



**Testimony for HB1166: Education - Physical Restraint and Seclusion - Requirements, Reporting,
and Training**

February 24, 2021

House Ways and Means Committee

Prepared by: Brianna Knowlton and Frank Patinella, ACLU of Maryland

POSITION: SUPPORT

The ACLU of Maryland works to ensure a positive school climate for all students and to ensure Black and Brown students are treated fairly, specifically in terms of school discipline and behavioral interventions. Harmful school discipline policies, such as use of physical restraints and seclusion, more often than not disproportionately affect Black and Brown students across the state. This disproportionality coupled with the practices' negative effects on students' mental and behavioral health is in direct conflict with the ACLU of Maryland's commitment to promoting race equity in Maryland schools. For these reasons, the ACLU of Maryland supports the passage of HB1166 - Physical Restraint and Seclusion Requirements, Reporting, and Training.

HB1166 builds on prior legislation passed during the 2017 Legislative Session, SB786, by explicitly prohibiting public and non-public schools from using physical restraints and seclusion on students as a behavioral intervention unless the student poses an imminent threat to themselves or other students, or all other behavioral interventions have been ineffective. Additionally, HB1166 requires schools to institute specific policy changes and evidence-based, trauma informed professional development opportunities to increase positive behavioral interactions and interventions with students. Finally, this bill requires schools to develop an accountability system to ensure compliance with these standards and produce annual reports for submission to the Maryland State Department of Education on the use of physical restraint and seclusion disaggregated by race, gender, age, disability status, jurisdiction, and type of placement; the Maryland State Department of Education is also required to verify with schools that do not report any use of physical restraint or seclusion incidents.

Research and guidance from the federal government shows that physical restraint and seclusion constitute trauma for children. The United States Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA) (2019)¹ has reported that the use of physical restraint and seclusion on children can lead to severe psychological and physical harm, and even deaths in some cases. These outcomes are more severe and more likely to occur when the child has a history of trauma, which

¹*Trauma and Violence*. (2019). Substance Abuse and Mental Health Services Administration. Retrieved February 21, 2021, from <https://www.samhsa.gov/trauma-violence>.

many students across Maryland do, especially students of color. Research shows that children of color and low-income children are more likely to experience traumatic events, and those two groups have a high rate of intersection, which compounds the risk of traumatic stress (Morsy & Rothsein, 2019).² There are many reasons for this imbalance of traumatic experiences, including but not limited to poverty, violence, parental incarceration, racism and discrimination, and poor health outcomes, all of which constitute a lack of protective factors that can guard children from toxic and traumatic stress (The Exchange Family Center, 2020).³ The use of physical restraint and seclusion in schools can retraumatize these students.

In Maryland schools, Black and Brown students disproportionately fall victim to the overuse of physical restraint and seclusion. In over half of Maryland's public school districts, physical restraint is used on more Black and Brown students than white students, and the same relationship exists for seclusion in over three-quarters of Maryland schools. In another nine school districts, Black and Brown students constitute a higher percentage of those on whom physical restraint is used than they do the population of the student body, and there are another four for which the same can be said of seclusion (Maryland State Department of Education, 2020).⁴ In many jurisdictions, the problem is getting worse. Maryland State Department of Education's restraint and seclusion reports from 2019⁵ and 2020⁶ show that the number of physical restraint incidents against Black and Brown students increased in four school districts and the total incidents increased in six districts; for seclusion incidents, numbers increased in 3 districts and six districts, respectively. Any increase in uses of physical restraint and seclusion from the 2018-2019 school year and the 2019-2020 school year is highly concerning given that the 2019-2020 school year was cut short by three months due to the pandemic. Many more school districts seemed likely to surpass their physical restraint and seclusion incident numbers, for both all students and Black and Brown students, had schools remained open through the end of the 2019-2020 school year.

Maryland schools cannot be places where any student is subject to traumatization or retraumatization, including by school discipline and behavioral intervention policies such as physical restraint and seclusion. HB1166 would provide needed restrictions and prohibitions on public and non-public schools' use of physical restraint and seclusion. The bill would also require schools to begin to transition to use of trauma-informed practices, which research shows can help children develop protective factors such as self-esteem, self-efficacy, and coping skills, and can increase students' feelings of safety and unconditional positive regard (Venet, 2017).⁷ These impacts are markedly different from those of physical restraint and seclusion.

Thank you for your attention to this important matter, and we urge the committee to give HB1166 a favorable vote.

²Morsy, L. & Rothstein, R. (2019). Toxic stress and children's outcomes. *Economic Policy Institute*. Retrieved February 21, 2021, from <https://www.epi.org/publication/toxic-stress-and-childrens-outcomes-african-american-children-growing-up-poor-are-at-greater-risk-of-disrupted-physiological-functioning-and-depressed-academic-achievement/>

³*Black Kids' Lives Matter: How Repeated Trauma Impacts the Youngest People of Color*. (2020). Exchange Family Center. Retrieved February 21, 2021, from <https://www.exchangefamilycenter.org/exchange-family-center-blog/2020/6/30/black-kids-lives-matter-how-repeated-trauma-impacts-the-youngest-people-of-color>

⁴2019 Maryland School Report Card. (2019). Retrieved February 21, 2021, from <https://reportcard.msde.maryland.gov/>; Maryland State Department of Education. (2020). 2020 Physical Restraint and Seclusion Report: Data Collection, Findings, and Recommendations.

⁵Maryland State Department of Education. (2019). 2019 Physical Restraint and Seclusion Report: Data Collection, Findings, and Recommendations.

⁶Maryland State Department of Education. (2020). 2020 Physical Restraint and Seclusion Report: Data Collection, Findings, and Recommendations.

⁷Venet, A.S. (2017). *Trauma-Informed Practices Benefit All Students*. Edutopia. Retrieved February 21, 2021, from <https://www.edutopia.org/article/trauma-informed-practices-benefit-all-students>