

# HOUSE BILL 592

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By: **Delegates Kaiser, Carr, Healey, Manno, and Montgomery**

Introduced and read first time: January 31, 2008

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Education – Student Behavior Interventions – Use of Time Out, Restraint,**  
3 **and Seclusion**

4 FOR the purpose of requiring each local school system, State–operated program, and  
5 nonpublic school to provide a copy of certain policies and procedures relating to  
6 the use of certain student behavior interventions to certain parents; prohibiting  
7 a local school system, State–operated program, or nonpublic school from using  
8 certain methods of physical restraint or other hold; providing that this Act does  
9 not prohibit certain staff from using certain techniques; requiring each local  
10 school system, State–operated program, and nonpublic school to have certain  
11 written policies that ensure that certain students are able to communicate  
12 distress under certain circumstances; requiring certain school personnel to  
13 provide certain parents with certain notice of certain incidents within a certain  
14 period of time; requiring certain students to be referred for development of  
15 certain plans under certain circumstances; requiring each local school system,  
16 State–operated program, and nonpublic school to submit to the State  
17 Superintendent of Schools on an annual basis certain training curriculum;  
18 requiring certain local education agencies to invite certain representatives when  
19 considering certain needs of certain students; requiring certain local education  
20 agencies to take certain steps to obtain and share certain information relating  
21 to certain students; defining certain terms; and generally relating to the use of  
22 exclusionary time outs, mechanical restraints, physical restraints, and seclusion  
23 as student behavior interventions.

24 BY repealing and reenacting, with amendments,  
25 Article – Education  
26 Section 7–1101, 7–1103, and 7–1104  
27 Annotated Code of Maryland  
28 (2006 Replacement Volume and 2007 Supplement)

29 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Education  
2 Section 7–1103.1, 7–1103.2, and 7–1105  
3 Annotated Code of Maryland  
4 (2006 Replacement Volume and 2007 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Education**

8 7–1101.

9 (a) In this subtitle the following terms have the meanings indicated.

10 (b) “Behavior intervention plan” means a proactive plan designed to address  
11 problem behavior exhibited by a student in the educational setting through the use of  
12 positive behavioral interventions, strategies, and supports.

13 (c) “Exclusionary time out” means the circumstance in which a student is  
14 removed to a designated time–out room or other area for a fixed period not to exceed  
15 30 minutes.

16 (d) “Functional behavior assessment” means the systematic process of:

17 (1) Describing problematic behavior exhibited in the educational  
18 setting, including identification of environmental and other factors and settings that  
19 contribute to or predict:

20 (i) The occurrence or nonoccurrence of the behavior; and

21 (ii) The maintenance of the behavior over time; and

22 (2) Using the information gathered to guide the development of an  
23 effective and efficient behavior intervention plan.

24 (e) (1) “Mechanical restraint” means the use of any device or material  
25 attached or adjacent to the student’s body that restricts freedom of movement or  
26 normal access to any portion of the student’s body and that the student cannot easily  
27 remove.

28 (2) “Mechanical restraint” does not include a protective or stabilizing  
29 device ordered by a physician when it is used as prescribed.

30 (f) “Nonpublic school” means a school that receives funds from the  
31 Department for the purpose of providing special education and related services to  
32 students with disabilities.

1 (g) (1) “Physical restraint” means the use of physical force, without the  
2 use of any device or material, to restrict the free movement of all or a portion of a  
3 student’s body.

4 (2) “Physical restraint” does not include:

5 (i) Briefly holding a student in order to calm or comfort the  
6 student;

7 (ii) Holding a student’s hand or arm to escort the student safely  
8 from one area to another; **OR**

9 (iii) [Moving a disruptive student who is unwilling to leave the  
10 area when other methods such as counseling have been unsuccessful; or

11 (iv)] Breaking up a fight in the school building or on school  
12 grounds.

13 (h) “Seclusion” means the confinement of a student in a locked room, closet,  
14 box, or other space from which the student is physically prevented from leaving **FOR A**  
15 **FIXED PERIOD NOT TO EXCEED 30 MINUTES.**

16 7–1103.

17 Each local school system, State operated program, and nonpublic school shall:

18 (1) [develop] **DEVELOP** policies and procedures in compliance with  
19 this subtitle and the regulations adopted by the Department; **AND**

20 (2) **PROVIDE A COPY OF THE POLICIES AND PROCEDURES TO THE**  
21 **PARENTS OF ALL STUDENTS WHO ARE PLACED IN EXCLUSIONARY TIME OUT,**  
22 **MECHANICAL RESTRAINT, PHYSICAL RESTRAINT, OR SECLUSION.**

23 **7–1103.1.**

24 (A) **A LOCAL SCHOOL SYSTEM, STATE–OPERATED PROGRAM, OR**  
25 **NONPUBLIC SCHOOL MAY NOT USE A METHOD OF PHYSICAL RESTRAINT OR**  
26 **OTHER HOLD THAT:**

