-Founder and Coordinator)

[wewarnedthem@gmail.com](mailto:wewarnedthem@gmail.com)

347.772.0153

# **SB 705 Testimony Oral.pdf**

Uploaded by: Guy Stephen

Position: FAV

## **Oral Testimony: Guy Stephens SB 705**

Chairman Pinsky and members of the committee, thank you for allowing me to share my testimony today. My name is Guy Stephens. I am a father and the executive director of the Alliance Against Seclusion and Restraint.

About three years ago, my neurodivergent son was illegally restrained and secluded for the last time. The experience left him traumatized and afraid to return to school. As a result, he finished the remainder of the school year in a home and hospital program. Before our family's experience, I would have never imagined that children were routinely restrained and secluded in schools across the state. I talked to my son about what had happened to him. I made a promise to him that I would do anything in my power to make sure it never happened to him again.

After making my promise, I immersed myself in research. I wanted to understand why this was occurring and its impact on children and educators. I tried to understand what we could do to reduce and eliminate these harmful practices. I began by looking for data. I examined data that resulted from 2017 legislation that required school districts and nonpublic schools to report the use of restraint and seclusion. In the first report, I learned that my school district, Calvert County Public Schools (CCPS), had the highest rate of seclusion and the second-highest rate of restraint when viewed against enrollment. This data prompted me to reach out to our board of education to raise awareness and promote change. I successfully worked with our school district to change our policy, practice, and training.

In 2019 Calvert County Public Schools implemented Ukeru, a trauma-informed alternative to restraint and seclusion. Additionally, in early 2020 they began training in a program called Collaborative and Proactive Solutions, an evidence-based approach to minimize restraint, seclusion, suspensions, expulsions, and corporal punishment.

In the 2017/2018 school year, Calvert County Public Schools (CCPS) reported 576 instances of restraint and 701 instances of seclusion. In the current school year, CCPS has reported 14 instances of restraint and just three instances of seclusion. The change in school culture and training led to a significant reduction in restraint and seclusion. A current proposed change in policy will prohibit seclusion in the coming school year, and with your help, we can end the practice in all public schools. Today I ask you to be proactive in supporting a favorable outcome for SB 705.

# **SB 705 Testimony.pdf**

Uploaded by: Guy Stephen

Position: FAV



**ALLIANCE  
AGAINST**

**SECLUSION  
RESTRAINT**

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Annapolis, Maryland 21401

Chairman Pinsky, and members of the committee,

My name is Guy Stephens. I am a father and the executive director of the Alliance Against Seclusion and Restraint. I am writing to you today on behalf of the [Alliance Against Seclusion and Restraint](#) (AASR), as well as the children and families who attend Maryland Public Schools. AASR is a Maryland nonprofit corporation operating through a fiscal sponsorship with Players Philanthropy Fund. We are a community of over 17,000 parents, self-advocates, teachers, school administrators, paraprofessionals, attorneys, related service providers, and others working together to influence change in the way we support children who may exhibit behaviors of concern. The mission of AASR is to educate the public and to connect people who are dedicated to changing minds, laws, policies, and practices so that restraint, seclusion, suspension, expulsion, corporal punishment, and other harmful practices are reduced and eliminated from schools across the nation and beyond. Our vision is safer schools for students, teachers, and staff.

About three years ago, my neurodivergent son was illegally restrained and secluded for the last time. The experience left him traumatized and afraid to return to school. As a result, he finished the remainder of the school year in a home and hospital program. Before our family's experience, I would have never imagined that children were routinely restrained and secluded in schools across the state. I talked to my son about what had happened to him. I made a promise to him that I would do anything in my power to make sure it never happened to him again.

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Since my son was restrained and secluded, I've had the opportunity to talk to parents from all over the country. Jennifer Tidd's autistic son Quentin was restrained and/or secluded at least 745 times. This despite the fact that the Department of Education Office for Civil Rights (OCR) has said in a Dear Colleague letter<sup>1</sup> (2016) that OCR would likely not find the repeated use of restraint and seclusion to be a justified response where alternative methods also could prevent imminent danger to self or others. Ultimately Ms. Tidd joined a lawsuit with the Autistic Self Advocacy Network (ASAN), the Council of Parent Attorneys and Advocates (COPAA), CommunicationFirst, and several other families against Fairfax County Public Schools in Virginia for unlawful restraint and seclusion practices. The lawsuit was settled, and as part of the agreement, seclusion practices will be banned in all Fairfax County Public Schools and private schools that have contracts with the school system by the start of the 2022-2023 school year. Kristi Kimmel's son Zeke, who is autistic and nonspeaking, was secluded 206 times and restrained 71 times in less than one school year in the Frederick County School system. In 2021, the Department of Justice investigated Frederick County Public Schools, which found that the school district unnecessarily and repeatedly secluded and restrained students as young as five years old in violation of Title II of the Americans with Disabilities Act (ADA). Under the settlement, Frederick County will end the use of seclusion, overhaul its restraint practices, and train staff on the use of appropriate behavioral interventions for students with disabilities. These are just two of hundreds of stories I've heard from parents whose children have been restrained, secluded, and traumatized.

Let me share I learned from my research and advocacy work. Children with disabilities, Black and brown children, and children with a trauma history are most restrained and secluded. Many assume it is more common with older students, and it is not. It is most often children as young as 5,6,7 and 8 years old. According to OCR<sup>2</sup>,

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<sup>1</sup> Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities. (2016, December 28). U.S. Department of Education's Office for Civil Rights. Retrieved February 13, 2022, from <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>

<sup>2</sup> 2017-18 Civil Rights Data Collection Report. (2019, December 15). Department of Education Office of Civil Rights. Retrieved February 13, 2022, from <https://www2.ed.gov/about/offices/list/ocr/docs/restraint-and-seclusion.pdf>

students with disabilities make up around 13% of the enrollment in public schools yet account for 80% of physical restraints and 77% of seclusions. Reflecting on these numbers, it is clear that this is a civil rights issue, and we must do something to protect the civil rights and human rights of our most vulnerable children. I'm sure that many of you have someone you love with a disability, consider the potential impact.

In my extensive research, the next thing I wanted to understand was the impact of restraint and seclusion. I found that restraint and seclusion result in trauma, injuries, and even death. Trauma can impact students, teachers, and staff. The very act of physically restraining or secluding a child will trigger a fight or flight response in the brain. Being held to the ground or forced into a seclusion room is traumatizing. Trauma can lead to changes in the brain that lead children to be fearful and hypervigilant, often leading to an increase in distress behaviors, which may have been what caused them to be restrained and secluded in the first place. It is also traumatic for the other children who may be witnessing a classmate being physically restrained or secluded.

Injuries are common in restraint and seclusion instances. Children and educators have suffered from broken bones, head trauma, scratches, bruises, seizures, brain injuries, and other injuries<sup>34</sup>. Children, teachers, and staff are more likely to be injured<sup>5</sup> performing a physical restraint or seclusion. While we often hear proponents of restraint and seclusion say that they feel it is necessary to keep everyone safe, the truth is the most significant opportunity for injuries occurs during the events. Sadly there have been many deaths over the last several decades due to physical restraint and seclusion in our schools. Cornelius Frederick, a student in Michigan, died in May of 2021 after being placed in a prone restraint because he threw a sandwich in a cafeteria. Max Benson, a young autistic student in California, died in November 2018

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<sup>3</sup> *Our History*. (2021, April 22). Ukeru Systems. Retrieved February 13, 2022, from <https://www.ukerusystems.com/who-we-are/our-history/>

<sup>4</sup> *Understanding the Risks of Physical Restraints*. (2022, January 1). Crisis Prevention Institute. Retrieved February 13, 2022, from

[https://www.crisisprevention.com/CPI/media/Media/elearning/flex/PDF\\_NCI-Risk-of-Restraints.pdf](https://www.crisisprevention.com/CPI/media/Media/elearning/flex/PDF_NCI-Risk-of-Restraints.pdf)

<sup>5</sup> *A National Strategy to Prevent Seclusion and Restraint in Behavioral Health Services*. (2010, March 1). Substance Abuse and Mental Health Services Administration. Retrieved February 13, 2022, from [https://www.samhsa.gov/sites/default/files/topics/trauma\\_and\\_violence/seclusion-restraints-1.pdf](https://www.samhsa.gov/sites/default/files/topics/trauma_and_violence/seclusion-restraints-1.pdf)

after being placed in a prone restraint in his school. These are lives that should not have ended this way.

I wanted to address some common misinformation about the use of restraint and seclusion. One of the things we often hear is that physical restraint is safe. Some might even tell you that it is therapeutic. Physical restraint is intended as a crisis intervention only intended for life-threatening situations; it is not a therapeutic intervention<sup>6</sup>. The only safe restraint is when all parties willingly participate, such as occurs in training. In real-life situations, physical contact leads individuals into a fight or flight response, where children will do all they can to escape. The staff is also likely to enter into a fight or flight response, increasing the chance that someone will be injured or worse.

We also hear the myth that seclusion is a safe and calming intervention. Nothing could be further from the truth. Nothing is calming about being thrown into a room against your will, alone, while someone holds the door shut. Initially, children may respond by kicking, screaming, and beating on the walls to escape. Eventually, lacking the developmental capacity to self-regulate, children's brains will begin to shut down, and they may enter a survival state - this is not calm.

The final myth I would like to address is that there are no other choices, that restraint and seclusion are necessary. This belief is not valid. There are many alternative approaches to better support our children. Grafton Integrated Health in Virginia developed a method called Ukeru<sup>7</sup>, a trauma-informed alternative to restraint and seclusion. Grafton eliminated seclusion in all the schools and residential facilities it manages and now teaches the approach to other schools. Dr. Bruce Perry, a leading trauma expert, developed the Neurosequential Model<sup>8</sup>, proven to reduce the use of

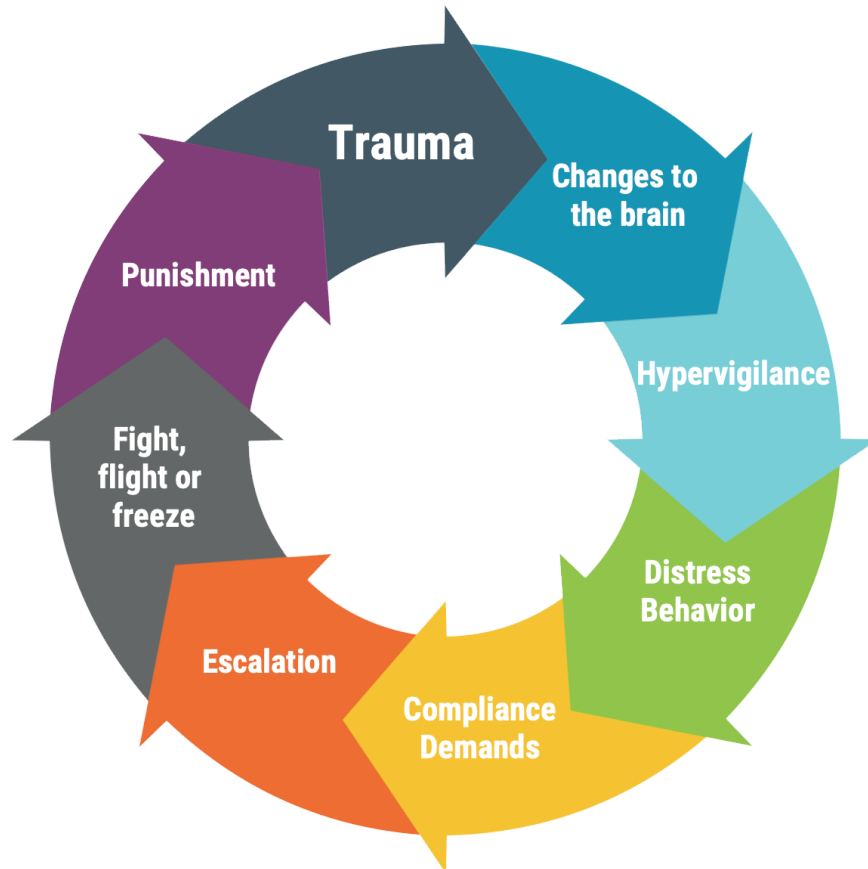
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<sup>6</sup> Stephens, G. (2021, February 1). Prone restraint is neither safe nor is it therapeutic. Alliance Against Seclusion and Restraint. Retrieved February 13, 2022, from <https://endseclusion.org/2021/02/01/prone-restraint-is-neither-safe-nor-is-it-therapeutic/>

<sup>7</sup> Home. (2021, October 14). Ukeru Systems. Retrieved February 13, 2022, from <https://www.ukerusystems.com>

<sup>8</sup> The Neurosequential Model in Education. (2020, August 26). Sussex Psychology. Retrieved February 13, 2022, from <https://sussexpsychology.co.uk/the-neurosequential-model-in-education/>

restraint in trauma-exposed youth<sup>9</sup>. Dr. Ross Greene developed the Collaborative and Proactive Solutions Model<sup>10</sup>, an evidence-based approach to minimize restraint, seclusion, suspensions, expulsions, and corporal punishment.



Over the past forty years, there has been a tremendous increase in the knowledge base about the brain, nervous system, human development, and behavior. Our knowledge now includes understanding the role of toxic stress and trauma on the structure of the developing brain and brain functioning. State-dependent functioning, the polyvagal theory, bottom-up versus top-down learning and control, and the differences between

<sup>9</sup> Hambrick, E. P., Brawner, T. W., Perry, B. D., Wang, E. Y., Griffin, G., DeMarco, T., Capparelli, C., Grove, T., Maikoetter, M., O'Malley, D., Paxton, D., Freedle, L., Friedman, J., Mackenzie, J., Perry, K. M., Cudney, P., Hartman, J., Kuh, E., Morris, J., . . . Strother, M. (2018). Restraint and Critical Incident Reduction Following Introduction of the Neurosequential Model of Therapeutics (NMT). *Residential Treatment for Children & Youth*, 35(1), 2–23. <https://doi.org/10.1080/0886571x.2018.1425651>

<sup>10</sup> Greene, R., & Winkler, J. (2019). Collaborative & Proactive Solutions (CPS): A Review of Research Findings in Families, Schools, and Treatment Facilities. *Clinical Child and Family Psychology Review*, 22(4), 549–561. <https://doi.org/10.1007/s10567-019-00295-z>

intentional behaviors and stress behaviors (flight, fight, freeze) are all part of this new understanding<sup>11</sup>. However, despite all this progress, students with disabilities and Black and brown students who cannot meet the behavioral expectations are often not supported or accommodated; instead routinely punished.

Today, we know the brain areas implicated in the stress response include the amygdala, hippocampus, and prefrontal cortex<sup>12</sup>. We also know that traumatic stress can be associated with lasting changes in these brain areas. The amygdala detects threats in the environment and activates the "fight or flight" response. The use of restraint and seclusion can lead to actual changes in the brain. Children who have been traumatized may not feel safe and may enter a hypervigilant state, leading to distress behaviors when the child becomes overwhelmed or triggered. When demands on a child are made that they cannot meet, the situation may escalate. The current approach in many classrooms that focuses on compliance may lead to a fight, flight, or freeze response, leading to punishment and retraumatization, feeding the classroom trauma cycle.

It is time to shift to approaches that are relationship-based, trauma-informed, neuroscience-aligned, developmentally appropriate, individualized, biologically respectful, and collaborative to support all children, teachers, and staff in schools across the nation. This is a critical moment in time for moving forward. We need to base safer schools around current neuroscience to help us face the challenges that currently face the nation. The COVID-19 pandemic has increased stress and led to significant trauma for many as families suffered from loss and a changing world. Due to the increased stress and trauma, our teachers and staff are likely to face more children in distress that need connection, not compliance and safety, not consequences. So many children face nothing but consequences, and the outcomes are devastating.

