Unofficial Copy F1

27

(A) 28 INDICATED. 2002 Regular Session 2lr1840

By: Delegates Campbell and Benson

Introduced and read first time: February 1, 2002 Assigned to: Ways and Means

	A BILL ENTITLED
1	AN ACT concerning
2 3	Education - Schools and Other Educational Programs - Student Behavior Intervention
4 5 6 7 8 9 10 11 12 13 14 15	certain requirements and practices related to student behavior intervention; requiring the State Superintendent of Schools to consult with certain persons regarding certain training requirements for teachers; and generally relating to behavior intervention practices for students in certain schools and other
16 17 18 19 20 21	Section 7-1101 through 7-1110 to be under the new subtitle "Subtitle 11. Student Behavior Intervention"
22 23	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
24	Article - Education
25	SUBTITLE 11. STUDENT BEHAVIOR INTERVENTION.
26	7-1101.

IN THIS SUBTITLE THE FOLLOWING TERMS HAVE THE MEANINGS

- 1 (B) "BEHAVIOR INTERVENTION PLAN" MEANS A PROACTIVE PLAN DESIGNED
- 2 TO ADDRESS PROBLEM BEHAVIOR EXHIBITED BY A STUDENT IN THE EDUCATIONAL
- 3 SETTING THROUGH THE USE OF POSITIVE BEHAVIORAL INTERVENTIONS,
- 4 STRATEGIES, AND SUPPORTS.
- 5 (C) "EXCLUSIONARY TIME OUT" MEANS THE CIRCUMSTANCE IN WHICH A
- 6 STUDENT IS REMOVED TO A DESIGNATED TIME-OUT ROOM OR OTHER AREA FOR A
- 7 FIXED PERIOD NOT TO EXCEED 30 MINUTES.
- 8 (D) "FUNCTIONAL BEHAVIOR ASSESSMENT" MEANS THE SYSTEMATIC 9 PROCESS OF:
- 10 (1) DESCRIBING PROBLEMATIC BEHAVIOR EXHIBITED IN THE
- 11 EDUCATIONAL SETTING, INCLUDING IDENTIFICATION OF ENVIRONMENTAL AND
- 12 OTHER FACTORS AND SETTINGS THAT CONTRIBUTE TO OR PREDICT:
- 13 (I) THE OCCURRENCE OR NONOCCURRENCE OF THE BEHAVIOR;
- 14 AND
- 15 (II) THE MAINTENANCE OF THE BEHAVIORS OVER TIME; AND
- 16 (2) USING THE INFORMATION GATHERED TO GUIDE THE DEVELOPMENT 17 OF AN EFFECTIVE AND EFFICIENT BEHAVIOR INTERVENTION PLAN.
- 18 (E) "INVOLUNTARY TIME OUT" MEANS THAT, CONTINGENT ON MISBEHAVIOR
- 19 AND FOR A FIXED PERIOD OF TIME, A STUDENT IS SEPARATED FROM THE STUDENT'S
- 20 PEERS.
- 21 (F) (1) "MECHANICAL RESTRAINT" MEANS THE USE OF ANY DEVICE OR
- 22 MATERIAL ATTACHED OR ADJACENT TO THE STUDENT'S BODY THAT RESTRICTS
- 23 FREEDOM OF MOVEMENT OR NORMAL ACCESS TO ANY PORTION OF THE STUDENT'S
- 24 BODY AND THAT THE STUDENT CANNOT EASILY REMOVE.
- 25 "MECHANICAL RESTRAINT" DOES NOT INCLUDE A PROTECTIVE OR
- 26 STABILIZING DEVICE ORDERED BY A PHYSICIAN WHEN IT IS USED AS PRESCRIBED.
- 27 (G) (1) "NONEXCLUSIONARY TIME OUT" MEANS THE CIRCUMSTANCE IN
- 28 WHICH A STUDENT IS NOT REMOVED FROM THE CLASSROOM SETTING, BUT RATHER
- 29 IS DENIED ACCESS TO CLASSROOM PARTICIPATION.
- 30 (2) "NONEXCLUSIONARY TIME OUT" INCLUDES THE CIRCUMSTANCE IN
- 31 WHICH A STUDENT IS MOVED TO THE EDGE OF AN ACTIVITY WHEREBY THE
- 32 STUDENT DOES NOT PARTICIPATE IN THE ACTIVITY BUT MAY STILL OBSERVE OTHER
- 33 STUDENTS' BEHAVIOR AND PARTICIPATION IN THE ACTIVITY.
- 34 (H) (1) "PHYSICAL RESTRAINT" MEANS THE USE OF PHYSICAL FORCE,
- 35 WITHOUT THE USE OF ANY DEVICE OR MATERIAL, TO RESTRICT THE FREE
- 36 MOVEMENT OF ALL OR A PORTION OF A STUDENT'S BODY.
- 37 (2) "PHYSICAL RESTRAINT" DOES NOT INCLUDE:

- 1 (I) BRIEFLY HOLDING A STUDENT IN ORDER TO CALM OR
 2 COMFORT THE STUDENT;
 3 (II) HOLDING A STUDENT'S HAND TO ESCORT THE STUDENT
- 4 SAFELY FROM ONE AREA TO ANOTHER; OR
- 5 (III) MOVING A DISRUPTIVE STUDENT WHO IS UNWILLING TO 6 LEAVE THE AREA WHEN OTHER METHODS SUCH AS COUNSELING HAVE BEEN 7 UNSUCCESSFUL.
- 8 (I) "SECLUSION" MEANS THE CONFINEMENT OF A STUDENT IN A LOCKED 9 ROOM, CLOSET, BOX, OR OTHER SPACE FROM WHICH THE STUDENT IS PHYSICALLY 10 PREVENTED FROM LEAVING.
- 11 (J) "TIME-OUT ROOM OR OTHER AREA" MEANS A SPACE THAT ENCOMPASSES 12 AT LEAST 40 SQUARE FEET OF FLOOR SPACE AND THAT IS:
- 13 (1) LIGHTED;
- 14 (2) VENTILATED;
- 15 (3) UNLOCKED; AND
- 16 (4) FREE OF OBJECTS AND FIXTURES WITH WHICH A STUDENT COULD 17 SELF-INFLICT BODILY HARM.
- 18 (K) "VOLUNTARY TIME OUT" MEANS THAT A STUDENT IS ALLOWED TO GO TO A
- 19 DESIGNATED AREA FOR THE PURPOSE OF PROVIDING THE STUDENT WITH AN
- 20 OPPORTUNITY TO REGAIN SELF-CONTROL OR TO AVERT A LOSS OF SELF-CONTROL.
- 21 7-1102.
- 22 (A) A PERSON MAY NOT USE SECLUSION IN ANY:
- 23 (1) PUBLIC SCHOOL;
- 24 (2) STATE OPERATED PROGRAM; OR
- 25 (3) NONPUBLIC SCHOOL NOT CERTIFIED BY THE JOINT COMMISSION
- 26 FOR THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS THAT RECEIVES FUNDS
- 27 FROM THE DEPARTMENT FOR THE PURPOSE OF EDUCATING STUDENTS.
- 28 (B) A PERSON MAY USE SECLUSION IN A RESIDENTIAL TREATMENT FACILITY
- 29 OR A NONPUBLIC SCHOOL THAT IS CERTIFIED BY THE JOINT COMMISSION FOR THE
- 30 ACCREDITATION OF HEALTH CARE ORGANIZATIONS IN ACCORDANCE WITH THE
- 31 REQUIREMENTS OF THE JOINT COMMISSION FOR THE ACCREDITATION OF HEALTH
- 32 CARE ORGANIZATIONS.