27 (1) **PLACES THE STUDENT FACE DOWN WITH PRESSURE APPLIED**  
28 **TO THE STUDENT’S BACK;**

29 (2) **OBSTRUCTS THE AIRWAY OF THE STUDENT OR OTHERWISE**  
30 **IMPAIRS THE STUDENT’S ABILITY TO BREATHE;**

1           **(3) OBSTRUCTS A STAFF MEMBER'S VIEW OF THE STUDENT'S**  
2 **FACE; OR**

3           **(4) RESTRICTS THE STUDENT'S ABILITY TO COMMUNICATE**  
4 **DISTRESS VERBALLY OR IN ACCORDANCE WITH SUBSECTION (C) OF THIS**  
5 **SECTION.**

6           **(B) NOTHING IN THIS SECTION SHALL PROHIBIT TRAINED STAFF FROM**  
7 **USING A TECHNIQUE FOR TRANSITIONING THE STUDENT TO A RESTRAINT**  
8 **POSITION THAT INVOLVES MOMENTARILY PLACING A STUDENT FACE DOWN OR**  
9 **MOMENTARILY OBSTRUCTING THE VIEW OF THE STUDENT'S FACE.**

10           **(C) EACH LOCAL SCHOOL SYSTEM, STATE-OPERATED PROGRAM, AND**  
11 **NONPUBLIC SCHOOL SHALL HAVE A WRITTEN POLICY THAT SPECIFIES THE**  
12 **METHODS USED TO ENSURE THAT STUDENTS WHOSE PRIMARY LANGUAGE OR**  
13 **METHOD OF COMMUNICATION IS NONVERBAL ARE ABLE TO COMMUNICATE**  
14 **DISTRESS EFFECTIVELY DURING A PHYSICAL RESTRAINT OR HOLD.**

15 **7-1103.2.**

16           **(A) EXCEPT AS OTHERWISE PROVIDED IN A STUDENT'S BEHAVIOR**  
17 **INTERVENTION PLAN OR INDIVIDUALIZED EDUCATION PLAN, AFTER THE THIRD**  
18 **INCIDENT OF AN EXCLUSIONARY TIME OUT, MECHANICAL RESTRAINT, PHYSICAL**  
19 **RESTRAINT, OR SECLUSION, AND EACH THIRD INCIDENT THEREAFTER, SCHOOL**  
20 **PERSONNEL SHALL PROVIDE A STUDENT'S PARENT WITH VERBAL OR WRITTEN**  
21 **NOTICE OF THE INCIDENT WITHIN 24 HOURS.**

22           **(B) IF A STUDENT DOES NOT HAVE A BEHAVIOR INTERVENTION PLAN**  
23 **OR AN INDIVIDUALIZED EDUCATION PLAN, AFTER THE THIRD INCIDENT OF AN**  
24 **EXCLUSIONARY TIME OUT, MECHANICAL RESTRAINT, PHYSICAL RESTRAINT, OR**  
25 **SECLUSION, THE STUDENT SHALL BE REFERRED IMMEDIATELY TO THE**  
26 **SCHOOL'S PUPIL SERVICES TEAM TO DEVELOP A BEHAVIOR INTERVENTION**  
27 **PLAN OR AN INDIVIDUALIZED EDUCATION PLAN, AS APPROPRIATE.**

28 **7-1104.**

29           **(A) The State Superintendent shall consult with representatives of**  
30 **institutions of higher education and the Professional Standards and Teacher**  
31 **Education Board under Title 6, Subtitle 7 of this article with respect to the training**  
32 **requirements for teachers to ensure that sufficient training is available regarding**  
33 **positive behavioral interventions and strategies consistent with professionally**  
34 **accepted practices and standards for persons entering the field of education.**

35           **(B) EACH LOCAL SCHOOL SYSTEM, STATE-OPERATED PROGRAM, AND**  
36 **NONPUBLIC SCHOOL SHALL SUBMIT TO THE STATE SUPERINTENDENT ON AN**

1 ANNUAL BASIS ITS STAFF TRAINING CURRICULUM CONCERNING POSITIVE  
2 BEHAVIORAL INTERVENTIONS AND THE USE OF EXCLUSIONARY TIME OUT,  
3 MECHANICAL RESTRAINT, PHYSICAL RESTRAINT, AND SECLUSION.

4 **7-1105.**

5 (A) WITH THE CONSENT OF A STUDENT'S PARENT, OR OF A STUDENT  
6 WHO HAS REACHED THE AGE OF MAJORITY UNDER § 8-412.1 OF THIS ARTICLE,  
7 A LOCAL EDUCATION AGENCY SHALL INVITE A REPRESENTATIVE FROM THE  
8 RESIDENTIAL PROGRAM WHERE THE STUDENT RESIDES, WHEN THE PURPOSE  
9 OF A MEETING IS TO CONSIDER THE BEHAVIOR NEEDS OF A STUDENT.

10 (B) IF AN INVITED REPRESENTATIVE DOES NOT ATTEND THE MEETING,  
11 THE LOCAL EDUCATION AGENCY SHALL TAKE OTHER STEPS TO OBTAIN AND  
12 SHARE INFORMATION ABOUT STRATEGIES USED TO ADDRESS THE STUDENT'S  
13 BEHAVIOR NEEDS.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2008.