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<sup>11</sup> Tolley, B. (2022, January 19). A twenty-first century approach to supporting all students. Alliance Against Seclusion and Restraint. Retrieved February 13, 2022, from <https://endseclusion.org/research/a-twenty-first-century-approach-to-supporting-all-students/>

<sup>12</sup> Andrewes, D. G., & Jenkins, L. M. (2019). The Role of the Amygdala and the Ventromedial Prefrontal Cortex in Emotional Regulation: Implications for Post-traumatic Stress Disorder. *Neuropsychology Review*, 29(2), 220–243. <https://doi.org/10.1007/s11065-019-09398-4>

When I said to you that what happened to my son has changed my life, it was no exaggeration. Three years ago, I started a national organization called the Alliance Against Seclusion and Restraint. I have volunteered thousands of hours to research this issue and promote positive change to make our schools safer for students, teachers, and staff. We have advocated for changes to local policy and state and federal law. We have produced hundreds of hours of educational content related to reducing and eliminating the use of restraint and seclusion. Today we have over 17,000 members from across the world in the Alliance Against Seclusion and Restraint community. Our community includes parents, self-advocates, teachers, administrators, paraprofessionals, and others dedicated to finding better ways to support children and educators.

In the name of behavior, children are restrained, secluded, suspended, expelled, and subjected to corporal punishment. We can make classrooms across the nation safer for students, teachers, and staff by reducing and eliminating restraint and seclusion. We have reviewed the research and what we have found is that there is no data to support the use of seclusion in a school setting (perhaps any setting). Seclusion leads to increased aggression and more frequent challenging behaviors. Seclusion should be prohibited across the nation as it has been in several states, including Hawaii, Georgia, Nevada, Texas, and Pennsylvania. Like the Government Accountability Office<sup>13</sup> (GAO), we are concerned the use of seclusion and restraint is often underreported by school districts and poses a significant danger to children. We agree with the United Nations<sup>14</sup> that the use of seclusion and restraint violates fundamental human rights.

Three years ago, I examined data that resulted from 2017 legislation that required school districts and nonpublic schools to report the use of restraint and seclusion. In the first report, I learned that my school district, Calvert County Public Schools

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<sup>13</sup> K-12 Education: Education Should Take Immediate Action to Address Inaccuracies in Federal Restraint and Seclusion Data [Reissued with revisions on July 11, 2019.]. (2019, November 26). U.S. GAO. Retrieved February 13, 2022, from <https://www.gao.gov/products/gao-19-551r>

<sup>14</sup> OHCHR | Convention on the Rights of the Child. (89–11-20). United Nations Human Rights. Retrieved February 12, 2022, from <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

(CCPS), had the highest rate of seclusion and the second-highest rate of restraint when viewed against enrollment. This data prompted me to reach out to my local board of education to raise awareness and promote change. I successfully worked with our school district to change our policy, practice, and training.

Interestingly, the district with the highest use of restraint and the second-highest use of seclusion was Frederick County Public Schools (FCPS). I am sure you know that the Department of Justice recently investigated FCPS.

In the 2017/2018 school year, Calvert County Public Schools (CCPS) reported 576 instances of restraint and 701 instances of seclusion. In the current school year, CCPS has reported 14 instances of restraint and just three instances of seclusion. The district has been proactive, which may have helped them avoid an investigation by the Department of Justice.

Today I ask you to be proactive in supporting a favorable outcome for SB 705.

Respectfully,



Guy Stephens  
Founder and Executive Director  
Alliance Against Seclusion and Restraint



**SB0705 (1).pdf**

Uploaded by: Jasmyne Esparza

Position: FAV

Dear Honorable Committee,

As a survivor who not only went through seclusion and restraint in my youth but also works with other survivors of it, I am humbly requesting that SB0705 be passed.

Not only have we personally experienced the horrific during/after affects of restraints but the research clearly proves how detrimental and traumatizing restraints are. There is also ample evidence supporting trauma informed care and de-escalation techniques over restraints and seclusion. In the words of Maya Angelou, "Do the best you can until you know better. Then once you know better, do better."

The quality of life of Maryland's youth will either be positively or negatively impacted based on the decision you make today.

As a mother to a child with autism, I can say with certainty that youth with disabilities already have a hard enough time navigating this cruel world - the last thing they need is to be traumatized by those who have taken an oath to protect them.

So the question remains: which side of history will you be on?

For more information on why restraints should be banned please visit [Alliance Against Seclusion & Restraints](#).

Thank you for your time,

Jasmyne Arianna

# **Maryland General Assembly Written Testimony.pdf**

Uploaded by: Jeanna TenBrink

Position: FAV

March 1, 2022

On behalf of Project LEAH (Leaders Ending Abuse & Harm), I am writing in support of SB 0705. Our organization is a legislative advocacy group based in Texas that is against abuse and mistreatment of students with disabilities in public schools. We believe that SB 0705 is a step forward in the right direction in rectifying the discriminatory behaviors that are still protected under administrative law. Seclusion is an act of intentional isolation that is punishment based on disability. As Co-Founder of Project LEAH, who started our movement due to my own child being secluded, restrained, and mistreated at school, I urge you to make the safety of students with disabilities an utmost priority by passing SB 0705. All children have the right to learn free of physical, verbal and emotional abuse.

Respectfully,

Jeanna TenBrink  
Co-Founder, Project LEAH

**SB705\_Leoutsakos\_03022022.pdf**

Uploaded by: Jeannie-Marie Leoutsakos

Position: FAV

**SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE**  
**SENATE BILL 705**  
**EDUCATION—PHYSICAL RESTRAINT AND SECLUSION—LIMITATIONS, REPORTING,**  
**AND TRAINING**

**MARCH 2, 2022**

**POSITION: SUPPORT**

**Jeannie-Marie Leoutsakos**

My name is Dr. Jeannie-Marie Leoutsakos. I'm a Howard County resident and the mother of a 9 year old boy with autism, and I am here in strong support for SB705. I am a statistician (I hold graduate degrees in Biostatistics and Psychiatric Epidemiology) and an associate professor of Psychiatry and Behavioral Sciences at the Johns Hopkins School of Medicine, and I hold a joint appointment in the Department of Mental Health at the Johns Hopkins Bloomberg School of Public Health. Please note that the views expressed here are my own and do not necessarily reflect the policies or positions of Johns Hopkins University/Johns Hopkins Health System.

When my son began Kindergarten in 2017, he would become overwhelmed by the chaotic classroom environment and would attempt to leave it to find someplace quiet. He never tried to leave the building and wasn't in any actual danger, but school staff would chase him, corner him, and restrain him. This only made him run more, and he started fighting when cornered. This happened up to 4 times a day, and within a month things got so bad that he was hospitalized. I would be called to the school to pick him up regularly - and when I got there, sometimes they'd be chasing him down the hallways, sometimes I would find him being pinned to a chair by multiple staff members, or on one occasion he had been confined to a small blue room, was shirtless, drenched in sweat, crying, and begging for water. At home, he was having nightmares about monsters chasing him, and would say things like, "my entire life is going to be a struggle." and "I want to die". It was clear he wasn't safe at school and our only real choice was to pull him out and we now homeschool. Things are better now, but he's not the same kid he was before he entered that school, and he still has nightmares. This is what repeated use of restraint does to kids, and his story is far from unique.



## **Background**

Nationwide and here in Maryland, children who end up being restrained and/or secluded are among the most vulnerable. The majority of restraints and seclusions are imposed on children under the age of 10; In Howard County, for example, the peak age is 7 ("2020-303" 2020).

In looking at rates of restraint and seclusion, several things stand out. First, this happens a *lot*, (for example in SY 2018-2019 there were 10,050 reported restraint events and 5,317 reported

seclusion events) particularly when you remember that the harm standard requires imminent risk of serious physical harm, and that the children most likely to be restrained and secluded are also the youngest (and smallest) students. The table below shows enrollment incidence rates of restraint and seclusion per 1000 student school years by county for SY 2018-2019, the most recent fully in-person school year for which data are publicly available. For example, Calvert had a total student body of 15936 and reported 750 restraints. As such, its incidence rate was  $(750 \times 1000 / 15936) = 47.06$  restraints per 1000 student school years. Incidence rates range from 0 to 47.06. What this means is that during that school year Calvert County was restraining its students 60 times more often than Prince George's County. Likewise we see variation in incident rates for seclusion, ranging from 37.55 (Frederick County) to 0. Other years for which data exist (2017-2019, 2019-2020, and 2020-2021) also show wide variability.

county	enrollment	totalres	countyirres	totalsec	countyirsec
Calvert	15936	750	47.06	386	24.22
Frederick	42713	1996	46.73	1604	37.55
Charles	27108	757	27.93	391	14.42
Washington	22681	545	24.03	125	5.51
Carroll	25179	508	20.18	177	7.03
Howard	57907	889	15.35	215	3.71
Harford	37826	486	12.85	1153	30.48
Anne Arundel	83300	1002	12.03	0	0
Cecil	15307	157	10.26	195	12.74
Baltimore	113814	1053	9.25	218	1.92
Montgomery	162680	1356	8.34	602	3.7
Caroline	5829	42	7.21	7	1.2
Somerset	2930	21	7.17	0	0
St Mary	17999	102	5.67	78	4.33
Talbot	4674	20	4.28	45	9.63
Dorchester	4785	16	3.34	0	0
Wicomico	14949	48	3.21	0	0
Allegheny	8539	26	3.04	13	1.52
Queen Anne	7749	23	2.97	0	0
Baltimore City	79297	143	1.8	15	.19
Kent	1912	2	1.05	0	0
Garrett	3842	4	1.04	92	23.95
Prince George	132667	104	.78	0	0
Worcester	6810	0	0	1	.15

In many counties in Maryland, African American children are restrained and secluded at far greater rates than white children. The table below shows incidence rate ratios (calculated by dividing the incidence rate for African American children by the incident rate for white children) by county for school year 2018-2019. For example, in Howard County, African American children accounted for 24% of the student body; incidence of restraint of African American children outpaced incidence of restraint of white children by a factor 7.83, and incidence of seclusion of African American children outpaced incidence of seclusion of white children by a

factor of 17.04. Missing values denote counties where no African American child was restrained (or secluded). Care should be taken in interpreting incidence rate ratios from counties with very few African American students (e.g., Garrett County, Allegheny County) but even with that caveat, it is clear that there are shocking levels of racial disparities in many Maryland counties. Inspection of rates from other years show similar patterns (Maryland State Department of Education 2019).

county	blackfraction	countyirresblack	countyirrsecblack
Howard	.2400746	7.83	17.04
Somerset	.4593857	4.8	.
Harford	.1951832	4.09	1
Frederick	.1252312	3.85	2.78
Washington	.1357083	3.65	10.33
Montgomery	.2156258	3.62	4.37
Calvert	.1276983	3.62	5.8
Allegheny	.0333763	3.57	22.47
Anne Arundel	.2112725	2.92	.
Caroline	.1454795	2.91	1.71
St Mary	.1828435	2.79	3.25
Baltimore	.3939322	2.39	1.21
Carroll	.0394376	2.11	1.78
Wicomico	.3669811	2	.
Baltimore City	.7857044	1.92	.
Charles	.5564778	1.49	1.36
Talbot	.1583226	1.28	.95
Prince George	.5714006	1.02	.
Cecil	.0947279	1.01	2.27
Dorchester	.4054337	0	.
Queen Anne	.0585882	0	.
Kent	.2280335	0	.
Garrett	.0036439	0	29.21
Worcester	.1842878	.	.

Child level data are only available from the Department of Education Office of Civil Rights for school year 2017-2018 so we look to that dataset for disparity with regard to disability. In SY 2017-2018 Howard County restrained 105 kids with IEPs and 38 kids without IEPs, and secluded 37 kids with IEPs and 7 kids without. There were 5,268 students with IEPs and 51,519 without. As such, the relative risk (analogous to incidence rate ratio but for child level data) for being restrained at least one time for kids with IEPs was  $(105/5268)/(38/51519) = 27.02$ . Relative risk of being put in seclusion at least once for a kid with an IEP was  $(37/5268)/(7/51519) = 51.79$ . Similar patterns in event-level data are found in subsequent years and again, these disparities are not unique to Howard County. In 2016, the Department of Education Office of Civil Rights issued a 'Dear Colleague' letter warning that such disparities could represent a denial of FAPE (free and appropriate public education) to disabled students,



in addition to a violation of their civil rights (United States Department of Education Department for Civil Rights 2016).

**The use of restraint and seclusion is problematic for the following reasons:**

1) Restraint and seclusion are dangerous for teachers and students. Nationwide, there are hundreds of reports of injuries to staff and students (Kutz 2009). Children have died while being restrained, and children have died in seclusion rooms (Hines 2020; Cohen, Richards, and Chavis 2019). Howard County (and many other counties) does not inform parents of these risks (though they are enumerated in internal training manuals), does not even collect systematic injury data (“2021-230” 2021), and did not inspect all of its seclusion rooms (“2020-303” 2020) for safety as required by MSDE (Salmon 2017) until this past year.

Twenty years ago, after reporting by the *Hartford Courant* exposed hundreds of deaths due to restraint and seclusion in psychiatric hospitals (ERIC M. WEISS With reporting by Dave Altimari et al. 1998), congressional hearings led to new laws restricting their use in those settings. The Children’s Health Act of 2000 prohibited restraint and seclusion in a treatment facility unless ordered by a physician (or other licensed independent practitioner), (Bilirakis 2000) and those orders must be reviewed every 24 hrs. It defies logic that schools are currently subject to a far lower standard of care and oversight than hospitals.

2) Restraint and seclusion are traumatic for teachers, students and bystanders. Adults who have been restrained describe the experience as being qualitatively similar to rape or physical assault (Strout 2010; Goren, Singh, and Best 1993). People with a history of trauma will often re-experience that trauma during instances of restraint and seclusion (Hammer et al. 2011). It’s common for young children to urinate on themselves in fear (Cohen, Richards, and Chavis 2019).

3) Restraint and seclusion lead to increased aggression (Jones and Timbers 2002; Magee and Ellis 2001; Goren, Singh, and Best 1993). These kids are struggling, and when you restrain or seclude them you do nothing but add anger, fear, and distrust, and this perpetuates the cycle (Greene 2009). When you solve a problem with a kid by putting your hands on him, you’ve just taught him to solve problems with people by putting their hands on them. This is why you have kids being restrained and secluded repeatedly. Restraint and seclusion are not behavior interventions - they *worsen* behavior.

The Resource Document from the US Department of Education states that restraint and seclusion are “violent, expensive, largely preventable, adverse events” and contribute to a cycle of workplace violence. (United States Department of Education 2012) Every time a kid is restrained or secluded it means that their behavior intervention has *failed* (Curie 2005), and failed so spectacularly that students or staff were put at risk of serious physical harm.

**Why do behavior interventions fail?** The behaviorism-based reward systems (PBIS) used in many Maryland public schools to change student behaviors are based on operant conditioning. Operant conditioning is based on research done by B.F. Skinner in the 1940s and 1950s with

rats and pigeons (Staddon and Cerutti 2003). It's 2022 and we know a lot more about the *human* brain, about how children learn, and about the effects of trauma.

We now know that challenging behaviors are the result of unmet needs or lagging skills, not lack of motivation, and rewards don't teach the skills these kids need. Rewards simply don't work (and are harmful) if the target behavior is something the child is not currently capable of. The answer is to identify the underlying problem, and to solve it, collaboratively (Greene 2009). These methods (Collaborative and Proactive Solutions) have been used to dramatically decrease conflict and hence the use of restraint and seclusion on pediatric inpatient psychiatric units (Greene, Ablon, and Martin 2006; Martin et al. 2008; Black et al. 2020) and in schools (Lewis 2015).