- 1 7-1103. 2 A PERSON MAY NOT USE MECHANICAL RESTRAINT IN ANY: 3 (1) PUBLIC SCHOOL; 4 (2) STATE OPERATED PROGRAM; OR NONPUBLIC SCHOOL THAT RECEIVES FUNDS FROM THE (3) 6 DEPARTMENT FOR THE PURPOSE OF EDUCATING STUDENTS. 7 7-1104. (A) 8 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT 9 USE PHYSICAL RESTRAINT IN ANY: 10 (1) PUBLIC SCHOOL; 11 STATE OPERATED PROGRAM; OR (2) NONPUBLIC SCHOOL THAT RECEIVES FUNDING FROM THE 12 13 DEPARTMENT FOR THE PURPOSE OF EDUCATING STUDENTS. 14 A PERSON MAY USE PHYSICAL RESTRAINT FOR A STUDENT IF: (B) THE STUDENT POSES AN IMMEDIATE PHYSICAL RISK TO THE 15 (1) 16 STUDENT OR TO ANOTHER PERSON; 17 (2) THERE IS NO KNOWN MEDICAL CONTRAINDICATION TO ITS USE; 18 (3) THE STAFF APPLYING PHYSICAL RESTRAINT HAS BEEN TRAINED IN 19 ITS SAFE APPLICATION AND HAS DEMONSTRATED SATISFACTORY KNOWLEDGE AND 20 SAFE APPLICATION OF THE USE OF PHYSICAL RESTRAINT: AND LESS INTRUSIVE ALTERNATIVES FOR THE STUDENT HAVE FAILED 22 OR HAVE BEEN DEEMED INAPPROPRIATE. A PERSON MAY USE PHYSICAL RESTRAINT AS PART OF A FREE AND 24 APPROPRIATE PUBLIC EDUCATION FOR A STUDENT WHO RECEIVES SPECIAL 25 EDUCATION, AND WHOSE BEHAVIOR IMPEDES THE STUDENT'S ABILITY TO LEARN, 26 ONLY IF INDIVIDUALLY DESIGNED POSITIVE BEHAVIOR INTERVENTION STRATEGIES 27 AND SUPPORTS ALONE ARE NOT EFFECTIVE IN PREVENTING BEHAVIOR THAT IS 28 HARMFUL TO THE STUDENT OR TO ANOTHER PERSON. 29 (2) (I)IF THE INDIVIDUALIZED EDUCATION PLAN TEAM RESPONSIBLE 30 FOR DESIGNING A STUDENT'S INDIVIDUALIZED EDUCATION PLAN REASONABLY
- 33 1. MAKE AN INDIVIDUALIZED DETERMINATION REGARDING 34 THE TYPE OF PHYSICAL RESTRAINT TO BE USED; AND

31 ANTICIPATES THAT PHYSICAL RESTRAINT OF THE STUDENT WILL BE NECESSARY,

32 THE TEAM SHALL:

1 2	STUDENT'S INDIVIDUALIZ	2. ED EDU	INCLUDE THE USE OF THE PHYSICAL RESTRAINT IN THE ICATION PLAN.
3	(II) (I)1 OF THIS PARAGRAPH,		E MAKING A DETERMINATION UNDER SUBPARAGRAPH AM SHALL TAKE INTO ACCOUNT THE STUDENT'S:
5		1.	MEDICAL HISTORY;
6		2.	DISABILITY CHARACTERISTICS; AND
7		3.	PSYCHOSOCIAL HISTORY TO THE EXTENT KNOWN.
10 11 12	INDIVIDUALIZED EDUCAT RESTRAINT, THE INDIVID SOON AS PRACTICABLE A	CION PLA UALIZE AFTER T R THE NI	ESTRAINT IS NOT INCLUDED ON A STUDENT'S AN AND THE STUDENT REQUIRES PHYSICAL D EDUCATION PLAN TEAM SHALL CONVENE AS HE INCIDENT THAT GIVES RISE TO PHYSICAL EED FOR INCLUSION OF PHYSICAL RESTRAINT ON D EDUCATION PLAN.
		DUALIZ	KING A DETERMINATION UNDER PARAGRAPH (1) OF THIS ED EDUCATION PLAN TEAM SHALL TAKE INTO
17		1.	BEHAVIORAL HISTORY;
18 19	INTERVENTION STRATEG	2. JES ANI	PREVIOUS RESPONSE TO POSITIVE BEHAVIOR D SUPPORTS;
		3. DURAT	LIKELIHOOD OF NEED FOR PHYSICAL RESTRAINT DURING ION OF THE STUDENT'S INDIVIDUALIZED
23		4.	MEDICAL HISTORY;
24		5.	DISABILITY CHARACTERISTICS; AND
25		6.	PSYCHOSOCIAL HISTORY TO THE EXTENT KNOWN.
	` /	S USED I	NT IS INCLUDED ON A STUDENT'S INDIVIDUALIZED MORE THAN FOUR TIMES IN ONE MONTH, THE AN TEAM SHALL:
29 30	` /		OMMEND A NEW FUNCTIONAL BEHAVIOR ASSESSMENT FUDENT'S BEHAVIOR INTERVENTION PLAN; AND
31 32	(2) REVIEW PLACEMENT.	W THE S	TUDENT'S INDIVIDUAL EDUCATION PLAN AND
33 34	(F) (1) WHENT SHALL FULLY DOCUMEN		IYSICAL RESTRAINT IS USED, SCHOOL PERSONNEL NCIDENT, INCLUDING:

