

HOUSE BILL 1043

F5, F1

0lr2297

By: **Delegates Wilkins, Cain, and Guyton**

Introduced and read first time: February 6, 2020

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Physical Restraint and Seclusion – Guidelines and Reporting**

3 FOR the purpose of clarifying a requirement for the State Department of Education to
4 collect certain data on restraint and seclusion incidents; requiring the Department
5 to provide certain data to a certain entity; requiring the Department to analyze the
6 data collected, verify certain data in certain circumstances, and make certain
7 recommendations; requiring the Department to collect certain data on compliance
8 with certain regulations; requiring the Department to cooperate with institutions of
9 higher education to develop certain guidelines and programs; making stylistic
10 changes; and generally relating to the use of physical restraint and seclusion.

11 BY repealing and reenacting, without amendments,
12 Article – Education
13 Section 7–1101(a), (d), and (f)
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Education
18 Section 7–1102
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2019 Supplement)

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

23 **Article – Education**

24 7–1101.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(2) “Physical restraint” does not include:

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

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

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

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

(f) “Seclusion” means the confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving.

7–1102.

(A) (1) Beginning with the 2018–2019 school year, on or before December 1 each year[:

(1) Each], EACH public agency and nonpublic school shall submit to the Department a report for the prior school year on the [number of physical restraint and seclusion incidents, disaggregated by the student’s jurisdiction, disability, race, gender, age, and type of placement] **TOTAL NUMBER OF PHYSICAL RESTRAINT INCIDENTS, THE TOTAL UNDUPLICATED NUMBER OF PHYSICAL RESTRAINT INCIDENTS, THE TOTAL NUMBER OF SECLUSION INCIDENTS, AND THE TOTAL UNDUPLICATED NUMBER OF SECLUSION INCIDENTS.**

(2) **THE DATA REQUIRED TO BE REPORTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DISAGGREGATED BY THE STUDENT’S JURISDICTION, DISABILITY, RACE, GENDER, AGE, AND TYPE OF PLACEMENT.**

(3) **THE DEPARTMENT SHALL PROVIDE ANY DATA GATHERED UNDER THIS SUBSECTION TO THE MARYLAND LONGITUDINAL DATA SYSTEM CENTER.**

[(2) Each](B) **BEGINNING WITH THE 2021–2022 SCHOOL YEAR, ON OR BEFORE DECEMBER 1 EACH YEAR, EACH** public agency and nonpublic school shall submit to the Department a report for the prior school year on the professional development provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma–informed interventions.

1 ~~[(3)](C)~~ Each public agency and nonpublic school shall:

2 ~~[(i)] (1)~~ Personally observe and review seclusion rooms;

3 ~~[(ii)] (2)~~ Review training plans for the use of seclusion; and

4 ~~[(iii)] (3)~~ Report to the Department regarding findings made under
5 items ~~[(i) and (ii) of this paragraph]~~ **(1) AND (2) OF THIS SUBSECTION.**

6 ~~[(4)](D)~~ The Department shall:

7 ~~[(i)] (1)~~ Provide guidance to public agencies and nonpublic schools
8 regarding the requirements of the use of **RESTRAINT**, seclusion, and rooms for seclusion;
9 ~~[and]~~

10 ~~(2)~~ **ANALYZE THE DATA COLLECTED ON RESTRAINT INCIDENTS AND**
11 **SECLUSION INCIDENTS;**

12 ~~(3)~~ **REQUIRE VERIFICATION FROM ANY PUBLIC AGENCY OR**
13 **NONPUBLIC SCHOOL THAT REPORTS NO RESTRAINT INCIDENTS OR NO SECLUSION**
14 **INCIDENTS;**

15 ~~(4)~~ **MAKE SPECIFIC RECOMMENDATIONS ON HOW TO REDUCE THE**
16 **USE OF RESTRAINT BY THE TOP 30% OF PUBLIC AGENCIES AND NONPUBLIC**
17 **SCHOOLS THAT HAVE THE HIGHEST NUMBER AND RATES OF RESTRAINT INCIDENTS;**

18 ~~(5)~~ **MAKE SPECIFIC RECOMMENDATIONS ON HOW TO REDUCE THE**
19 **USE OF SECLUSION BY THE TOP 30% OF PUBLIC AGENCIES AND NONPUBLIC**
20 **SCHOOLS THAT HAVE THE HIGHEST NUMBER AND RATES OF SECLUSION INCIDENTS;**

21 ~~(6)~~ **COLLECT DATA ON THE COMPLIANCE OF PUBLIC AGENCIES AND**
22 **NONPUBLIC SCHOOLS WITH ANY REGULATIONS ADOPTED BY THE DEPARTMENT**
23 **UNDER THIS SUBTITLE; AND**

24 ~~[(ii)] (7)~~ Report to the General Assembly, in accordance with §
25 2–1257 of the State Government Article, regarding **ANY ANALYSES**, findings, and
26 recommendations reported to **OR COMPILED BY** the Department under this section.

27 ~~(E)~~ **THE DEPARTMENT SHALL COOPERATE WITH INSTITUTIONS OF HIGHER**
28 **EDUCATION IN THE STATE TO:**

29 ~~(1)~~ **IDENTIFY ANY GAPS IN TEACHER AND SERVICE PROVIDER**
30 **PREPARATION REGARDING POSITIVE BEHAVIOR STRATEGIES, SUPPORT AND**
31 **INTERVENTION, AND TRAUMA-INFORMED CARE AND INTERVENTIONS;**

1 **(2) ISSUE GUIDELINES DETAILING BEST PRACTICES FOR**
2 **CONDUCTING BEHAVIORAL ASSESSMENTS AND DEVELOPING BEHAVIOR**
3 **INTERVENTION PLANS; AND**

4 **(3) DEVELOP A MANDATORY PROFESSIONAL DEVELOPMENT**
5 **PROGRAM WHICH ENSURES THAT ALL TEACHERS AND SERVICE PROVIDERS AT**
6 **PUBLIC AGENCIES AND NONPUBLIC SCHOOLS ARE COMPETENT TO IMPLEMENT**
7 **POSITIVE BEHAVIOR STRATEGIES, SUPPORT AND INTERVENTION, AND**
8 **TRAUMA-INFORMED CARE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2020.