1	L.D. 1373
2	Date: (Filing No. H- )
3	EDUCATION AND CULTURAL AFFAIRS
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5	STATE OF MAINE
6	HOUSE OF REPRESENTATIVES
7	130TH LEGISLATURE
8	FIRST SPECIAL SESSION
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9 10	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"
11 12	Amend the bill by striking out everything after the enacting clause and inserting the following:
13	'Sec. 1. 20-A MRSA §4014 is enacted to read:
14	§4014. Use of seclusion and physical restraint
15 16	<b>1. Definitions.</b> As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
17 18 19 20 21	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.
22 23 24 25 26 27 28 29	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).
30	C. "Mechanical restraint" means the use of a device to restrict a student's freedom of
31	movement.
32 33	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.

Page 1 - 130LR0828(02)

### COMMITTEE AMENDMENT "A" to H.P. 1007, L.D. 1373

1 2 3	<u>E.</u> "Physical prompt" means a teaching technique that involves voluntary physical contact with a student that enables the student to learn or model the physical movement necessary for the development of a desired competency.
4 5 6	<u>F.</u> "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the arms, legs or head freely. "Physical restraint" does not include a physical escort, mechanical restraint, physical prompt or chemical restraint.
7 8 9	<u>G.</u> "Seclusion" means the involuntary isolation or confinement of a student alone in a room or clearly defined area from which the student does not feel free to go or is physically denied exit. "Seclusion" does not include a timeout.
10	H. "Unlawful restraint" means:
11	(1) Mechanical restraint;
12	(2) Chemical restraint;
13 14	(3) Physical restraint or physical escort that is life-threatening, restricts breathing or restricts blood flow to the brain, including prone restraint; or
15 16 17	(4) Physical restraint 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:
18	(a) A health care directive or medical management plan;
19	(b) A behavior intervention plan;
20 21 22	(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
23 24 25 26	(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).
27 28 29 30 31 32	"Unlawful restraint" 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 supports or the use of vehicle safety restraints when used as intended during the 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 36 37	3. Prohibition on unlawful restraint; restriction on use of physical restraint. A covered entity that receives state or federal assistance may not subject a student to unlawful restraint. A covered entity may use physical restraint only if:
38 39	A. The student's behavior poses an imminent danger of serious physical injury to the student or another person;
40 41	B. Less restrictive interventions would be ineffective in stopping imminent danger of serious physical injury to the student or another person;

Page 2 - 130LR0828(02)

1 2	C. The physical restraint ends immediately upon the cessation of imminent danger of serious physical injury to the student or another person; and
3 4	D. The least amount of force necessary is used to protect the student or another person from imminent danger of serious physical injury.
5 6 7	<b><u>4. Report on data regarding the use of physical restraint.</u></b> Each covered entity shall submit to the department an annual report on incidents of physical restraint of students of that covered entity that includes:
8	A. The aggregate number of uses of physical restraint;
9	B. The aggregate number of students placed in physical restraint;
10 11 12 13	C. 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;
14 15	D. The aggregate number of serious physical injuries to students related to physical restraint; and
16 17	E. The aggregate number of serious physical injuries to staff related to physical restraint.
18 19 20 21 22 23 24	<b>5.</b> Technical assistance. The department shall, using existing resources, provide technical assistance to covered entities by developing, implementing and providing technical assistance to support evidence-based programs that reduce the likelihood of physical restraint, and support students in reducing behavior that can result in physical restraint, such as developmentally appropriate, positive behavior interventions, functional behavioral interventions, mental health supports, restorative justice programs, trauma-informed care and crisis and de-escalation interventions.
25 26 27	<b>6. Rules.</b> The department shall adopt or amend rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.'
28 29	Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.
30	SUMMARY
31	This amendment, which is the majority report of the committee, does the following:
32 33	1. Delays the prohibition on seclusion until September 1, 2023 and provides that seclusion does not include a timeout;
34 35 36 37 38 39 40	<ol> <li>Provides that unlawful restraint does not include a physical escort unless the physical escort is life-threatening, restricts breathing or restricts blood flow to the brain, 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 supports or the use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;</li> <li>Provides that a covered entity may use physical restraint only if the student's</li> </ol>
41	behavior poses an imminent danger of serious physical injury to the student or another

COMMITTEE AMENDMENT "A" to H.P. 1007, L.D. 1373

Page 3 - 130LR0828(02)

### COMMITTEE AMENDMENT "A" to H.P. 1007, L.D. 1373

- person; less restrictive interventions would be ineffective in stopping such imminent
   danger; the physical restraint ends immediately upon the cessation of the imminent danger;
   and the least amount of force necessary is used to protect the student or other person from
   the imminent danger;
- 5 4. Removes the requirement that the Commissioner of Education submit a report on 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
- 7. Designates the Department of Education's rule on restraint and seclusion as a majorsubstantive rule.

Page 4 - 130LR0828(02)