I'll give you one very simple, but illustrative example of this approach. My son's classroom was at the far end of a hallway and at the beginning of each school day he would have to walk through a sea of several hundred other kids to get there. Like many autistic children he can't handle the sensory experience of all that noise and of so many people touching him. He would "windmill" his arms to create space around him and to get people away from him, and he'd end up hitting other kids. The school responded by stationing an additional staff member by the front door and initiating a system of rewards and punishments for this behavior. This is a standard cookie-cutter approach. It was labor intensive, and it wasn't working. I asked what I thought was the obvious question: "Did you ask him why he was doing it?" This question was met with silence and shrugs. That afternoon, I discussed the situation with my son - I explained that what he was doing might hurt someone, listened to his explanation, and encouraged him to come up with a solution - and he did. His solution was that instead of entering through the front door, he would walk around the side of the building, knock on the door next to his classroom, and his classroom teacher would open the door and let him in. His classroom teacher was happy to do this, and the problem was solved to everyone's satisfaction. It's really that simple, and because I've engaged in this type of exercise with my son repeatedly, he has learned to problem solve more effectively on his own, and we have been aggression free since he left public school.

Collaborative and Proactive Solutions, or approaches like it, can greatly decrease conflicts, but in the event that a situation does still escalate, there are also more humane crisis intervention strategies, such as Ukeru, a physical alternative to restraint and seclusion. After Grafton Integrated Health Network developed Ukeru, they reduced staff injury rates, worker's compensation costs, and staff turnover, and improved staff morale and patient treatment outcomes (Sanders 2009). In short, it was better for *everyone*. Ukeru has been adopted by hundreds of hospitals and schools nationwide, including Calvert County Public Schools, in Maryland ("Calvert County Archives - Ukeru" 2021) and Loudoun County Public Schools, in Virginia ("Ad Hoc Committee on Special Education - Final Report" 2019). Calvert County went from 750 restraints and 386 seclusions in SY 2018-2019 to 70 restraints and 78 seclusions in SY 2019-2020 after switching to Ukeru.

There are several parts of this bill that I want to highlight. It requires case review for children who are restrained repeatedly and promotes the use of better, safer alternatives (such as Ukeru) - had this law been in effect earlier, things might not have gotten so bad for my son, and many other kids like him.

It requires MSDE to develop a system to ensure that regulations related to restraint and seclusion are actually being followed by schools, and that data on restraint and seclusion that is collected annually is actually analyzed.

**This bill takes an important step toward ensuring the safety and civil rights of Maryland's most vulnerable children and I urge you to vote favorably.**

## References

- "2020-303." 2020. 2020. <https://mpia.hcpss.org/requests/2020-303>.
- "2021-230." 2021. 2021. <https://mpia.hcpss.org/requests/2021-230>.
- "Ad Hoc Committee on Special Education - Final Report." 2019.  
[https://go.boarddocs.com/vsba/loudoun/Board.nsf/files/BDCKRT532353/\\$file/DRAFT%20Ad%20Hoc%20Committee%20for%20SPED%20Final%20Report%20June%202019.pdf](https://go.boarddocs.com/vsba/loudoun/Board.nsf/files/BDCKRT532353/$file/DRAFT%20Ad%20Hoc%20Committee%20for%20SPED%20Final%20Report%20June%202019.pdf).
- Bilirakis, Michael. 2000. *Children's Health Act of 2000*.  
<https://www.congress.gov/bill/106th-congress/house-bill/4365>.
- Black, Valerie, Candace Bobier, Baiju Thomas, Fiona Prest, Chris Ansley, Barbara Loomes, Glenda Eggleston, and Helen Mountford. 2020. "Reducing Seclusion and Restraint in a Child and Adolescent Inpatient Area: Implementation of a Collaborative Problem-Solving Approach." *Australasian Psychiatry: Bulletin of Royal Australian and New Zealand College of Psychiatrists* 28 (5): 578–84.
- "Calvert County Archives - Ukeru." 2021. 2021.  
<https://www.ukerusystems.com/tag/calvert-county/>.
- Cohen, Jodi S., Jennifer Smith Richards, and Lakeidra Chavis. 2019. "Children Are Being Locked Away, Alone and Terrified, in Schools across Illinois. Often, It's against the Law." November 19, 2019.  
<https://features.propublica.org/illinois-seclusion-rooms/school-students-put-in-isolated-timeouts/>.
- Curie, Charles G. 2005. "SAMHSA's Commitment to Eliminating the Use of Seclusion and Restraint." *Psychiatric Services* 56 (9): 1139–40.
- ERIC M. WEISS With reporting by Dave Altimari, Dwight F. Blint, Kathleen Megan, Courant Staff Writers Additional research was contributed by Sandy Mehlhorn, Jerry LePore, and John Springer. 1998. "Hundreds of the Nation's Most Vulnerable Have Been Killed by the System Intended to Care for Them." October 11, 1998.  
<https://www.courant.com/news/connecticut/hc-xpm-1998-10-11-9810090779-story.html>.
- Goren, Suzanne, Nirbhay N. Singh, and Al M. Best. 1993. "The Aggression-Coercion Cycle: Use of Seclusion and Restraint in a Child Psychiatric Hospital." *Journal of Child and Family Studies* 2 (1): 61–73.
- Greene, Ross W. 2009. *Lost at School: Why Our Kids with Behavioral Challenges Are Falling Through the Cracks and How We Can Help Them*. Simon and Schuster.
- Greene, Ross W., J. Stuart Ablon, and Andrés Martin. 2006. "Use of Collaborative Problem Solving to Reduce Seclusion and Restraint in Child and Adolescent Inpatient Units." *Psychiatric Services* 57 (5): 610–12.

- Hammer, Joseph H., Justin Springer, Niels C. Beck, Anthony Menditto, and James Coleman. 2011. "The Relationship between Seclusion and Restraint Use and Childhood Abuse among Psychiatric Inpatients." *Journal of Interpersonal Violence* 26 (3): 567–79.
- Hines, Alice. 2020. "Deadly Restraints Are Being Used on Children at Youth Homes and Schools." 2020.  
<https://www.vice.com/en/article/7k9b89/deadly-restraints-are-being-used-on-children-at-youth-homes-and-schools>.
- Jones, Robert J., and Gary D. Timbers. 2002. "An Analysis of the Restraint Event and Its Behavioral Effects on Clients and Staff." *Reclaiming Children and Youth; Bloomington* 11 (1): 37–41.
- Kutz, Gregory D. 2009. "Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers. Testimony Before the Committee on Education and Labor, House of Representatives. GAO-09-719T." *US Government Accountability Office*. <https://eric.ed.gov/?id=ED505313>.
- Lewis, Katherine Reynolds. 2015. "What If Everything You Knew About Disciplining Kids Was Wrong?" *Mother Jones*, 2015.  
<https://www.motherjones.com/politics/2015/07/schools-behavior-discipline-collaborative-pro-active-solutions-ross-greene/>.
- Magee, S. K., and J. Ellis. 2001. "The Detrimental Effects of Physical Restraint as a Consequence for Inappropriate Classroom Behavior." *Journal of Applied Behavior Analysis* 34 (4): 501–4.
- Martin, Andrés, Heidi Krieg, Frank Esposito, Dorothy Stubbe, and Laurie Cardona. 2008. "Reduction of Restraint and Seclusion through Collaborative Problem Solving: A Five-Year Prospective Inpatient Study." *Psychiatric Services* 59 (12): 1406–12.
- Maryland State Department of Education. 2019. "Restraint and Seclusion: Data Collection, Findings, and Recommendations (2018-2019)."  
<https://endseclusion.org/wp-content/uploads/2020/01/msar-11125-restraint-and-seclusion-report.pdf>.
- Salmon, Karen B. Letter to Members of the State Board of Education. 2017, September 19, 2017.  
<http://www.marylandpublicschools.org/stateboard/Documents/09192017/TabD-RestraintandSeclusion.pdf>.
- Sanders, Kim. 2009. "The Effects of an Action Plan, Staff Training, Management Support and Monitoring on Restraint Use and Costs of Work-Related Injuries." *Journal of Applied Research in Intellectual Disabilities: JARID* 22 (2): 216–20.
- Staddon, J. E. R., and D. T. Cerutti. 2003. "Operant Conditioning." *Annual Review of Psychology* 54: 115–44.
- Strout, Tania D. 2010. "Perspectives on the Experience of Being Physically Restrained: An Integrative Review of the Qualitative Literature." *International Journal of Mental Health Nursing* 19 (6): 416–27.
- United States Department of Education. 2012. "Restraint and Seclusion: Resource Document," May. <https://www2.ed.gov/policy/seclusion/restraint-and-seclusion-resource-document.html>.
- United States Department of Education Department for Civil Rights. 2016. "Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities," December 28, 2016.  
<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>.

# **Grafton's written support for Maryland Senate Bill**

Uploaded by: Kim Sanders

Position: FAV



Written support for Maryland Senate Bill 705

This legislation is a step in the right direction for Maryland, aligning with many other states that are moving towards reducing or eliminating the use of seclusion due to the long-lasting traumatic effects on children. We know firsthand that restrictive practices can be safely replaced by alternatives. We know this because we have done it! Grafton Integrated Health Network in Winchester, VA — an organization serving children and adults with autism and co-occurring psychiatric diagnoses — initiated an agency-wide restraint reduction over a decade ago, achieving compelling results: reducing the use of restraints by 99.8 percent, **eliminating the use of seclusion**, and significantly reducing the number of injuries to both clients and those who care for and educate them. Today, Grafton is helping other schools and organizations across North America to do the same through **Ukeru**, which provides training for a safe, comforting and restraint-free approach to crisis management. Thank you for taking on this issue and working to keep students and school staff safe.

Submitted by: Kim Sanders, COO of Grafton Integrated Health Network & President of Ukeru Systems

**DRMtestimony2022.SB705.pdf**

Uploaded by: Leslie Margolis

Position: FAV



Empowerment. Integration. Equality.

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[www.DisabilityRightsMD.org](http://www.DisabilityRightsMD.org)

Phone: 410.727.6352

**SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE**

**SENATE BILL 705**

**EDUCATION—PHYSICAL RESTRAINT AND SECLUSION—LIMITATIONS, REPORTING AND TRAINING**

**MARCH 2, 2021**

**POSITION: SUPPORT**

Disability Rights Maryland (DRM) is the protection and advocacy organization for the state of Maryland; the mission of the organization, part of a national network of similar agencies, is to advocate for the legal rights of people with disabilities throughout the state. Over the years, DRM has dedicated significant resources to representation of children with disabilities in special education matters, both individual and systemic, and to educational policy work. DRM has the unique authority to investigate when a child, youth or adult with disabilities has been, or is at risk of being, abused or neglected. Our special education work and our core protection and advocacy authority come together when children with disabilities are subjected to the use of restraint and seclusion. DRM has investigated a number of school-based restraint and seclusion injuries; it is this work that has informed our policy work since the 2002 General Assembly passed Maryland's first law governing the use of restraint and seclusion in schools.

As a member and chair of the Education Advocacy Coalition (EAC), DRM joins the testimony submitted by the EAC in support of Senate Bill 705. We submit separate testimony to underscore the importance of the provisions of the bill, particularly with respect to the new proposed limitations regarding the use of seclusion, the additional data collection requirements, and the accountability measures the bill would require.

It was our hope that the 2017 enactment of Senate Bill 786, stronger regulations and the strong guidance issued by MSDE would lead to a reduction in the use of restraint and seclusion across the state. Unfortunately, this has not been the case. The EAC testimony details the significant number of restraint and seclusion incidents in a number of jurisdictions and notes that restraint and seclusion are used disproportionately with children with disabilities, children of color, and very young children. Senate Bill 705 would address the underlying barriers that have impeded progress towards a reduction in the use of these outmoded and dangerous practices which are traumatic for students, their families and school staff alike. Senate Bill 705 would prohibit the use of seclusion in public schools and impose significant additional requirements before seclusion could be used in nonpublic schools. Additionally, the bill requires analysis of the data collected by Senate Bill 786, rather than simply a transmittal of the data as currently occurs each December 1<sup>st</sup>; significantly, the bill also requires individual student data to be reported both to the local school system and to the Maryland State Department of Education (MSDE) if restraint or seclusion is used 10 or more times in a school year with a student. MSDE must also develop an accountability system designed to reduce the use of these aversive interventions. Additionally, Senate Bill 705 requires more robust training, which will enable teachers to be better prepared to meet the academic and behavioral needs of the students in their classrooms. All of these provisions, if implemented, should lead to less reliance on restraint and seclusion.

This Committee has heard many stories over the years from families whose children have been subjected to restraint and seclusion. In 2017, this Committee watched an excerpt of a video showing



one of DRM's clients being dragged down a hallway and pushed into a seclusion room where he slumped to the ground and was curled up in a puddle of blood when staff opened the door a few minutes later. Although videos are rare, injuries during restraint and seclusion are not. Over the years, DRM has handled cases involving children restrained by duct tape, neckties, or in equipment meant for children who cannot sit independently. DRM has investigated cases of children physically restrained and placed in seclusion for time periods well beyond the limits imposed by the regulations. We have investigated cases involving children who have sustained broken bones in seclusion rooms, and children who have sustained bruises, cuts, rug burns, and other injuries during restraint and seclusion. We have also conducted investigations of children who died while in restraint while placed in residential school programs. Those are the visible injuries. The damage caused by invisible injuries—the trauma sustained by each child subjected to restraint or seclusion—and the trauma sustained by those who witness it and those who engage in it, is incalculable. We continue to take these cases because the injuries and the trauma continue. We continue to support additional legislative measures because four years of data show us that without accountability measures built into the law, business will continue as usual. We should not have to wait for the United States Department of Justice to investigate Montgomery County or Harford County or Baltimore County or Charles County as it did Frederick County. Senate Bill 705 offers an opportunity to put Maryland back at the forefront of states addressing restraint and seclusion with a proactive, accountability-driven approach.

DRM supports Senate Bill 705 as the necessary next step to move Maryland forward in reducing the use of these aversive interventions and to ensure that school is the nurturing, safe learning haven it is meant to be for all children. For more information, please contact Leslie Seid Margolis at [lesliem@disabilityrightsmd.org](mailto:lesliem@disabilityrightsmd.org) or 410-370-5730.

# **Bill testamony.pdf**

Uploaded by: Lisa Stephens

Position: FAV

My name is Lisa Stephens, our family has been impacted by the use of seclusion and restraint. My son Cooper is has ADHD and social anxiety. He was in Calvert County Schools throughout his elementary years and thrived, however following a couple of traumatic events, including being dragged down a hallway, at the end of fifth grade we homeschooled him for two years because he did not want to return to school.

Our son expressed a desire to return to public school. We worked really hard with staff to develop an IEP that we felt would be appropriate for him. One of the things we stressed to the team was that Cooper does not respond well to a hands-on approach. We provided the IEP team a tremendous amount of information on how to work successfully with our son.

He was in school for only 3 days before his first incidence of seclusion happened, despite our best efforts to inform staff how to best work with our son. Over the next 12 school days, seclusion and restraint techniques were used a number of times. We believe the number of instances to be 4 or 5 although we only received paperwork for two instances and only after we requested it.

Our son suffered emotional stress and trauma as a result of these practices and had to be put on home and hospital school. He was so traumatized that he refused to return to school. He didn't feel safe and we didn't feel he was in a safe environment. The point is these interventions are dangerous and unnecessary. And it gets worse, there are cases where children have died due to the use of seclusion and restraint.

The use of seclusion is outdated. It causes trauma to both students and staff. We can do better for our children and staff. If we can do better shouldn't we?

I support senate bill SB 705!

Lisa Stephens  
Lusby, Maryland

# **written testimony for SB Restraint and seclusion 2**

Uploaded by: Lori Scott

Position: FAV

**SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE**  
**SENATE BILL 705**  
**EDUCATION—PHYSICAL RESTRAINT AND SECLUSION—LIMITATIONS, REPORTING, AND TRAINING**  
**MARCH 2, 2022**  
**POSITION: SUPPORT**

As the mother of a 19 year old child with significant cognitive disabilities and an advocate, I am in support of SB705 to minimize the use of restraint and seclusion throughout MD and to also ensure that school districts follow the current statute involving the limited use of seclusion to prevent imminent serious physical harm to self and others. The “harm” standard has not been followed; hence, the need for this bill to protect children from trauma, injuries, unnecessary mishandling of students, time out of the classroom, and extended staffing resources used to restrain and seclude.

