



DATE: March 31, 2022 **COMMITTEE:** House Ways and Means
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.