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Date: (Filing No. H- )

**EDUCATION AND CULTURAL AFFAIRS**

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

COMMITTEE AMENDMENT “ ” 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 bill by striking out everything after the enacting clause and inserting the following:

**'Sec. 1. 20-A MRSA §4014** is enacted to read:

**§4014. Use of seclusion and physical restraint**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Chemical restraint" means a drug or medication that is not prescribed as the standard treatment of a student's medical or psychiatric condition by a licensed physician or other qualified health professional acting under the scope of the professional's authority under state law that is used on a student to control behavior or restrict freedom of movement.

B. "Covered entity" means an entity that owns, operates or controls a school or educational program that receives public funds from the department, including, but not limited to, public schools, public regional programs, public charter schools, private schools, private schools approved for tuition purposes, special purpose private schools, career and technical education programs, public prekindergarten programs and providers of services pursuant to the provisions of the federal Individuals with Disabilities Education Act, Parts B and C, 20 United States Code, Section 1401 et seq. (2015).

C. "Mechanical restraint" means the use of a device to restrict a student's freedom of movement.

D. "Physical escort" means the temporary, voluntary touching or holding of the hand, wrist, arm, shoulder or back to induce a student to walk to a safe location.

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1           E. "Physical prompt" means a teaching technique that involves voluntary physical  
2           contact with a student that enables the student to learn or model the physical movement  
3           necessary for the development of a desired competency.

4           F. "Physical restraint" means a personal restriction that immobilizes or reduces the  
5           ability of a student to move the arms, legs or head freely. "Physical restraint" does not  
6           include a physical escort, mechanical restraint, physical prompt or chemical restraint.

7           G. "Seclusion" means the involuntary isolation or confinement of a student alone in a  
8           room or clearly defined area from which the student does not feel free to go or is  
9           physically denied exit. "Seclusion" does not include a timeout.

10          H. "Unlawful restraint" means:

11           (1) Mechanical restraint;

12           (2) Chemical restraint;

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

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

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

19           (b) A behavior intervention plan;

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

23           (d) A plan developed pursuant to the federal Rehabilitation Act of 1973, 29  
24           United States Code, Section 794 (2015) or the federal Americans with  
25           Disabilities Act of 1990, Title II, 42 United States Code, Section 12131 et seq.  
26           (2009).

27           "Unlawful restraint" does not include a physical escort except as provided in  
28           subparagraph (3), a physical prompt, the use of adaptive devices or mechanical  
29           supports to achieve proper body position, balance or alignment to allow greater  
30           freedom of movement than would be possible without the use of such devices or  
31           supports or the use of vehicle safety restraints when used as intended during the  
32           transport of a student in a moving vehicle.

33          **2. Prohibition on seclusion.** Beginning September 1, 2023, a covered entity that  
34          receives state or federal assistance may not subject a student to seclusion.

35          **3. Prohibition on unlawful restraint; restriction on use of physical restraint.** A  
36          covered entity that receives state or federal assistance may not subject a student to unlawful  
37          restraint. A covered entity may use physical restraint only if:

38           A. The student's behavior poses an imminent danger of serious physical injury to the  
39           student or another person;

40           B. Less restrictive interventions would be ineffective in stopping imminent danger of  
41           serious physical injury to the student or another person;



1 person; less restrictive interventions would be ineffective in stopping such imminent  
2 danger; the physical restraint ends immediately upon the cessation of the imminent danger;  
3 and the least amount of force necessary is used to protect the student or other person from  
4 the imminent danger;

5 4. Removes the requirement that the Commissioner of Education submit a report on  
6 data regarding the use of physical restraint;

7 5. Removes the development and implementation of a performance review system and  
8 guide for information regarding the rule;

9 6. Requires the Department of Education to provide technical assistance using existing  
10 resources; and

11 7. Designates the Department of Education's rule on restraint and seclusion as a major  
12 substantive rule.