As a Howard County resident concerned about doing my part to ensure a safe learning environment for special education students, the recent MSDE report of restraint and seclusion data was alarming. In 2020-21 COMAR 13A.08.04.05 report ([ED7-1102\\_2021.pdf \(endseclusion.org\)](#)), HCPSS reported more episodes of restraint and seclusion than any other district in MD when most students were educated in a virtual or predominantly virtual environment. The majority of these incidents involved a minority population of African-American and Asian students. Our minority students are disproportionately restrained and secluded compared to their white peers, in most counties, including Howard County.

Of utmost concern, are the data around the use of restraint and seclusion for our youngest learners, aged 5-10 years old. Our babies in special education are being traumatized in our public schools with this averse and archaic intervention. A 141 episodes of seclusion and 130 episodes on restraint for this population in Howard County.

This bill works to end unnecessary restraint and minimize seclusion statewide and will have systemic benefits to all students in MD as this intervention. Aversive techniques will be replaced with evidenced based positive behavioral interventions and teams will be forced to think outside the existing practices, improve the process of de-escalation, identify antecedents, educate themselves on resources available to improve behavioral outcomes for our most vulnerable students in MD. Please support SB705 to ensure safety for all in our school buildings.

# **Seclusion and restraint .pdf**

Uploaded by: Margo Shrieves

Position: FAV

I support Senate Bill 705. Seclusion and restraint are tactics used in schools that is ineffective, outdated, and traumatizing for everyone involved. This legislation, if signed into law, could benefit the lives of children across the state of Maryland.

**SB0705.pdf**

Uploaded by: Mary Mullen

Position: FAV



Kathy Mullen  
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**SB0705** Ban seclusion in all public schools

Dear Legislators,

I ask that you support SB0705 and ban seclusion in all public schools. In my opinion, seclusion causes psychological damage to the student and services no positive purpose.

We need to find a better solution as no child should ever feel scared, fearful and uncomfortable at school. We are entrusting the school to do right by our students, especially our nonverbal kids that can't share their day with us.

As a grandparent of a nonverbal child in AACO, I don't ever want to see seclusion or restraints being used and do believe that the schools should have cameras in the self-contained classrooms as well.

Parents and family members deserve to feel comfortable sending their kids to school and not having to worry about what is happening there. It's unfortunate that many don't understand unless they have a special needs child themselves so I am asking, please put yourself in the shoes of these parents and more importantly, these children.

It is a known fact that seclusion causes harm and I highly doubt that you would like it if it happened to you.

I thank you for your support in favor of SB0705.

Respectfully,  
Kathy Mullen

**CRSD.RS.SB705.pdf**

Uploaded by: Megan Berger

Position: FAV

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# MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

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## SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

### SENATE BILL 705: EDUCATION—PHYSICAL RESTRAINT AND SECLUSION— LIMITATIONS, REPORTING, AND TRAINING

MARCH 2, 2022

#### POSITION: SUPPORT

The Maryland Coalition to Reform School Discipline (CRSD) brings together 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 Senate Bill 705, 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. The legislation would 1) prohibit the use of seclusion in public schools and further regulate its use in nonpublic special education schools; 2) require collection of additional data about the use of restraint and seclusion with students in public and nonpublic schools, 3) require analysis of that data; 3) require the Maryland State Department of Education to develop an accountability system to ensure that the strong regulations and guidance in place in Maryland are implemented fully, and 4) would increase the ability of school staff to better meet the needs of their students by addressing gaps in professional development, thereby reducing the reliance on restraint and seclusion as a tool of classroom management.

Restraint and seclusion can be aversive, trauma-inducing and dangerous, often resulting in injury to students and sometimes to school staff as well. On occasion, including in Maryland, these interventions can be fatal. The General Assembly has now received four reports from MSDE covering the 2017-18, 2018-19, 2019-20 and 2020-21 school years. The incidence of restraint and seclusion remains extremely high in many jurisdictions. Frederick County reported just under 2000 restraint incidents during the 2018-19 school year, a marginal decrease from the previous year, but jumped from 837 incidents of seclusion to 1604, the highest of any jurisdiction in the state. In fact, the United States Department of Justice concluded a lengthy investigation recently, entering into an agreement with Frederick County that requires the immediate cessation of the use of seclusion and a host of other corrective actions, both student-oriented and systemic. Many districts disproportionately restrain and seclude students of color, such as Montgomery, where during the 2018-19 school year, 72% of the restraint incidents and

77% of the seclusion incidents involved students of color. This was no different in the 2019-20 school year, when 530 of the 778 ((68%) restraint incidents and 75% of the seclusion incidents in Montgomery County involved students of color. Also notable is that in the 2019-20 school year, the year in which school buildings closed in mid-March because of the coronavirus pandemic, the number of restraint incidents increased in Baltimore City, Garrett County, Harford County and Worcester County, and the number of seclusion incidents increased in Allegany County, Baltimore County, Dorchester County, Montgomery County, Washington County, and Worcester County. Across all districts, the vast majority of students who are restrained and placed in seclusion are students with disabilities and the majority are in elementary school. Notably, students in nonpublic special education schools are also restrained and placed in seclusion at a high rate. Also notable is that several local school systems (Anne Arundel County, Baltimore City, Caroline County, Prince George's County, Somerset County and Wicomico County) prohibit the use of seclusion, as do a number of nonpublic special education schools that serve students with complex disabilities.

Senate Bill 705 is needed because it would address some of the gaps illuminated by the Senate Bill 786 Implementation process. MSDE's Division of Student Support, Academic Enrichment & Educational Policy collects the data required by Senate Bill 786 but does no analysis of the data and makes no effort to identify school districts or nonpublic schools that may be violating the regulations. The Division makes no attempt to identify trends or to target districts with a high use of restraint and seclusion for support, professional development or enforcement. Part of the reason there has been no data analysis or follow up with districts is because MSDE's Division of Student Support, Academic Enrichment & Educational Policy, unlike the Division of Early Intervention and Special Education, has no accountability structure in place to ensure compliance with the regulations. In addition to the data already required to be reported to MSDE by local school systems, public agencies and nonpublic schools, Senate Bill 705 would require reporting of individual student data from a student's school to the local school system and to MSDE if a student is restrained (or secluded if in a nonpublic school) 10 or more times in a school year. Senate Bill 705 would also require MSDE to verify the data and to develop an accountability system to ensure compliance and to take responsibility for reducing the use of restraint and seclusion in public and nonpublic schools.

Finally, although the importance of teacher preparation and professional development were recognized with a limited attempt to address these critical issues even in the initial 2003 legislation enacted by the General Assembly, it has become increasingly evident that many teachers enter their classrooms unprepared to meet the academic and behavioral needs of their students. By requiring additional training, Senate Bill 705 recognizes and makes a more robust effort to address this issue.

Ultimately, Senate Bill 705 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, CRSD supports Senate Bill 705.**

For more information contact:

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**CRSD Members**

ACLU- Maryland  
Alliance Against Seclusion and Restraint  
The Arc Maryland  
BMore Awesome  
Community Law in Action  
Disability Rights Maryland  
Family League of Baltimore  
NARAL- Pro-Choice Maryland  
Office of the Public Defender  
Open Society Institute-Baltimore  
Project HEAL at Kennedy Krieger Institute  
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Sayra and Neil Meyerhoff Center for Families, Children and the Courts, University of Baltimore School of Law  
Schools Not Jails  
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Lindsay Gavin  
Kelsie Reed  
Janna Parker  
Shannon McFadden

**EACtestimony2022.SB705.pdf**

Uploaded by: Megan Jones

Position: FAV

# Education Advocacy Coalition for Students with Disabilities

**SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE**

**SENATE BILL 705**

**EDUCATION—PHYSICAL RESTRAINT AND SECLUSION—LIMITATIONS, REPORTING, AND TRAINING**

**MARCH 2, 2022**

**POSITION: SUPPORT**

The Education Advocacy Coalition for Students with Disabilities (EAC), a coalition of approximately 40 organizations and individuals concerned with education policy for students with disabilities in Maryland, strongly supports Senate Bill 705, which would 1) prohibit the use of seclusion in public schools and further regulate its use in nonpublic special education schools; 2) require collection of additional data about the use of restraint and seclusion with students in public and nonpublic schools, 3) require analysis of that data; 3) require the Maryland State Department of Education to develop an accountability system to ensure that the strong regulations and guidance in place in Maryland are implemented fully, and 4) would increase the ability of school staff to better meet the needs of their students by addressing gaps in professional development, thereby reducing the reliance on restraint and seclusion, an outdated means of behavior management. As was discussed at length during the hearings on Senate Bill 786 and its companion House Bill in 2017 and in hearings on legislation proposed in 2020 and 2021, restraint and seclusion can be aversive, trauma-inducing and dangerous, often resulting in injury to students and sometimes to school staff as well. On occasion, including in Maryland, these interventions can be fatal.

Senate Bill 786, which was enacted and became effective on July 1, 2017, required, for the first time, collection and reporting of data regarding the use of restraint and seclusion in public and nonpublic schools throughout the state. By December 1<sup>st</sup> of each year, MSDE must issue a report to the General Assembly with data, disaggregated by a number of categories including age, race and ethnicity, disability, placement, gender and jurisdiction. The legislation also required the appointment of a workgroup to make recommendations to the Maryland State Department of Education (MSDE) regarding revisions to the Code of Maryland Regulations. The workgroup issued its report; MSDE adopted some, but not all, of the recommendations, and new regulations were finalized in 2018, strengthening the protections in place for students. Subsequently, MSDE issued strong guidance clearly reiterating that restraint and seclusion may be used only when a student poses “imminent serious physical harm to self or others” and that this term means “[a] substantial risk of death; [e]xtreme physical pain; [p]rotracted and obvious disfigurement; or [p]rotracted loss or impairment of the function of a bodily member, organ or mental faculty.” Because all students, those with and without disabilities, are covered by the legislation and regulations, MSDE lodged responsibility for implementation and oversight of the legislation and regulations with its Division of Student Support, Academic Enrichment & Educational Policy. EAC members and many others hoped and expected that with stronger regulations and strong guidance from MSDE, and with the training requirements also included in Senate Bill 786, the incidence of restraint and seclusion would decrease.

Unfortunately, that has not been the case. The General Assembly has now received four reports from MSDE covering the 2017-18, 2018-19, 2019-20 and 2020-21 school years. The incidence of restraint and

seclusion remains extremely high in many jurisdictions. Frederick County reported just under 2000 restraint incidents during the 2018-19 school year, a marginal decrease from the previous year, but jumped from 837 incidents of seclusion to 1604, the highest of any jurisdiction in the state. In fact, the United States Department of Justice concluded a lengthy investigation recently, entering into an agreement with Frederick County that requires the immediate cessation of the use of seclusion and a host of other corrective actions, both student-oriented and systemic. Many districts disproportionately restrain and seclude students of color, such as Montgomery, where during the 2018-19 school year, 72% of the restraint incidents and 77% of the seclusion incidents involved students of color. This was no different in the 2019-20 school year, when 530 of the 778 ((68%) restraint incidents and 75% of the seclusion incidents in Montgomery County involved students of color. Also notable is that in the 2019-20 school year, the year in which school buildings closed in mid-March because of the coronavirus pandemic, the number of restraint incidents increased in Baltimore City, Garrett County, Harford County and Worcester County, and the number of seclusion incidents increased in Allegany County, Baltimore County, Dorchester County, Montgomery County, Washington County, and Worcester County. Across all districts, the vast majority of students who are restrained and placed in seclusion are students with disabilities and the majority are in elementary school. Notably, students in nonpublic special education schools are also restrained and placed in seclusion at a high rate. Also notable is that several local school systems (Anne Arundel County, Baltimore City, Caroline County, Prince George's County, Somerset County and Wicomico County) prohibit the use of seclusion, as do a number of nonpublic special education schools that serve students with complex disabilities.

Senate Bill 705 is needed because it would address some of the gaps illuminated by the Senate Bill 786 Implementation process. MSDE's Division of Student Support, Academic Enrichment & Educational Policy collects the data required by Senate Bill 786 but does no analysis of the data and makes no effort to identify school districts or nonpublic schools that may be violating the regulations. The Division makes no attempt to identify trends or to target districts with a high use of restraint and seclusion for support, professional development or enforcement. Part of the reason there has been no data analysis or follow up with districts is because MSDE's Division of Student Support, Academic Enrichment & Educational Policy, unlike the Division of Early Intervention and Special Education, has no accountability structure in place to ensure compliance with the regulations. In addition to the data already required to be reported to MSDE by local school systems, public agencies and nonpublic schools, Senate Bill 705 would require reporting of individual student data from a student's school to the local school system and to MSDE if a student is restrained (or secluded if in a nonpublic school) 10 or more times in a school year. Senate Bill 705 would also require MSDE to verify the data and to develop an accountability system to ensure compliance and to take responsibility for reducing the use of restraint and seclusion in public and nonpublic schools.

Finally, although the importance of teacher preparation and professional development were recognized with a limited attempt to address these critical issues even in the initial 2003 legislation enacted by the General Assembly, it has become increasingly evident that many teachers enter their classrooms unprepared to meet the academic and behavioral needs of their students. By requiring additional training, Senate Bill 705 recognizes and makes a more robust effort to address this issue.

For these reasons, the EAC supports Senate Bill 705. For more information, please contact Leslie Seid Margolis, Chairperson, at [lesliem@disabilityrightsmd.org](mailto:lesliem@disabilityrightsmd.org) or 410-370-5730.

Respectfully submitted,



Rene Averitt-Sanzone, The Parents' Place of Maryland  
Linda Barton, MSED, Educational Consultant  
Elizabeth Benevides, Howard County Autism Society  
Ellen A. Callegary, Law Offices of Ellen A. Callegary, P.A.  
Rich Ceruolo, Parent Advocacy Consortium  
Michelle Davis, ABCs for Life Success  
Jennifer Engel Fisher, Weinfeld Education Group, LLC  
Ann Geddes, Maryland Coalition of Families  
Kalman Hettleman, Independent Advocate  
Morgan Horvath, M.Ed., Abilities Network  
Rosemary Kitzinger and Marjorie Guldan, Bright Futures, LLC  
Rachel London, Maryland Developmental Disabilities Council  
Leslie Seid Margolis, Disability Rights Maryland  
Mark B. Martin, Law Offices of Mark B. Martin, P.A.  
Ellen O'Neill, Atlantic Seaboard Dyslexia Education Center  
Ronza Othman, National Federation of the Blind of Maryland  
Maria Ott, Attorney  
Rebecca Rienzi, Pathfinders for Autism  
Jaime Seaton, BGS Law  
Ronnetta Stanley, Loud Voices Together  
Guy Stephens, Alliance Against Seclusion and Restraint  
Maureen van Stone, Mallory Legg, and Alyssa Thorn, Project HEAL at Kennedy Krieger Institute  
Daya Chaney Webb, IMPACT Advocacy  
Liz Zogby, Maryland Down Syndrome Advocacy Coalition  
Also joining testimony: Shanetta Martin, Maryland Education Coalition

# **Restraints Testimony Favorable.pdf**

Uploaded by: Michele Hall

Position: FAV



**PAUL DeWOLFE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
DIRECTOR OF POLICY AND DEVELOPMENT

**KRYSTAL WILLIAMS**  
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

**ELIZABETH HILLIARD**  
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

**BILL:** SB705/HB1255  
**FROM:** Maryland Office of the Public Defender  
**POSITION:** FAVORABLE  
**DATE:** March 1, 2022

The Maryland Office of the Public Defender urges this committee to issue a favorable report on SB705/HB1255, Education—Physical Restraint and Seclusion—Limitations, Reporting, and Training.