1		(I)	THE EVENTS LEADING UP TO THE INCIDENT;
2		(II)	THE TYPE OF PHYSICAL RESTRAINT USED;
3	RESTRAINT; AND	(III)	THE STARTING AND STOPPING TIME OF THE PHYSICAL
5		(IV)	THE STAFF INVOLVED.
6 7	(2) NOTIFIED WHENE	(I) VER PH	THE PARENTS OR GUARDIAN OF THE STUDENT SHALL BE YSICAL RESTRAINT IS USED.
8 9	PARAGRAPH SHAL	(II) LL:	THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
10 11	DAY OF THE PHYS	SICAL R	1. INCLUDE THE ATTEMPTED TELEPHONE CONTACT ON THE ESTRAINT; AND
12 13	THE STUDENT IS S	SUBJECT	2. BE PROVIDED WITHIN 3 BUSINESS DAYS OF THE DATE TO PHYSICAL RESTRAINT.
			HO NO LONGER POSES AN IMMEDIATE PHYSICAL RISK TO OTHER PERSON SHALL BE RELEASED FROM PHYSICAL
17 18	(H) A PERS DISCIPLINE.	ON MA	Y NOT USE PHYSICAL RESTRAINT AS A MEANS OF
19	7-1105.		
20 21	(A) (1) USE INVOLUNTAR		CT TO THE REQUIREMENTS OF THIS SECTION, A PERSON MAY OUT AS A BEHAVIOR INTERVENTION TECHNIQUE IN ANY:
22		(I)	PUBLIC SCHOOL;
23		(II)	STATE OPERATED PROGRAM; OR
24 25	DEPARTMENT FO	(III) R THE P	NONPUBLIC SCHOOLS THAT RECEIVE FUNDING FROM THE URPOSE OF EDUCATING STUDENTS.
	(2) DECREASE DURIN TAKEN:		USE OF INVOLUNTARY TIME OUT WITH A STUDENT DOES NOT CADEMIC QUARTER, THE FOLLOWING ACTIONS SHALL BE
31 32	TEAM MEETING S ACADEMIC QUAR	HALL B TER, UN	FOR A STUDENT RECEIVING SPECIAL EDUCATION SERVICES ITERVENTION PLAN, AN INDIVIDUALIZED EDUCATION PLAN E CONVENED WITHIN 10 DAYS OF THE END OF THE ILESS THE PARENT OR GUARDIAN OF THE STUDENT A LATER DATE, FOR THE PURPOSE OF:

- 1 1. REVIEWING THE STUDENT'S BEHAVIOR INTERVENTION 2 PLAN; AND
- 3 2. MAKING APPROPRIATE REVISIONS AS NECESSARY TO
- 4 ENSURE THAT INVOLUNTARY TIME OUT IS NOT USED AS AN ALTERNATIVE TO MORE
- 5 EFFECTIVE BEHAVIOR INTERVENTION TECHNIQUES AND TO ENSURE THAT THE
- 6 STUDENT DOES NOT MISS INSTRUCTIONAL TIME DUE TO EXCESSIVE PLACEMENT IN
- 7 INVOLUNTARY TIME OUT;
- 8 (II) FOR A STUDENT RECEIVING SPECIAL EDUCATION SERVICES
- 9 WHO DOES NOT HAVE A BEHAVIOR INTERVENTION PLAN, AN INDIVIDUALIZED
- 10 EDUCATION PLAN TEAM MEETING SHALL BE CONVENED WITHIN 10 DAYS OF THE
- 11 END OF THE ACADEMIC QUARTER, UNLESS THE PARENT OR GUARDIAN OF THE
- 12 STUDENT REQUESTS A LATER MEETING DATE, FOR THE PURPOSE OF
- 13 RECOMMENDING A FUNCTIONAL BEHAVIORAL ASSESSMENT, TO BE CONDUCTED ON
- 14 AN EXPEDITED BASIS AND WITH AN EXPEDITED REVIEW AND DEVELOPMENT OF AN
- 15 APPROPRIATE BEHAVIOR INTERVENTION PLAN; AND
- 16 (III) FOR A STUDENT WHO DOES NOT RECEIVE SPECIAL EDUCATION
- 17 SERVICES, AN IMMEDIATE REFERRAL FOR SPECIAL EDUCATION SHALL BE MADE TO
- 18 DETERMINE IF THE STUDENT HAS A DISABILITY THAT MAY WARRANT THE
- 19 PROVISION OF SPECIAL EDUCATION SERVICES.
- 20 (B) FOR A STUDENT IN SPECIAL EDUCATION FOR WHOM INVOLUNTARY TIME
- 21 OUT IS AN ESTABLISHED COMPONENT OF A BEHAVIOR INTERVENTION PLAN, THE
- 22 USE OF INVOLUNTARY TIME OUT SHALL BE SPECIFIED ON THE STUDENT'S
- 23 INDIVIDUALIZED EDUCATION PLAN.
- 24 (C) (1) SCHOOL STAFF SHALL DOCUMENT EACH TIME A STUDENT IS
- 25 SUBJECT TO INVOLUNTARY TIME OUT AND THE STARTING AND ENDING TIMES FOR
- 26 THE INVOLUNTARY TIME OUT.
- 27 (2) THE DOCUMENTATION REQUIRED UNDER PARAGRAPH (1) OF THIS
- 28 SUBSECTION SHALL BE PROVIDED TO THE STUDENT'S PARENT OR GUARDIAN:
- 29 (I) ALONG WITH THE PERIODIC STUDENT PROGRESS REPORTS
- 30 MANDATED BY LAW; AND
- 31 (II) UPON REQUEST OF THE PARENT OR GUARDIAN AT ANY TIME,
- 32 WITH REASONABLE NOTICE.
- 33 (D) A PERSON MAY NOT SUBJECT A STUDENT TO INVOLUNTARY TIME OUT AS
- 34 A MEANS OF DISCIPLINE.
- 35 7-1106.
- 36 (A) A STAFF MEMBER OF THE SCHOOL OR PROGRAM THAT THE STUDENT
- 37 ATTENDS SHALL MONITOR A STUDENT VISUALLY AND AUDITORILY, ON A
- 38 CONTINUOUS BASIS, WHILE THE STUDENT IS IN THE TIME-OUT ROOM OR AREA.

