

MAINE STATE LEGISLATURE

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L.D. 1373

Date: 6-17-2021

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

HOUSE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 1007,
L.D. 1373, "An Act To Keep All Maine Students Safe by Restricting the Use of Seclusion
and Restraint in Schools"

Amend the amendment in section 1 in §4014 in subsection 1 by striking out all of
paragraph H (page 2, lines 10 to 32 in amendment) and inserting the following:

H. "Timeout" means an intervention where a student requests or complies with an
adult request for a break. Timeout is not seclusion.

I. "Unlawful restraint or seclusion" means:

(1) Mechanical restraint;

(2) Chemical restraint;

(3) Physical restraint or physical escort that is life-threatening, restricts breathing
or restricts blood flow to the brain, including prone restraint; or

(4) Physical restraint or seclusion that is contraindicated based on Title 34-B,
section 3003 or section 15002 or the student's disability or health care needs or
medical or psychiatric condition as documented in:

(a) A health care directive or medical management plan;

(b) A behavior intervention plan;

(c) An individual education plan or an individual family service plan as
defined in the federal Individuals with Disabilities Education Act, 20 United
States Code, Section 1401 et seq. (2015); or

(d) A plan developed pursuant to the federal Rehabilitation Act of 1973, 29
United States Code, Section 794 (2015) or the federal Americans with
Disabilities Act of 1990, Title II, 42 United States Code, Section 12131 et seq.
(2009).

"Unlawful restraint or seclusion" does not include a physical escort except as provided
in subparagraph (3), a physical prompt, the use of adaptive devices or mechanical
supports to achieve proper body position, balance or alignment to allow greater
freedom of movement than would be possible without the use of such devices or

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supports or the use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.'

Amend the amendment in section 1 in §4014 by striking out all of subsection 2 (page 2, lines 33 and 34 in amendment).

Amend the amendment in section 1 in §4014 in subsection 3 in the first line (page 2, line 35 in amendment) by inserting after the following: "unlawful restraint" the following: 'and seclusion'

Amend the amendment in section 1 in §4014 in subsection 3 in the first line (page 2, line 35 in amendment) by inserting after the following: "physical restraint" the following: 'and seclusion'

Amend the amendment in section 1 in §4014 in subsection 3 in the 3rd line (page 2, line 37 in amendment) by inserting after the first instance of the following: "restraint" the following: 'or seclusion'

Amend the amendment in section 1 in §4014 in subsection 3 in the 3rd line (page 2, line 37 in amendment) by inserting after the 2nd instance of the following: "restraint" the following: 'or seclusion'

Amend the amendment in section 1 in §4014 in subsection 3 in paragraph C in the first line (page 3, line 1 in amendment) by inserting after the following: "restraint" the following: 'or seclusion'

Amend the amendment in section 1 in §4014 by striking out all of subsection 4 (page 3, lines 5 to 17 in amendment) and inserting the following:

'4. Report on data regarding the use of physical restraint and seclusion. Each covered entity shall submit to the department an annual report on incidents of physical restraint and seclusion of students of that covered entity that includes:

- A. The aggregate number of uses of physical restraint;
- B. The aggregate number of uses of seclusion;
- C. The aggregate number of students placed in physical restraint;
- D. The aggregate number of students placed in seclusion;
- E. The aggregate number of students with disabilities and an individualized education program under the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1401 et seq. (2015) or a plan pursuant to the federal Rehabilitation Act of 1973, 29 United States Code, Section 701 et seq. placed in physical restraint;
- F. The aggregate number of students with disabilities and an individualized education program under the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1401 et seq. (2015) or a plan pursuant to the federal Rehabilitation Act of 1973, 29 United States Code, Section 701 et seq. placed in seclusion;
- G. The aggregate number of serious physical injuries to students related to physical restraint;
- H. The aggregate number of serious physical injuries to students related to seclusion;
- I. The aggregate number of serious physical injuries to staff related to physical restraint; and

HOUSE AMENDMENT

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1 J. The aggregate number of serious physical injuries to staff related to seclusion.'

2 Amend the amendment in section 1 in §4014 in subsection 5 in the 4th line (page 3,
3 line 21 in amendment) by inserting after the following: "restraint" the following: 'or
4 seclusion'

5 Amend the amendment in section 1 in §4014 in subsection 5 in the 5th line (page 3,
6 line 22 in amendment) by inserting after the following: "restraint" the following: 'or
7 seclusion'

8 Amend the bill in section 1 in §4014 by renumbering the subsections to read
9 consecutively.

10 Amend the amendment by relettering or renumbering any nonconsecutive Part letter or
11 section number to read consecutively.

12 **SUMMARY**

13 This amendment does the following:

- 14 1. Removes the prohibition on the use of seclusion;
- 15 2. Adds the definition of "timeout" currently found in Department of Education rule
16 Chapter 33: Rule Governing Physical Restraint and Seclusion; and
- 17 3. Includes seclusion in the other provisions of the committee amendment that refer to
18 restraint, treating both emergency interventions the same with regard to limitations on use
19 and data reporting.

20 **SPONSORED BY:** 

21 (Representative MILLETT, R.)

22 **TOWN: Cape Elizabeth**