Data from the Maryland State Department of Education (MSDE) from the past four school years demonstrates that the incidence of restraint and seclusion remains extremely high in many jurisdictions. For example:

- Frederick County’s use of seclusion nearly double from 2018-19 to 2019-2020 school years, and its school system recently entered into an agreement with the United States Department of Justice to immediately stop the use of seclusion and other corrective action;
- In the 2018-19 school year, Montgomery County disproportionately used restraint (72%) and seclusion (77%) on students of color;
- Despite schools closing in March 2020 due to the COVID-19 pandemic, the number of restraint incidents **increased** in Baltimore City, Garrett County, Harford County, and Worcester County, and the number of seclusion incidents **increased** in Allegany County, Baltimore County, Dorchester County, Montgomery County, Washington County, and Worcester County;
- The vast majority of students restrained and secluded across the state are students with disability and majority are in elementary school.

This bill would 1) prohibit the use of seclusion in public schools and further regulate its use in nonpublic special education schools; 2) require collection of additional data about the use of restraint and seclusion with students in public and nonpublic schools, 3) require analysis of that data; 3) require the Maryland State Department of Education to develop an accountability system to ensure that the strong regulations and guidance in place in Maryland are implemented fully, and 4) would increase the ability of school staff to better meet the needs of their students by addressing gaps in professional development, thereby reducing the reliance on restraint and seclusion as a tool of classroom management. Restraint and seclusion can be aversive, trauma-inducing and dangerous, often resulting in injury to students and sometimes to school staff as well. On occasion, including in Maryland, these interventions can be fatal. Additional data and analysis will allow MSDE to identify school districts and nonpublic schools that may be violating regulations and ensure compliance with regulations, an accountability mechanism that is absent from the current regime. This bill also will help prepare teachers to meet the academic and behavioral needs of their students by providing additional training and supports. For these reasons, MOPD supports SB705/HB1255.

**SB705.RestraintSeclusion.DDCouncil.Support.pdf**

Uploaded by: Rachel London

Position: FAV



## Maryland Developmental Disabilities Council

CREATING CHANGE • IMPROVING LIVES

### Senate Education, Health, and Environmental Affairs Committee

March 2, 2022

SB 705: Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training

**Position: Support**

State data demonstrate that restraint and seclusion are used disproportionately with students who have disabilities. Data from 2019-2020 school year from Maryland State Department of Education<sup>i</sup> shows:

- Restraint was used a total of 12,310 times. 59% of the incidents involved students with disabilities.
- Seclusion was used a total of 6,487 times. 57% of the incidents involved students with disabilities.
- 97% of seclusion incidents and 89% of restraint incidents happened to students in special education settings<sup>ii</sup>, compared to only 3% and 11%, respectively in general education.

**The data clearly show Maryland’s over 105,000 students with disabilities are at a greater risk of restraint and seclusion.** This is despite the fact that “there is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques.”<sup>iii</sup> According to the U.S. Department of Education’s resource document on restraint and seclusion, restraint and seclusion should never be used except in situations in which a student’s behavior poses imminent danger of serious physical harm to self or others.

**Despite regulations and policy, many Maryland local school systems and many of its nonpublic schools rely too heavily on restraint and seclusion as routine ways of attempting to manage student behavior instead of treating them as the truly rare, emergency interventions they are meant to be.** SB 705 addresses this problem by: (1) prohibiting seclusion in public schools and imposing additional requirements before seclusion can be used in nonpublic special education schools, and (2) by addressing some of the gaps that have been illuminated by four years of the reporting requirements.

#### **WHAT does this bill do?**

- **Prohibits seclusion in public schools, and imposes additional requirements for the use of seclusion in nonpublic special education schools.**
- Requires MSDE to develop an accountability structure and to take responsibility for reducing the use of restraint and seclusion in public and nonpublic schools
- Ensures all teachers and administrators and the staff who work with students on a daily basis receive sufficient professional development regarding evidence-based positive behavior interventions and supports and trauma-informed interventions

Addressing gaps in teacher preparation and professional development and increasing the ability of school staff to better meet the needs of their students will ultimately help reduce the reliance on restraint and seclusion as a tool of classroom management. **Increasing the accountability of local school systems and the state is a critical component to ensure efforts to make learning environments safe and ensure students have the supports and services needed so that restraint and seclusion are unnecessary.**

Contact: Rachel London, Executive Director: [RLondon@md-council.org](mailto:RLondon@md-council.org)

<sup>i</sup> Data reported for the 2019-2020 school year <[http://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-1102\\_2020.pdf](http://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-1102_2020.pdf)>.

<sup>ii</sup> Special education settings include separate classes, public/private separate day schools, and residential settings.

<sup>iii</sup> U.S. Department of Education, *Restraint and Seclusion: Resource Document* <[www.ed.gov/policy/restraintseclusion](http://www.ed.gov/policy/restraintseclusion)>, May 2012.

# **Testimony In Support of SB 705 - Restraint and Sec**

Uploaded by: Rich Ceruolo

Position: FAV



February 28, 2022

Maryland Senate  
11 Bladen St.  
Annapolis, MD. 21401

**In Support of SB 705:** Education - Restraint and Seclusion – Requirements, Reporting and Training.

Members of the Maryland Senate’s Education, Health and Environment Committee.

Our membership of over 1400 plus military and non-military families of children with disabilities FULLY support this bill here before you today.

As a parent and advocate for persons with disabilities, we/I can’t help but support bill SB 705. Having a child who was restrained and secluded due to his disabilities, because school staff failed to follow the steps outlined for them within his IEP with fidelity more times than I care to count, in both the elementary and middle school settings here in Anne Arundel County.

Restraint and Seclusion are outdated crisis management techniques still used in Maryland Schools across the state. There is a better way to de-escalate children in crisis or just simply having a bad day of dysregulated behavior. It’s time for changes like the ones being proposed in SB 705.

My son has over the years in public school become so anxious and frustrated by his learning environment that he has tried to hurt himself on several occasions. I try to imagine a situation where the school personnel would not just drag him down a hallway and lock him in an admin office to “calm down”. But rather have staff, on the premises, that could help and aid by treating him like a human being, and not like a problem. Instead, these school personnel could use positive behavioral interventions (strategies and supports) that are both evidence-based and trauma-informed in their approaches to crisis management.

The scenario I described above plays out in schools all across our state and our nation every day. Individuals with mental challenges or disabilities become so frantic that they make bad decisions, resulting in physical harm, trauma - further mental harm, hand cuffs, arrests and in some cases death.



Too many times our children are locked into rooms, with names like the “calm” room, “cooling off” room, “time out” room. It’s a form of solitary confinement, called “seclusion” in education settings. It is inhumane way to treat any individual that may be in a state of mental crisis. Worse yet is the option of having a child pinned to the floor by grown adults, causing physical harm to the child, the adults and leaving lasting mental scars due to the use of “restraint” techniques. These are the terms used in schools, when referring to seclusion and restraint. Make no mistake, there is a better way to treat our children with disabilities.

Educational models such as Ukeru offer modern, science-based approaches which also include trauma-informed practices, which in many cases replaces any need for antiquated behavior management options like seclusion and restraint. Ukeru and other modern teaching models help to guarantee brighter education outcomes and reduce any need for crisis management techniques. Let’s help train the next generation of educators in these proven, modern techniques so that we can educate rather than simply manage children with challenging behaviors due to their disabilities. Please help by supporting programs like this that put the skills in the hands of people that can help and have a positive impact within our communities statewide.

Our children are not animals, and should not be treated like problems that need to be contended with, rather than human beings with challenges, emotions and feelings. These barbaric practices of restraint and seclusion only cause lasting harm both physically and mentally to our most vulnerable populations of students. There is a better way forward for all education stakeholders.

We ask that your committee please support Senate Bill 705, by returning a favorable report.

Thank you for your time, and for considering our testimony today.

Mr. Richard Ceruolo | [richceruolo@gmail.com](mailto:richceruolo@gmail.com)  
Parent, Lead Advocate and Director of Public Policy  
Parent Advocacy Consortium (Find us on Facebook/Meta) |  
<https://www.facebook.com/groups/ParentAdvocacyConsortium>



# **SB 705 - Support - MPS WPS.pdf**

Uploaded by: Thomas Tompsett

Position: FAV



March 2, 2022

The Honorable Paul G. Pinsky  
Senate Education, Health, and Environmental Affairs Committee  
2 West Miller Senate Office Building  
Annapolis, MD 21401

RE: Support – SB 705: Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training

Dear Chairman Pinsky and Honorable Members of the Committee:

The Maryland Psychiatric Society (MPS) and the Washington Psychiatric Society (WPS) are state medical organizations whose physician members specialize in diagnosing, treating, and preventing mental illnesses, including substance use disorders. Formed more than sixty-five years ago to support the needs of psychiatrists and their patients, both organizations work to ensure available, accessible, and comprehensive quality mental health resources for all Maryland citizens; and strive through public education to dispel the stigma and discrimination of those suffering from a mental illness. As the district branches of the American Psychiatric Association covering the state of Maryland, MPS and WPS represent over 1000 psychiatrists and physicians currently in psychiatric training.

MPW/WPS support Senate Bill 705: Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training (SB 705). Limiting the use of restraint and seclusion should always be the goal of schools and behavioral health institutions. Unfortunately, the limited use of restraints and seclusion is sometimes needed for the safe treatment and education of those with developmental delays and emotional disturbances. Therefore, it is critical that whenever those means are used, each use should be analyzed in order to determine the necessity and alternative approaches. This type of analysis is required under the CFR for youth residential treatment centers; similar analysis requirements should be required for school settings. In addition, those using restraints/seclusion should always be educated on trauma-informed care.

SB 705 will help ensure that the use of restraints/seclusion is limited in school settings and when used appropriate monitoring occurs to make sure the interventions are necessary and not over or misused. For all the reasons above, MPS/WPS urges this honorable committee to give a favorable report to SB 705.

If you have any questions with regard to this testimony, please feel free to contact Thomas Tompsett Jr. at [tommy.tompsett@mdlobbyist.com](mailto:tommy.tompsett@mdlobbyist.com).

Respectfully submitted,  
The Maryland Psychiatric Society and the Washington Psychiatric Society  
Legislative Action Committee

**SB0705\_tmasur\_fav.pdf**

Uploaded by: Tracy Masur

Position: FAV

**DATE: March 2, 2022**

**COMMITTEE: Senate Education, Health and Environmental Affairs**

**BILL NO: SB0705**

**BILL TITLE: Education – Physical Restraint and Seclusion – Limitations, Reporting and Training**

**POSITION: Favorable**

**NAME: Tracy Masur**

I am the parent of a six-year-old kindergartner in a Maryland Public Elementary School. My child had a comprehensive IEP going into kindergarten and I am very involved. Despite this, my little one was subjected to multiple non-sanctioned, traumatic restraints under the guise of a “CPI Transport” (no MSDE definition) or simple “Physical Escort” (MSDE defines as temporary touching or holding of hand, wrist, arm, shoulder or back for purposes of inducing a student to walk).

I have NEVER given permission for restraint or seclusion use and it is not in my child’s IEP. When asked if my small child was being restrained or secluded, I was told repeatedly, no.

I persisted to see footage, which was only available from hallway cameras. The footage proved it was not CPI or even a “Physical Escort” but some sort of aggressive restraint that is not even taught by the county school system. They would grab my child backwards while they walked forward. With my six-year old’s arms supporting the weight of their entire body, the school staff would either lift my child, so their feet were in the air, or drag my child, with feet limp, through the halls of their elementary school.

These restraints were done by multiple staff, including administration and special educators, often multiple times a day. I was not given proper documentation, per MSDE, in accordance with COMAR 13A.08.04.05.

My six-year-old also spent significant time in a “Quiet Room,” which had many names in the four months my child was at the school. Names included “Quiet Room,” “De-escalation Room,” “Time Out Room,” “Safe Room,” “Room 1” and “Alternative Learning Environment.” My child was also placed in a classroom with only adults, for large portions of the day, isolated from all peers. This was also referred to as an “Alternative Learning Environment.” My kindergartner was “transported” (restrained) multiple times within that room, to a de-escalation space made of gym mats. My child was blocked from leaving the “Quiet Room,” “Alternative Learning Environment” and gym mat enclosure.

My little one has been seriously traumatized after only 4 months of kindergarten at our districted Maryland Public Elementary School and I am left to pick up the pieces.

I ask that you strongly support Senate Bill 705, to expand reporting requirements, develop an accountability system for seclusion and restraint, and to ban the very harmful practice of seclusion in all public schools, as well as limit the use of seclusion in nonpublic schools. Thank you.

# **TSC Testimony.pdf**

Uploaded by: Christine Accardo

Position: FWA



Date: March 2, 2022  
Bill: Senate Bill 705  
Committee: Senate Education, Health and Environmental Affairs  
Subject: Education – Physical Restraint and Seclusion – Limitations Reporting, and Training  
Position: Support only if amended  
Contact: Christine Accardo Ph.D., BCBA-D, LBA  
Licensed Psychologist 04854  
443-615-1638  
Christine.Accardo@shafercenter.com

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The Shafer Center for Early Intervention supports Senate Bill 705 only if amended to include licensed behavior analysts in section D on page 5 of the printed bill.

The proposed language puts the safety of students at risk by excluding the health care practitioners with the most significant expertise, oversight, and analytic skills to use seclusion by omitting licensed behavioral analysts (LBAs).

LBA's are a licensed and a recognized profession by the Maryland Department of Health. "The licensed behavior analyst is ultimately responsible for the design and implementation of behavior analytic services that are in the best interest of the student. Behavior analysis involves the design, implementation, and evaluation of systematic instructional and environmental modifications to produce socially significant improvement." (COMAR 10.58.16.11). The very essence of their job function is to assess behavior. Excluding this profession is a disservice to the very core of their mission, function, and purpose.

Legislation was passed in 2014 requiring the Board of Professional Counselors and Therapists to regulate the practice of behavior analysis. Beginning January 2015, individuals practicing behavior analysis must be licensed by the Maryland Department of Health. Their training is extensive and may in some cases be more rigorous than other professions listed in the bill regarding behavior for students with special needs.

LBA's are required to hold a BCBA credential, which requires strict adherence to an ethics code designed for working with students who would be need interventions such as seclusion. Please note sections 2.12 to 2.19 in the ethics code found here at <https://www.bacb.com/wp-content/uploads/2020/11/Ethics-Code-for-Behavior-Analysts-210902.pdf>

The Shafer Center is one of the MANSEF schools, which welcomes students with the most intense problem behaviors. The safety of our students is our number one priority and any intervention that is used is designed to keep students safe, increase skills and provide opportunities for learning for all of our students. We do this

The Shafer Center  
11500 Cronridge Dr.  
Suite 130  
Owings Mills, MD 21117  
Tel: 410-517-1113  
[www.thshafercenter.com](http://www.thshafercenter.com)



using a data driven process which analyzes the impact of all interventions. Because of this mission, The Shafer Center currently has 8 BCBA/LBA's for 32 students. These are the best professionals to assist in making safe and meaningful progress for students whom other schools often reject or cannot manage. As a psychologist and a BCBA, all of my knowledge and expertise in this area was gained through my BCBA training and continuing education to be a BCBA. Very few psychologists have this expertise or training, and those of us who do are part of the behavior analytic community.

We respectfully request that you consider amending this section as you deliberate SB 705.

**Denise Marshall.COPAA.FavorablewithAmendments.pdf**

Uploaded by: Christopher Roe

Position: FWA





**Testimony of Denise Marshall, CEO – Council of Parent Attorneys and Advocates (COPAA)  
Subcommittee on Education, Health and Environmental Affairs Committee, Maryland Senate  
RE: Senate Bill 705 / House Bill 1255  
Position: Favorable with Amendments**

**March 2, 2022**

Dear Chair Pinsky and members of the subcommittee:

I am Denise Marshall, Chief Executive Officer for the Council of Parent Attorneys and Advocates, or COPAA. Based in Towson, Maryland, COPAA is the nation's premier advocacy organization for the 7.3 million children with disabilities eligible for special education services under the *Individuals with Disabilities Education Act* (IDEA). Our work also supports the approximately 110,000 students eligible for special education in Maryland - who represent nearly 12 percent of the state's overall student population. Our members, including nearly 3,000 attorneys, advocates, and parents nationally and more than 120 in Maryland, work as a voice for special education rights and are guided by the belief that every child deserves the right to a quality education that prepares them for meaningful employment, higher education, and lifelong learning, as well as full participation in their community.