- **HOUSE BILL 569** 1 (B) A STUDENT PLACED IN A TIME-OUT ROOM OR AREA SHALL BE PROVIDED 2 WITH CLEAR INSTRUCTIONS ABOUT THE REQUIREMENTS THAT THE STUDENT MUST 3 SATISFY IN ORDER TO BE REINTEGRATED INTO THE CLASSROOM. 4 7-1107. 5 **VOLUNTARY TIME OUT MAY BE REQUESTED BY:** (A) 6 SCHOOL STAFF; OR (1) 7 (2) THE STUDENT. A PERSON MAY NOT USE PHYSICAL FORCE TO PREVENT A STUDENT 9 SUBJECT TO VOLUNTARY TIME OUT FROM LEAVING THE DESIGNATED TIME-OUT 10 ROOM OR AREA UNLESS TRAINED SCHOOL STAFF DETERMINES THAT THE STUDENT 11 REQUIRES AN INVOLUNTARY TIME OUT. 12 7-1108. THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS 13 (A) 14 SUBTITLE. 15 (B) THE REGULATIONS SHALL BE DEVELOPED WITH INPUT AND ADVICE 16 FROM: 17 (1) PARENTS OF STUDENTS WITH DISABILITIES; 18 OTHER PARENTS; (2) 19 (3) TEACHERS: 20 (4) ADMINISTRATORS; 21 ADVOCATES FOR PERSONS WITH DISABILITIES; (5) 22 OTHER ADVOCACY ORGANIZATIONS; AND (6) INDIVIDUALS WITH KNOWLEDGE OR EXPERTISE IN THE 23 (7) 24 DEVELOPMENT AND IMPLEMENTATION OF BEHAVIORAL INTERVENTIONS FOR 25 STUDENTS WITH CHALLENGING BEHAVIORS. THE REGULATIONS SHALL INCLUDE REQUIREMENTS REGARDING: 26 (C)
- 27 (1) THE USE OF PHYSICAL RESTRAINT AND VOLUNTARY TIME OUT OR
- 28 INVOLUNTARY TIME OUT, INCLUDING THE TYPES OF PERMISSIBLE PHYSICAL
- 29 HOLDS, SIZE AND CHARACTERISTICS OF A TIME-OUT ROOM OR OTHER AREA, AND
- 30 AMOUNT OF TIME AND EXAMPLES OF CIRCUMSTANCES UNDER WHICH STUDENTS
- 31 MAY BE PLACED IN INVOLUNTARY TIME OUT AND VOLUNTARY TIME OUT;
- 32 (2) APPROPRIATE BEHAVIORAL INTERVENTIONS, INCLUDING BUT NOT
- 33 LIMITED TO CRISIS INTERVENTION AND PREVENTION TECHNIQUES;

- 1 (3) DEFINITIONS OF "POSITIVE BEHAVIORAL SUPPORTS" AND 2 "BEHAVIOR INTERVENTION PLAN":
- 3 (4) HOW TO DOCUMENT PROPERLY THE NEED FOR AND USE OF 4 BEHAVIORAL INTERVENTIONS WITH STUDENTS;
- 5 (5) TRAINING REQUIREMENTS FOR SCHOOL STAFF REGARDING 6 BEHAVIORAL INTERVENTIONS; AND
- 7 (6) MINIMUM REQUIREMENTS FOR POLICIES AND PROCEDURES TO BE
- 8 DEVELOPED BY LOCAL SCHOOL SYSTEMS, STATE OPERATED PROGRAMS, AND
- 9 NONPUBLIC SCHOOLS RECEIVING FUNDING FROM THE DEPARTMENT TO PROVIDE
- 10 EDUCATIONAL SERVICES TO STUDENTS.
- 11 7-1109.
- 12 EACH LOCAL SCHOOL SYSTEM, STATE OPERATED PROGRAM, AND NONPUBLIC
- 13 SCHOOL RECEIVING FUNDING FROM THE DEPARTMENT TO PROVIDE EDUCATIONAL
- 14 SERVICES TO STUDENTS SHALL DEVELOP POLICIES AND PROCEDURES IN
- 15 COMPLIANCE WITH THIS SUBTITLE AND THE REGULATIONS ADOPTED BY THE
- 16 DEPARTMENT.
- 17 7-1110.
- 18 THE STATE SUPERINTENDENT SHALL CONSULT WITH REPRESENTATIVES OF
- 19 INSTITUTIONS OF HIGHER EDUCATION AND THE PROFESSIONAL STANDARDS AND
- 20 TEACHER EDUCATION BOARD UNDER TITLE 6, SUBTITLE 7 OF THIS ARTICLE WITH
- 21 RESPECT TO THE TRAINING REQUIREMENTS FOR TEACHERS TO ENSURE THAT
- 22 SUFFICIENT TRAINING IS AVAILABLE REGARDING POSITIVE BEHAVIORAL
- 23 INTERVENTIONS AND STRATEGIES CONSISTENT WITH PROFESSIONALLY ACCEPTED
- 24 PRACTICES AND STANDARDS FOR PERSONS ENTERING THE FIELD OF EDUCATION.
- 25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 26 October 1, 2002.