I am here today to advocate on behalf of the Maryland students with disabilities who are disproportionately traumatized by the use of seclusion and restraint in Maryland public schools. Make no mistake, unbelievably, despite all that we know about the dangers and trauma caused by these practices, there are thousands of children subjected to this form of abuse in Maryland every year.

In fact, right now, hundreds of Maryland students are locked alone in a room or space from which they cannot exit; afraid, often unsure how they got there or how they will get out. We know some of these students are as young as 4 or 5 years old.

A recent case brought by the U.S. Department of Justice against Frederick County Public Schools found widespread use of these practices despite official data that showed far fewer instances, highlighting the importance of this legislation.

National data indicates that students with disabilities are roughly 20 times more likely than their peers without disabilities to be restrained or secluded while in the care of their public school.

This abuse must stop.

Schools should be positive environments that foster learning, respect, and self-worth. Restraint and seclusion have no efficacy and are dangerous, causing trauma, injury and even death. No child should intentionally be subjected to traumatizing and dangerous behavior in school.

COPAA is pleased to see that HB 1255/SB 705 would end the use of seclusion in all public schools. This is an important step forward. The bill would increase school accountability and transparency regarding the use of the practices of restraint and seclusion. Among other important measures, the bill would:

- Require the Maryland State Department of Education to collect and analyze data on restraint and seclusion and verify with schools when zero instances are reported.
- Require the Maryland State Department of Education to develop an accountability system to measure compliance; make an annual restraint and seclusion report to the general assembly and release the report to the public within 30 days of submission.
- Require the State Superintendent to identify gaps in training and work with higher education to ensure sufficient training for teachers and staff, thereby reducing the illegal reliance on restraint and seclusion as a classroom management tool.

We also appreciate that the bill will shore up a significant gap in the state's current law by documenting the use of these practices in Maryland's non-public alternative schools, which disproportionately serve students with disabilities and students of color. As a leader in the national effort to end the use of seclusion and restraint in schools, *COPAA is concerned, however, that HB 1255/SB 705 carves out an allowance for seclusion in non-public schools based on the presence of a behavioral clinician.* This provision would appear to sidestep an important safeguard for students; therefore, COPAA recommends that this language be struck from the bill.

With that change, COPAA urges legislators to pass an amended HB 1255/SB 705 to protect students from further abuse and trauma and ensure teachers and other school professionals are trained in classroom management techniques that promote the health and safety of all.

As you continue this work, please view COPAA as a partner and resource. As a leader in the national effort to end the use of seclusion and restraint in schools, we are actively working with allies in the U.S. Congress to pass the *Keeping All Students Safe Act* which would set minimum standards in the use of restraint and prohibit the use of seclusion in all schools that accept federal education funds, among other important requirements. To highlight the critical need for a federal law, we published the report [The Crisis of Trauma and Abuse In Our Nation's Schools](#) where we comprehensively document the emotional and physical havoc that seclusion and restraint continue to wreak on thousands of children and their families. I would be happy to make this report available to you and the committee.

We appreciate the opportunity to speak in today's hearing and look forward to supporting this work moving forward.

# **MANSEF Written testimony on SB 705.pdf**

Uploaded by: Dorie Flynn

Position: FWA



Date: March 2, 2022  
Bill: Senate Bill 705  
Committee: Senate Education, Health and Environmental Affairs  
Subject: Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training  
Position: Support only if amended  
Contact: Dorie Flynn  
410-938-4413  
mansef@aol.com

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The Maryland Association of Nonpublic Special Education Facilities (MANSEF) supports Senate Bill 705 only if amended to include licensed behavior analysts in section D on page 5 of the printed bill.

The proposed language limits which health care practitioners have the expertise to use seclusion by omitting licensed behavioral analysts (LBAs).

LBAs are a licensed and recognized profession by the Maryland Department of Health. “The licensed behavior analyst is ultimately responsible for the design and implementation of behavior analytic services that are in the best interest of the student. Behavior analysis involves the design, implementation, and evaluation of systematic instructional and environmental modifications to produce socially significant improvement.” (COMAR 10.58.16.11). The very essence of their job function is to assess behavior. Excluding this profession is a disservice to the very core of their mission, function, and purpose.

The utilization of LBAs and BCBA's in our member schools provides for the development of Behavioral Intervention Plans (BIP), creates positive behavior support and the development of overall management plans aimed at reducing problem behaviors for all students, increasing desired, appropriate behaviors, and places a focus on non-aversive behavioral techniques. Additional responsibilities include the development and implementation of crisis management procedures and the provision of behavioral support in the classroom by providing guidance to the Therapeutic Behavioral Aides (TBAs). **LBAs serve a unique and specialized function.**

Legislation was passed in 2014 requiring the Board of Professional Counselors and Therapists to regulate the practice of behavior analysis. Beginning January 2015, individuals practicing behavior analysis must be licensed by the Maryland Department of Health. Their training is

extensive and may in some cases be more rigorous than other professions listed in the bill regarding behavior for students with special needs.

It is important to note that in May of 2021, MSDE created the Maryland Regional Crisis Response and Clinical Support Teams with the primary purpose to work closely with local Superintendents to provide clinical support, meet crisis needs of student and provide professional development. Teams are to consist of a clinical psychologist, licensed clinical professional counselors, licensed clinical social workers and **Board-Certified Behavior Specialists**. As MSDE already recognizes the profession of behavior specialists on these support teams it is counterproductive to exclude them under this bill. We recommend that this bill mirror existing professional support team members for the purpose of consistency.

MANSEF represents 70 nonpublic special education schools approved by MSDE under COMAR 13A.09.10. We serve students with a wide range of disabilities such as autism, developmental delays, and highly intensive emotional issues. Our member schools are required to follow COMAR 13A.08.04. – Student Behavior Interventions which most of this bill already addresses.

The MANSEF schools fulfill a valuable role in the full continuum of placement options for students who require a unique and specialized educational setting. We strive to ensure that appropriate, continual training is utilized and required for staff educating students with special needs so that both staff and students are safe and free from physical or emotional injury. The MANSEF schools continue to utilize best practices with evidence-based methodologies in serving the most challenged students and fully supports any efforts to reduce the use of restraint and seclusion. Additionally, we fully agree that improvements to data collection are warranted and necessary for a complete understanding as interpretations vary among the stakeholders involved. MSDE should have the proper resources to access an independent third party for a more complete analysis to provide constructive recommendations.

We respectfully request that you consider amending this specific section as you deliberate SB 705.

# **SB705\_Restraint&Seclusion\_KennedyKrieger\_Support.p**

Uploaded by: Emily Arneson

Position: FWA



**DATE:** March 2, 2022                      **COMMITTEE:** Education, Health and Environmental Affairs  
**BILL NO:** Senate Bill 705  
**BILL TITLE:** Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training  
**POSITION:** Support with amendment

**Kennedy Krieger Institute supports Senate Bill 705 - Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training**

**Bill Summary:**

Senate Bill 705 restricts the use of physical restraint within a public agency or nonpublic school. An entity may only utilize physical restraint after all other methods are determined ineffective, including less intrusive, nonphysical interventions, and when the restraint is necessary to protect the student or another individual from serious harm. The bill bans the use of seclusion within a public agency and bans the intervention in nonpublic schools unless assessment for contraindication in students who may be secluded occurs and identified clinical professionals, familiar with the students, are on sight in the nonpublic school. Additionally, the bill outlines required observation of interventions, time limitations, data collection requirements, and standardization of data reporting to include intervention duration, both mean, and range, and control for enrollment size. The reporting will include specific reporting requirements for students subject to multiple interventions. These additional data will enhance the Maryland State Department of Education's (MSDE) ability to generate recommendations on policy changes and professional development opportunities to reduce the use of restraint and seclusion. Lastly the bill requires public agencies and nonpublic schools to conduct annual review of policy and professional development in an ongoing effort to reduce the use of physical restraint and seclusion (for nonpublic).

**Request for Amendment:**

This legislation includes a list of licensed health care professionals who must be involved in the assessment, observation, and decision making regarding any use of seclusion. We request behavior analysts, licensed by the Maryland Department of Health, and critical to the education and treatment of our students, be included in that list.

**Background:**

Section 7-1102.1 of the Education Article of the Annotated Code of Maryland requires the MSDE to report annually on the findings and recommendations of data collected by public and nonpublic schools on the use of physical restraint and seclusion.

Data are currently collected using an online survey for reporting: (1) Number of physical restraints and seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement; and (2) Professional development provided to designated school personnel related to positive behavioral interventions, strategies, supports, and trauma-informed interventions.

While these reports are welcome in providing transparency in school use of physical restraint and seclusion, they do not provide sufficient data for an analysis which MSDE can use to formulate guidance, professional development, and accountability. Further, duration of seclusion, also a crucial portion of data, is not included.

**Rationale:**

Kennedy Krieger Institute is home to a nationally recognized “Blue Ribbon School of Excellence” comprehensively committed to providing innovative special education and clinical services for children, adolescents and young adults with a wide range of learning, emotional, physical, neurological and developmental disabilities.

Our mission is to enable students to reach their potential academically, socially and behaviorally. We are committed to protecting all students and staff, ensuring that they share a safe environment to learn and grow. It is this commitment that requires us to provide our support in the effort to adequately and carefully regulate the use of physical restraint and seclusion.

Physical restraint and seclusion are serious, last-resort techniques for ensuring safety. Each must be carefully designed and implemented by highly trained staff. The use of these interventions must be immediately balanced against the risk of failing to intervene in the presence of imminent danger to a person. Efforts to improve safety for students, when the risk requires the use of either restraint or seclusion, must be supported. In that effort we support the necessity of oversight in the use of restraint and seclusion by licensed health care professionals, trained to assess students’ physical, behavioral, and mental health. These professionals must be familiar with the interventions being applied and with the students involved.

The enhanced collection and use of data to increase student safety is also critical in the effort to reduce these procedures. It is essential that MSDE’s division of Student Support, Academic Enrichment and Educational Policy be provided the resources, financial and structural, to support this mission. Expanded data collection and the beginning of meaningful analysis will allow MSDE to develop guidance, professional development opportunities, and accountability regarding restraint and seclusion. Kennedy Krieger has met with the highly committed professionals in this agency, critical to student safety, and we understand they must be given the tools, both in personnel and infrastructure they request. An unfunded mandate will not provide what all students need.

Lastly, requiring public agencies and nonpublic schools to review, improve, and report efforts to reduce the use of physical restraint and seclusion is the logical next step in any effort improving services. Kennedy Krieger employs an internal Continuous Quality Improvement (CQI) process, based on literature from clinical settings employing physical restraint and seclusion, to review all aspects of the use of restraint and seclusion in our schools. This review includes types of physical restraints, durations of interventions, as well as the comparison of trends within and across years both for individual students and student cohorts. This process is critical in understanding our success or failure in treating and educating our students. A state-wide process with the initial steps required for the analysis of these interventions should not be envisioned as a punishment for schools serving students who may present behavior requiring restraint and seclusion. Rather, it must be envisioned and supported as a state-wide CQI effort to reduce the use of physical restraint and seclusion with each individual student. Every program in Maryland would benefit from the discussion and dissemination of this work.

**In consideration of all these critical issues Kennedy Krieger Institute requests a favorable report with amendment on Senate Bill 705.**



# **SB 705. Background and FAQs on Restraint and Seclusion**

Uploaded by: John Woolums

Position: FWA



**STUDENT BEHAVIOR INTERVENTIONS:  
RESTRAINT AND SECLUSION**

Issue Date: July 22, 2019

Reference: Md. Educ. Art. §7-1101—7-1104

COMAR 13A.08.04—*Student Behavior Interventions*

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**Background**

In 2017, the Maryland General Assembly enacted Senate Bill 786 (201 Md. Laws, Chapter 611) *Education—Restraint and Seclusion—Consideration and Reporting*, which required consideration of the following: (1) the circumstances under which, and the types of schools in which, restraint and seclusion shall be prohibited; (2) contraindications for restraint and seclusion and who may authorize restraint and seclusion; (3) definitions of “positive behavior interventions, strategies, and supports” “behavior intervention plan”, and “trauma informed interventions”; (4) professional development requirements for school staff regarding behavioral interventions; (5) minimum requirements for policies and procedures to be developed by local school systems, public agencies, and nonpublic schools; and (6) standards for monitoring compliance by local school systems, public agencies, and nonpublic schools. These considerations were addressed by a taskforce that was convened by the Maryland State Department of Education (MSDE). As a result, revisions to COMAR 13A.08.04 were recommended and adopted by the State Board of Education in June 2018.

**Introduction**

The MSDE developed this document to provide guidance to local school systems, public agencies, and nonpublic schools to answer frequently asked questions regarding restraint and seclusion regulations (COMAR 13A.08.04—*Student Behavior Interventions*) adopted by the State Board of Education on June 20, 2018. This is a companion document for the Division of Early Intervention and Special Education Services’ Technical Assistance Bulletin on *Student Behavior Interventions: Physical Restraint and Seclusion Supplement on Students with Disabilities*. Although exclusion is also addressed in COMAR 13A.08.04, there were no changes to those COMAR regulations and they are only minimally referenced in this document. These questions and responses are not meant to be all inclusive. As local school systems, public agencies, and nonpublic schools implement COMAR 13A.08.04, additional questions may arise. Questions may be directed to the contact identified at the end of this document.

**What are the Major Definitions Guiding COMAR 13A.08.04?**

The major definitions guiding COMAR 13A.08.04 are as follows:

**Physical Restraint:** A personal restriction that immobilizes or reduces the ability of a student to move the student’s torso, arms, legs, or head freely. Physical restraint does not include: (1) briefly holding a student to calm or comfort the student; (2) a physical escort, which is the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purposes of inducing a student who is acting out to walk to a safe location; (3) moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful; or (4) intervening in a fight in accordance with Education Article §7-307, Annotated Code of Maryland.

**Positive Behavior Interventions, Strategies, and Supports:** School-wide and individual application of data-driven, trauma-informed actions, instruction, and assistance to promote positive social and emotional growth while preventing or reducing challenging behaviors in an effort to encourage educational and social emotional success.

**Seclusion:** The involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Seclusion does not include a timeout, which is a behavior management technique that is part of an approved program that involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming. Seclusion is not exclusion, which is the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction, including special education, related services, or support.

**Trauma-Informed Intervention:** An approach that is informed by the recognition of the impact that trauma, including violence, abuse, neglect, disaster, terrorism, and war may have on a student's physical and emotional health and ability to function effectively in an educational setting.

### **Were the Definitions for Restraint and Seclusion Revised?**

Yes. The definitions used in COMAR 13A.08.04 for restraint and seclusion were updated to be consistent with federal definitions. The federal definitions that were referenced for the COMAR can be found in the U.S. Department of Education's *Restraint and Seclusion: Resource Document* (2012) at the following link: <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>.

### **What Role Do Positive Behavior Interventions, Strategies, and Supports Play with Restraint and Seclusion?**

School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors. Exclusion, restraint, or seclusion shall only be used after less restrictive or alternative approaches have been considered and attempted or determined to be inappropriate. Exclusion, restraint, or seclusion shall be used in a humane, safe, and effective manner, without intent to harm or create undue discomfort, and consistent with known medical or psychological limitations and the student's behavior intervention plan (BIP).

### **What Actions are not Covered by COMAR 13A.08.04?**

This chapter does not prohibit the following: (1) school personnel from initiating appropriate student disciplinary actions pursuant to Education Article §7-305, Annotated Code of Maryland, COMAR 13A.08.01.11, and COMAR 13A.08.03; or (2) law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk in accordance with relevant law, regulation, policy, or procedures.

### **When can Physical Restraint or Seclusion be Used?**

COMAR 13A.08.04.05(A)(1)(a) and COMAR 13A.08.04.05(B)(1) state that physical restraint or seclusion are prohibited in public agencies and nonpublic schools until there is an emergency situation and physical restraint or seclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate. While physical restraint or seclusion are allowed in limited circumstances, they are crisis-oriented responses that should not be used in lieu of less intrusive, nonphysical interventions. Under no circumstances should physical restraint or seclusion be used for discipline or staff convenience. Additionally, parental consent is required.

**How is an Emergency Situation Defined?**

According to COMAR 13A.08.04.05, physical restraint and seclusion can only be used in an emergency situation. An emergency situation arises when physical restraint or seclusion is necessary to protect a student or other person from imminent, serious, physical harm after less intrusive, nonphysical interventions have failed or been determined inappropriate.

Imminent, serious, physical harm has the same meaning as serious bodily injury as used in the Individuals with Disabilities Education Act (IDEA). It means bodily injury which involves:

- i) A substantial risk of death;
- ii) Extreme physical pain;
- iii) Protracted and obvious disfigurement; or
- iv) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

[34 C.F.R § 300.530(h)(i)(3); 18 U.S.C. § 1365(h)(3)]

Physical restraint or seclusion may not be used except to protect a student or other person from imminent, serious, physical harm, and should only be used by trained personnel. Regardless of whether it is included in a student’s behavior intervention plan (BIP) and individualized education program (IEP), physical restraint or seclusion may not be used as a planned behavioral intervention in response to behavior that does not pose imminent danger of serious, physical harm to self or others. It would also be inappropriate to use physical restraint or seclusion as a form of punishment or discipline in response to disrespect, noncompliance, insubordination, or out-of-seat behavior.

**What is the COMAR Guiding the Application of Restraint?**

COMAR 13A.08.04.05(A)(d) indicates that in applying physical restraint, school personnel shall only use reasonable force as is necessary to protect a student or other person from imminent, serious, physical harm. In addition, physical restraint: (1) shall be removed as soon as the student is calm; (2) may not exceed 30 minutes; (3) may not place a student in a face down position; (4) may not place a student in any other position that will obstruct a student’s airway or otherwise impair a student’s ability to breathe, obstruct a staff member’s view of the student’s face, restrict a student’s ability to communicate distress, or place pressure on a student’s head, neck, or torso; or (5) straddle a student’s torso. Staff implementing restraint shall provide a student who is restrained with an explanation of the behavior that resulted in the restraint. The explanation should be provided for each restraint incident. Each restraint incident should be debriefed and documented.

**What is the COMAR Guiding the Application of Seclusion?**

COMAR 13A.08.04.05(B) indicates that in applying seclusion, school personnel shall: (1) provide a student placed in seclusion with an explanation of the behavior that resulted in the removal and instructions on the behavior required to return to the learning environment; (2) allow students who use a communication device, access to the communication device while they are in seclusion; (3) remain in close proximity to the door of a seclusion room at all times; (4) actively observe a student placed in seclusion; and (5) debrief and document each seclusion incident. In addition, the seclusion event: (1) shall be appropriate to the student’s developmental level and severity of the behavior; (2) may not restrict the student’s ability to communicate distress; and (3) may not exceed 30 minutes.

### **What are Guidelines for Seclusion Rooms?**

COMAR 13A.08.04(B) indicates that rooms used for seclusion must: (1) be free of objects and fixtures with which a student could self-inflict bodily harm; (2) provide school personnel with an adequate view of the student from all angles and at all times; (3) provide active observation of a student placed in seclusion; and (4) provide adequate lighting and ventilation. In addition, the door of a seclusion room should be fitted with a lock that releases automatically when not physically held in the locked position by a school staff member on the outside of the door. The school staff member applying the seclusion should be one of the individuals authorized to perform seclusion.

### **What are the Contraindications for Restraint and Seclusion?**

Contraindications for the use of restraint and seclusion for students should be considered. Contraindications may include medical history and/or past trauma. Contraindications are determined by school administrators, in consultation with licensed medical and/or mental health professionals or certified mental health professionals (e.g., school psychologist, licensed clinical social worker, school counselor, etc.). The licensed or certified individual should have the background required to make the determination.

### **Who Authorizes Staff to Perform Restraint and/or Seclusion?**

Annually, the school administrator for each local school, public agency, or nonpublic school shall authorize: (1) school personnel to serve as a school-wide resource to assist in ensuring the proper administration of exclusion, restraint, and seclusion; and (2) school personnel to use restraint and/or seclusion and to implement the policies and procedures for restraint and seclusion. Both of these sets of individuals must receive the required training if they are not the same individuals.

### **What is the Required Professional Development for Those Authorized to Perform Restraint and Seclusion?**

School personnel who are authorized to perform restraint and/or seclusion are required to engage in the following annual professional development: trauma-informed interventions; functional behavior assessment and behavior intervention planning; seclusion; symptoms of physical distress and positional asphyxia; first aid and cardiopulmonary resuscitation (CPR); and individualized behavior interventions based on student characteristics, including disability, medical history, and past trauma. All training must be evidence-based and conducted by certified or licensed individuals. The training may be provided by multiple providers to meet the professional development requirements. Training can be conducted either face-to-face or online.

### **Are the Requirements for First Aid and CPR New Requirements for Restraint and Seclusion?**

Yes. Requirements for first aid and CPR have been added to ensure the safety of students and staff. Training requirements have also been added. Many staff receive training in first aid and CPR on a regular basis from the American Red Cross or American Heart Association. That training is often renewed every two years. As long as the training has been performed within the last two years, and the staff member has documentation of that active certification, this documentation will meet the training requirement for first aid and CPR. COMAR 13A.05.05.09 requires that at least one adult in each school, other than the designated school health services professional and the school health services aide, be certified by the American Red Cross or its equivalent and be on site during the regular school day and at all school-sponsored events.

### **What Documentation is Required for Restraint Incidents?**

Each time a student is in a restraint, school personnel shall document: (1) other less intrusive interventions that have failed or been determined inappropriate; (2) the precipitating event immediately preceding the behavior that prompted the use of restraint; (3) the behavior that prompted the use of a restraint; (4) the names of the school personnel who observed the behavior that prompted the use of restraint; and (5) the names and signatures of the staff members implementing and monitoring the use of restraint. In addition, the documentation shall include: (1) the type of restraint, (2) the length of time in restraint, (3) the student's behavior and reaction during the restraint, and (4) the name and signature of the administrator informed of the use of restraint.

### **What Documentation is Required for Seclusion Incidents?**

Each time a student is in seclusion, school personnel shall document: (1) other less intrusive interventions that have failed or been determined inappropriate; (2) the precipitating event immediately preceding the behavior that prompted the use of seclusion; (3) the behavior that prompted the use of a seclusion; (4) the names of the school personnel who observed the behavior that prompted the use of seclusion; and (5) the names and signatures of the staff members implementing and monitoring the use of seclusion. In addition, the documentation shall include: (1) the length of time in seclusion, (2) the student's behavior and reaction during the seclusion, and (3) the name and signature of the administrator informed of the use of seclusion.

### **What are the Guidelines for Parent Notification?**

Each time a restraint or seclusion is used for a student, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in the student's BIP or IEP.

### **What is the Role of the Student Support Team (SST) or IEP Team?**

If a restraint or seclusion is used for a student who has not been identified as a student with a disability, the student shall immediately be referred to the school's SST or IEP Team. If a restraint or seclusion is used for a student who has been identified with a disability, and the BIP or IEP does not include the use of restraint or seclusion, the IEP Team should meet in 10 days to consider: (1) the need for a functional behavioral assessment; (2) developing appropriate behavioral interventions; and (3) implementing a BIP. If a restraint or seclusion is used for a student who has been identified as a student with a disability, and the BIP or IEP does include the use of restraint or seclusion, the IEP Team should meet to review or revise, as appropriate, the IEP or BIP. The following shall be considered: (1) existing health, physical, psychological, and psychosocial information, including any contraindications to the use of restraint or seclusion based on medical history or past trauma; (2) information provided by the parent; (3) observations by teachers and related service providers; (4) the student's current placement; and (5) the frequency and duration of restraints or seclusion events that occurred since the IEP team last met.

### **What is the Monitoring and Compliance for Restraint and Seclusion?**

Each public agency and nonpublic school shall develop policies and procedures for monitoring the use of restraint and seclusion, and receiving and investigating complaints regarding restraint and seclusion. The MSDE collects annual data from local school systems, nonpublic schools, and public agencies on the use of restraint and seclusion incidents disaggregated by student data (i.e., gender, grade, disability, age, and type of placement). Annual data are also collected on professional development provided to staff (i.e., trauma-informed interventions; and positive behavioral interventions, strategies, and supports), observations of seclusion rooms, and training plans for the use of seclusion.

**Contacts**

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410-767-0294

## **Resources**

### **Federal Guidance**

U.S. Department of Education—May 15, 2012—*Restraint and Seclusion: Resource Document*. This document describes 15 principles for state, district, and school staff; parents; and other stakeholders to consider when states, localities, and districts develop policies and procedures in writing on the use of restraint and seclusion. <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>

### **Code of Maryland Regulations**

COMAR 13A.08.04 Student Behavior Interventions (search at [http://www.dsd.state.md.us/COMAR/subtitle\\_chapters/Titles.aspx](http://www.dsd.state.md.us/COMAR/subtitle_chapters/Titles.aspx))

COMAR 13A.08.04.05 General Requirements for the Use of Restraint or Seclusion (search at [http://www.dsd.state.md.us/COMAR/subtitle\\_chapters/Titles.aspx](http://www.dsd.state.md.us/COMAR/subtitle_chapters/Titles.aspx))

### **Student Services and Strategic Planning Branch**

Resource Guide of Maryland School Discipline Practices—January 24, 2017.  
<http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/ResourceGuideMDSchDiscPactices011117.pdf>



# **SB 705.restraint and seclusion requirements .pdf**

Uploaded by: John Woolums

Position: FWA

**BILL:** Senate Bill 705  
**TITLE:** Education - Physical Restraint and Seclusion - Limitations, Reporting, and Training  
**POSITION:** SUPPORT WITH AMENDMENTS  
**DATE:** March 3, 2022  
**COMMITTEE:** Education, Health, and Environmental Affairs  
**CONTACT:** John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports Senate Bill 705 with amendments to address concerns with the scope and timing of certain provisions, including the elimination of seclusion as an allowable behavioral intervention in public schools.

MABE’s primary concerns, proposed to be addressed in amendments, is that if enacted this bill would prohibit services currently included in student Individualized Education Programs (IEPs) and Behavioral Intervention Plans (BIPs). Under current law and regulations: “[O]nce seclusion has been used or school personnel have made a student-specific determination that it may need to be used consistent with §B(1) of this regulation, seclusion may be included in a student’s behavioral intervention plan or IEP to address the student’s behavior in an emergency situation” (COMAR 13A.08.04.05.B.3). The regulations also require parental consent and stipulate the requirements for the use of seclusion rooms.

Under Senate Bill 705, these regulations governing the use of seclusion could continue to be applied based on a student’s IEP or BIP, but only in nonpublic schools. Therefore, MABE is requesting amendments to allow for a reasonable amount of time to continue to administer existing IEPs and BIPs as any new regulations are promulgated and guidance is provided on the transition away from practices now allowed in both public and private schools.

MABE’s position on Senate Bill 705 is informed by the comprehensive reforms enacted in 2017 and the corresponding overhaul of the state regulations governing the use of restraint and seclusion. These comprehensive regulations were the work product of a task force established by the General Assembly which was charged with examining all practices and procedures related to behavioral interventions in schools, inclusion the use of restraint, seclusion, and trauma-informed interventions. MABE appreciates and supports the objective of Senate Bill 705 to enhance reporting and accountability measures relating to this framework.

The Task force convened in 2017 made recommendations on the following: (1) the circumstances under which, and the types of schools in which, restraint and seclusion shall be prohibited; (2) contraindications for restraint and seclusion and who may authorize restraint and seclusion; (3) definitions of “positive behavior interventions, strategies, and supports” “behavior intervention plan”, and “trauma informed interventions”; (4) professional development requirements for school staff regarding behavioral interventions; (5) minimum requirements for policies and procedures to be developed by local school systems, public agencies, and nonpublic schools; and (6) standards for monitoring compliance by local school systems, public agencies, and nonpublic schools.

The final [Report of the Task Force on Restraint and Seclusion](#) (MSDE, Sept. 19, 2017) recommended comprehensive reforms to state regulations which were adopted under COMAR 13A.08.04. MABE endorses the thorough approach taken by the task force in crafting the current state regulations, including clearly defined terms, student-oriented safety measures, parental consent, and professional development. Attached is the departmental guidance issued in July of 2019 accompanying the regulations.

MABE recognizes and respects the work of advocates and legislators calling not only for strict limitations on the use of restraint and seclusion, but also for the absolute, or near absolute, prohibition on the use of seclusion in public schools. As introduced, Senate Bill 705 would enact such reforms. However, MABE believes that even if these reforms are to be enacted in 2022, local school systems should be provided with a reasonable amount of time to implement them. School systems, under this legislation, would be required to review the placements of any student for whom seclusion is now a component of their IEP. Presumably many students would, as a result of this review, be reassigned to a placement in a nonpublic special education school. Similarly, local school system programs in which seclusion is used would need to be reformed, involving staff training and facilities modifications.

In addition, MSDE has announced an initiative to review and recommend reforms to the use of restraint and seclusion in public schools. This review is, in large part, in response to a recent federal investigation and enforcement action against the Frederick County Public School System. MABE recognizes the magnitude of this federal action, and requests that MSDE be allowed to conduct its review and issue its recommendations for the legislature's consideration in the 2023 session. MABE wholeheartedly endorses a strong state role in regulating, monitoring, and holding school systems accountable for approving and administering the use of restraint and seclusion. MABE believes that with amendments this legislation can strengthen accountability for the strict limitations that are now clearly set forth in regulations.

For these reasons, MABE requests a favorable report on Senate Bill 705 with the amendments described above.



# **SB 705 - SWA - Education – Physical Restraint and**

Uploaded by: Mohammed Choudhury

Position: FWA



Accountability and corrective action is important in making progress on this issue. As a first step, the MSDE supports the bill's provisions to add to the current collection of the data in ways that will enable further disaggregation, require local school systems to review student cases in public and nonpublic schools if a student is physically restrained more than 10 times in a school year, and increase MSDE involvement in the provision of training and professional development regarding positive behavioral interventions. However, MSDE believes that there needs to be stronger accountability measures for (i) schools that violate the provisions of the bill, and the school systems in which they operate and (ii) schools in which students are restrained 10 or more times and the school systems in which they operate, including a requirement for a systemic, evidence-based corrective action plan.

It is within that framework that MSDE requests the following amendments that will:

1. With regard to restraint:
  - a. Define physical restraint as a personal restriction that immobilizes or reduces the ability of an individual to move the individual's arms, legs, torso, or head freely.
  - b. Add a section listing explicitly the types of restraints that cannot be used under any circumstances, drawing on existing COMAR regulation and the federal proposal referenced above; and
  - c. Strike all provisions in the bill that describe conditions where restraint is permissible, except for the provision regarding its necessity to protect the student or others from serious and imminent harm.
  
2. With regard to seclusion:
  - a. Ensure that nonpublic schools are included in all references where seclusion is prohibited, beginning with the references on page 3, line 13.
  - b. Strike all provisions in the bill that describe conditions where seclusion is permissible; and
  - c. Add to the definition of seclusion, "except that such term does not include a time out" and add the definition of "time out" found on page 9-10 the federal proposal.<sup>5</sup>
  
3. With regard to accountability and data collection:
  - a. Add a requirement for a systemic, evidence-based corrective action plan to be submitted to MSDE for schools that (i) violate the provisions of the bill and the school systems in which they operate and (ii) schools in which students are restrained 10 or more times and the school systems in which they operate.

This bill takes an important initial step to move towards eliminating the use of restraint and seclusion techniques in Maryland's schools. However, MSDE believes that the research indicates a more complete effort is appropriate and necessary at this time.

We respectfully request that you consider this information as you deliberate **Senate Bill 705**. Please contact Ary Amerikaner, at 410-767-0090, or [ary.amerikaner@maryland.gov](mailto:ary.amerikaner@maryland.gov), for any additional information.

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<sup>5</sup> <https://www.murphy.senate.gov/imo/media/doc/kassa.pdf>

# **SB0705\_FWA\_Linwood Center\_Ed. - Physical Restraint**

Uploaded by: Pam Kasemeyer

Position: FWA





TO: The Honorable Paul G. Pinsky, Chair  
Members, Senate Education, Health, and Environmental Affairs Committee  
The Honorable Craig J. Zucker

FROM: Pamela Metz Kasemeyer

DATE: March 2, 2022

RE: **SUPPORT ONLY IF AMENDED** – Senate Bill 705 – *Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training*

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For more than 60 years, Linwood Center has been providing life-changing programs and services for children and adults living with autism and related developmental disabilities. Linwood currently supports children and adults on the autism spectrum from jurisdictions throughout the State of Maryland. Linwood is among the relatively few programs in the United States and in the State of Maryland that provides comprehensive education and residential programs throughout the lifespan under one service umbrella. Linwood offers program continuity from childhood into adulthood, developing lifelong relationships with individuals living with autism from elementary school through retirement and old age. Linwood's accredited nonpublic special education program and licensed residential programs provide intensive positive behavioral supports and long-term educational and vocational services to Maryland's autism community. Linwood respectfully offers its **support** for the provisions of Senate Bill 705, **only if the legislation is amended**.

Senate Bill 705 proposes to address the use of restraint and seclusion in the educational setting. It prohibits the use of both restraint and seclusion in public schools. For nonpublic special education schools, it provides a framework for the limited use of restraint and seclusion as a behavioral intervention for a student under certain circumstances, including a limited list of health care professionals who are authorized to use seclusion as a behavioral intervention. The legislation also requires the State Department of Education to develop an accountability system to measure compliance with provisions adopted on the use of physical restraint and seclusion.

While Linwood has no objection to establishing a statutory framework for the limited use of restraint and seclusion, it does strongly object to the failure to include licensed behavioral analysts (LBAs) in the list of health professionals authorized to use seclusion as a behavioral intervention. LBAs have the education, training, and expertise that aligns their skills and practice with those necessary to comply with the requirements of this legislation.

LBAs are licensed health care professionals regulated by the Board of Licensed Professional Counselors and Therapists. Their training is extensive and may in some cases be more rigorous than other professions listed in the bill regarding behavior for students with special needs. COMAR 10.58.16.11 explicitly states “The licensed behavior analyst is ultimately responsible for the design and

implementation of behavior analytic services that are in the best interest of the student. Behavior analysis involves the design, implementation, and evaluation of systematic instructional and environmental modifications to produce socially significant improvement.” By excluding LBAs from the list of recognized health care professionals authorized to use seclusion as a behavioral intervention, the legislation not only does a disservice to the profession but dramatically undermines the ability of Linwood and other nonpublic schools and agencies to appropriately and safely address the behavior challenges faced by the students we serve.

Linwood is committed to utilizing the best practices with evidence-based methodologies in serving the needs of the children living with autism and related developmental disabilities. To that end, Linwood supports the efforts to reduce the use of restraint and seclusion that are reflected in this legislation. Linwood also supports the proposed requirements for enhanced data collection that will provide a more comprehensive and balanced understanding of the use of these interventions.

However, despite Linwood’s support for the objectives of the bill and the majority of its provisions, absent an amendment to include LBAs in the list of recognized health care professionals, Linwood must respectfully request an unfavorable report. Absent authorization of LBAs, Linwood will be unable to appropriately ensure the safety and well-being of the students we serve, and it will undermine our ability to aide in the development of positive behavioral improvements. With the adoption of its requested amendment, Linwood would request a favorable report.

**For more information call:**

Pamela Metz Kasemeyer

410-244-7000

**SB705\_Zucker\_FAV.pdf**

Uploaded by: Senator Craig Zucker

Position: FWA

**CRAIG J. ZUCKER**  
*Legislative District 14*  
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Budget and Taxation Committee  
Chair, Capital Budget Subcommittee

Chair, Senate Democratic Caucus

**THE SENATE OF MARYLAND**  
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Craig J. Zucker**  
**Senate Bill - 705 - Education - Physical Restraint and Seclusion - Limitations,**  
**Reporting, and Training**  
**Senate Education, Health, and Environmental Affairs Committee**  
**March 2<sup>nd</sup>, 2022**  
**1:00pm**  
**Position: SUPPORT**

Good afternoon Chairman Pinsky, Vice Chairman Kagan, and distinguished members of the committee. It is my pleasure to testify today in **support of Senate Bill - 705 - Education - Physical Restraint and Seclusion - Limitations, Reporting, and Training.**

Senate Bill 705 addresses the use of restraint and seclusion, two techniques used disproportionately in public schools to manage the behavior of students with disabilities. These techniques can result in serious physical harm or even death.

This legislation also prohibits seclusion in public schools and limits its use in nonpublic special education schools. A medical professional who is familiar with the student is directly observing the student, and says that seclusion can be used.

This legislation codifies existing state regulations on the use of restraint in all schools, and on the use of seclusion in a nonpublic school. The State Department of Education must develop an accountability system that measures compliance with the regulations on the use of physical restraint and seclusion as defined in SB 705.

Restraint and seclusion are extreme measures that should be used only as a final resort within very strict limits, or better yet not used at all. This bill would provide those stringent limits to prevent restraint and seclusion from occurring in Maryland schools and would be a great step towards protecting children with disabilities.

For these reasons, I urge a favorable report on Senate Bill 705, as amended. Thank you for your kind consideration.

# **SB705 Restraint and Seclusion 3.2.22.pdf**

Uploaded by: Jeanette Ortiz

Position: UNF



## SB705 EDUCATION – PHYSICAL RESTRAINT AND SECLUSION – LIMITATIONS, REPORTING, AND TRAINING

March 2, 2022

EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

### OPPOSE

Jeanette Ortiz, Esq., Legislative & Policy Counsel (410.703.5352)

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Anne Arundel County Public Schools (AACPS) opposes **SB705 Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training**. This bill prohibits a public agency from using seclusion as a behavioral health intervention for a student. It also prohibits a public agency from using physical restraint and a nonpublic school from using physical restraint or seclusion as a behavioral health intervention for a student, except under certain circumstances. The bill requires MSDE to develop an accountability system to measure compliance with regulations adopted on the use of physical restraint and seclusion.

AACPS supports the basic tenets of this legislation – the need to reduce restraint and seclusion, and the benefits of implementing trauma-informed decision-making, as appropriate. AACPS does not utilize seclusion within AACPS schools. However, nonpublic schools serving AACPS students use seclusion as necessary. Accordingly, the restriction on nonpublic schools will impact these schools. In addition, the district has concerns with the proposed changes to seclusion practices, which are significant, as well as some of the IEP requirements set forth in the bill. One particular area of concern is the requirement to conduct a review of a student’s seclusion during a change of placement meeting or during an annual review as these meetings may not be timely. Another concern is the requirement that a health care practitioner – defined as a physician, psychologist, or social worker – be on site when a student has been secluded. It is not clear how a physician would be in a school setting on a regular basis to observe a student during a seclusion.

AACPS has concerns with and does not support the extensive reporting requirements outlined in the legislation, the additional training requirements, or the need for State intervention into local practices. While well intentioned, this bill includes a heavy documentation and accountability process regarding restraint and seclusion reporting, practices, professional development, data, and changes to practice that are burdensome and overreaching. While AACPS supports any practices that decrease the need for restraint and seclusion as well as trauma-informed interventions, this bill proposes analysis of data that is reported annually without defining what that analysis would look like, the purpose of the analysis, or who would conduct the analysis. The bill further requires changes based on the undefined analysis regardless of whether the undefined analysis is even needed. It also requires State intervention regarding the sufficiency of current training and requires that a local school system remedy any gaps identified by MSDE without providing the standards that would be required to make such a determination. Accordingly, we recommend that these provisions be stricken from the bill.

It is important to note that a 2017 task force studied this issue and released a report with recommendations on the use of restraint and seclusion. The task force, which consisted of experts on this subject matter from around the State, reached two overarching conclusions. First, it determined that the regulatory framework at

the time should be maintained except in those areas where specific revisions have been recommended. Second, the task force determined that while some areas required regulatory enhancement, others could be addressed through additional guidance from MSDE. State regulations on restraint and seclusion were amended as a result. The requirements set forth in the amended State regulations limit the use of restraint and seclusion and more clearly defined the term “seclusion”, among other things. Under current regulations, physical restraint may only be used if 1) there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate; 2) the student’s behavioral intervention plan or IEP describes specific behaviors and circumstances in which physical restraint may be used; or 3) the parents of a nondisabled student have otherwise given written consent for the use of physical restraint while a behavior intervention plan is being developed. The regulations also specify when and how seclusion may be used. It is also important to note that physical restraint and seclusion may only be used by school personnel who are trained in their appropriate use.

Finally, this legislation also creates an unfunded mandate. AACPS will likely be required to hire additional staff to fulfill the various reporting and training requirements set forth in the bill.

Accordingly, AACPS respectfully requests an **UNFAVORABLE** committee report on SB705.

**SB 705.pdf**

Uploaded by: Kimberly Pogue

Position: UNF





Kimberly Pogue  
*Superintendent*

**BOARD MEMBERS**

Sam Abed  
*Secretary, Maryland Department of  
Juvenile Services*

Mohammed Choudhury  
*Maryland State Superintendent of  
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Dr. Bernard Sadusky

Richard Stevenson III, *Vice-Chair*

Chair Senator Paul G. Pinsky

Education, Health and Environmental Affairs Committee

Senate Bill 705

Wednesday, March 2, 2022

1:00PM,

West Miller Senate Building, Room 2, Annapolis, MD

IN OPPOSITION

Good Afternoon Chairman Pinsky and members of the Education, Health and Environmental Affairs Committee.

My name is Kimberly Pogue and I am Superintendent of the Juvenile Services Education Program (JSEP).

The Juvenile Services Education Program Board is opposed to Senate Bill 705.

The JSEP Board is opposed to this bill as written because JSEP provides education within a congregant care setting and that JSEP should be exempt from the Bill.

Chairman Pinsky and members of the Committee thank you for the opportunity to provide written testimony in opposition to Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training.

Kimberly Pogue  
Juvenile Services Education Program

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**SB705-DJS-LOI-FINAL.pdf**

Uploaded by: Andrew Tress

Position: INFO

Boyd K. Rutherford  
Lt. Governor

Larry Hogan  
Governor

Sam Abed  
Secretary

**Date:** March 2, 2022  
**Bill # / Title:** SB 705 Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training  
**Position:** Letter of Information

The Department of Juvenile Services (DJS or department) is providing information on SB 705, and supports the Sponsor's amendment.

In 2021, the Maryland General Assembly passed legislation (SB0497/CH0147)<sup>1</sup> that established the Juvenile Services Education Program (JSEP) board. On July 1, 2022, the JSEP will oversee and provide educational programming to all juveniles placed in DJS-operated detention and residential facilities.

**Unique safety risks exist within DJS detention and residential settings that distinguish the Juvenile Services Education Program from other public agencies and nonpublic schools.**

The 2017 Task Force on Restraint and Seclusion<sup>2</sup>, which informed many of the changes contained in SB 705, did not contemplate the security considerations of DJS detention and residential programs, including the need to prevent escapes. As a public safety agency, DJS must prioritize the safety and security of our facilities, the public, and the young people within our care.

**Safeguards are currently in place, including multiple reporting requirements and independent oversight of restraint and seclusion practices occurring in DJS-operated facilities.**

- ✓ Extensive Monitoring and Reporting of DJS use of seclusion and restraints:
  - Juvenile Justice Monitoring Unit (JJMU) monitors all DJS facilities and issues quarterly reports, which contain detailed information on incidents of both restraint and seclusion in each DJS facility.
  - The DJS Performance Report<sup>3</sup>, posted on the website, reports the utilization of all DJS initiatives, including the use of time out period and restraints.
  - Amendments in HB0139<sup>4</sup> - Correctional Education - Juvenile Services Education Program and Correction Education Teachers require JSEP to report on the use of seclusion and restraints.

The proposed amendment maintains the safety and security of detention and committed facilities, while ensuring all reporting regarding utilization is shared with the State Board.

**Amendment**

On page 3, after line 12 insert:

**“(A) THIS SECTION DOES NOT APPLY TO THE JUVENILE SERVICES EDUCATION PROGRAM.”;**

in lines 13, 15, and 22, strike **“(A)”**, **“(B)”**, and **“(C)”**, respectively, and substitute **“(B)”**, **“(C)”**, and **“(D)”**, respectively; and in line 29 strike **“(D)”** and substitute **“(E)”**.

On page 5, in line 1, strike **“(D)”** and substitute **“(E)”**.

<sup>1</sup> <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0497/?ys=2021rs>

<sup>2</sup> <https://marylandpublicschools.org/programs/Pages/TFRS/index.aspx>

<sup>3</sup> <https://djs.maryland.gov/Documents/publications/DJS-Performance-Report-December-2021.pdf>

<sup>4</sup> <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0139>



# 705.pdf

Uploaded by: Constance McLaughlin

Position: INFO

Date: March 2, 2022  
Bill: Senate Bill 705  
Position: Information Only  
Contact: Annie McLaughlin  
360-320-0610

Annie McLaughlin Consulting is providing information with recommendations with regards to Senate Bill 705.

We recommend two considerations:

- 1) Respectfully ask that the bill be amended to include licensed behavior analysts (LBAs) in section D of page 5 of the printed bill.
- 2) Respectfully ask that you consider including public agency's use of seclusion with the same oversight and considerations that are proposed in this legislation for nonpublic schools. A public agency's use could be limited to the most restrictive public setting such as a public separate day school.

Annie McLaughlin Consulting is an IEP advocacy group that works with families and school districts across the state of Maryland. Many of our clients have significant challenging behaviors that interfere with their learning. We have seen, firsthand, the unique role that LBAs play in supporting students across the state as well as the critical role that individualized positive behavior supports play in decreasing challenging behavior and increasing skills for students with disabilities. We have also seen the devastating effects of when seclusion and restraint are use inappropriately. With this experience and education as a PhD in Special Education, I come to you with some additional information.

The proposed language limits which health care practitioners may use seclusion in a nonpublic school by excluding licensed behavior analysts (LBAs). As a licensed behavior analyst (LBA) by the Maryland Department of Health since 2015 (the first year the license was available in Maryland), I understand the unique qualifications, experience, supervision, specialization, and perspective that LBAs have. We are trained extensively in designing, implementing, and evaluating the systematic instructional and environmental modifications that are necessary to produce socially significant behavior. LBAs have an ethical obligation under their state license and national certification to focus on non-aversive techniques while thoroughly understanding crisis prevention and intervention. LBAs are regularly responsible for developing and implanting crisis management procedures throughout schools, clinics, and the community settings for which they serve. LBAs should be included in this bill as qualified health professionals.

While I understand the need to decrease the use of seclusion, I worry about the effects of limiting a public agency's use of it. When you have students who need seclusion, the oversight should begin at that point and not be related to the actual physical building. If a student needs seclusion, it will be an automatic push down the least restrictive environment path to a nonpublic school when the student may not otherwise need it. I would respectfully ask that you consider including public agency's use of seclusion with the same oversight and considerations that are proposed in this legislation for nonpublic schools.

We respectfully request that you consider this information and possible amendments to the bill.



Annie McLaughlin, PhD, BCBA-D, LBA  
Behavior Analyst & Owner  
Annie McLaughlin Consulting