

By: Representative Hopkins

To: Education

HOUSE BILL NO. 491

1 AN ACT ENTITLED THE "MISSISSIPPI STUDENT SAFETY ACT"; TO  
2 PREVENT AND REDUCE THE USE OF CERTAIN STUDENT RESTRAINT AND  
3 SECLUSION PROCEDURES IN PUBLIC AND PRIVATE SCHOOLS; TO PROVIDE  
4 DEFINITIONS; TO PROVIDE MINIMUM STANDARDS TO PROHIBIT SCHOOL  
5 PERSONNEL FROM CERTAIN ACTIONS; TO PROVIDE STANDARDS FOR USE OF  
6 EXCLUSION TIME-OUT; TO PROVIDE FOR A STATE PLAN AND TO PROVIDE  
7 REPORTING REQUIREMENTS; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** This act may be cited as the "Mississippi Student  
10 Safety Act."

11 **SECTION 2. Findings.** (1) Restraint and seclusion have  
12 resulted in physical injury, psychological trauma and death to  
13 students in public and private schools. National research shows  
14 students have been subjected to restraint and seclusion in schools  
15 as a means of discipline, to force compliance, or as a substitute  
16 for appropriate educational support.

17 (2) Behavioral interventions for students must promote the  
18 right of all students to be treated with dignity. All students  
19 have the right to be free from physical or mental abuse, aversive  
20 behavioral interventions that compromise health and safety, and



21 any restraint or seclusion imposed solely for purposes of  
22 discipline or convenience, or as a substitute for appropriate  
23 educational or behavioral support.

24 (3) Safe, effective, evidence-based strategies are available  
25 to support students who display challenging behaviors in school or  
26 other educational program or activity settings.

27 (4) School personnel have the right to work in a safe  
28 environment and should be provided training and support to prevent  
29 injury and trauma to themselves and others.

30 (5) Children are subjected to restraint and seclusion at  
31 higher rates than adults. Physical restraint which restricts  
32 breathing or causes other body trauma, as well as seclusion in the  
33 absence of continuous face-to-face monitoring, have resulted in  
34 the deaths of students in schools and other facilities providing  
35 education services to children and youth.

36 (6) Children are protected from inappropriate restraint and  
37 seclusion in other settings, such as hospitals, health facilities,  
38 and nonmedical community-based facilities. Similar protections  
39 are needed, yet such protections must acknowledge the differences  
40 of the school or other educational program environment.

41 (7) Research confirms that:

42 (a) Restraint and seclusion are not therapeutic;

43 (b) These practices are not effective means to calm or  
44 teach students, and have a demonstrated opposite effect while  
45 simultaneously decreasing a student's ability to learn.



46 (8) The effective implementation of school-wide positive  
47 behavior supports is linked to greater academic achievement,  
48 significantly fewer disciplinary problems, increased instruction  
49 time, and staff perception of a safer teaching environment.

50 (9) Perspectives of all stakeholders, including parents,  
51 students and relevant community and advocacy organizations are  
52 important when developing and implementing strategies, policies  
53 and procedures to prevent or reduce seclusion and restraint in  
54 schools and other educational programs or activities.

55 **SECTION 3. Purposes.** The purposes of this act are to:

56 (a) Prevent the use of seclusion in schools, programs  
57 and activities;

58 (b) Prevent and reduce the use of restraint in schools,  
59 programs and activities;

60 (c) Ensure the safety of all students and school  
61 personnel in schools, programs and activities and promote a  
62 positive culture and climate;

63 (d) Protect students from:

64 (i) Physical or mental abuse;

65 (ii) Aversive behavioral interventions that  
66 compromise health and safety; and

67 (iii) Any restraint or seclusion imposed solely  
68 for purposes of discipline, convenience, or as a substitute for  
69 educational or behavioral support;



70 (e) Ensure that restraint is a method of last resort  
71 and imposed only when a student's behavior poses an imminent  
72 danger of serious bodily injury to the student, school personnel,  
73 or others;

74 (f) Assist local school districts and schools in:

75 (i) Establishing policies and procedures to keep  
76 all students, including students with the most complex and  
77 intensive behavioral needs, cognitive or intellectual disabilities  
78 and developmental delays, and school personnel safe;

79 (ii) Providing school personnel with the necessary  
80 tools and support to ensure the safety of all students and school  
81 personnel; and

82 (iii) Identifying and implementing effective  
83 evidence-based models to prevent and reduce restraint and  
84 seclusion in schools.

85 **SECTION 4. Definitions.** In this act:

86 (a) "Chemical restraint" means a drug or medication  
87 used on a student to control behavior or restrict freedom of  
88 movement that is not:

89 (i) Prescribed by a licensed physician, or other  
90 qualified health professional acting under the scope of the  
91 professional's authority under state law, for the standard  
92 treatment of a student's medical or psychiatric condition; and



93 (ii) Administered as prescribed by the licensed  
94 physician or other qualified health professional acting under the  
95 scope of the professional's authority under state law.

96 (b) "Elementary school" has the meaning given the term  
97 in Section 9101(18) of the Elementary and Secondary Education Act  
98 of 1965 (20 USC 7801(18)).

99 (c) "Emergency situation" means spontaneous  
100 unpredictable events posing an imminent threat of serious bodily  
101 injury.

102 (d) Free appropriate public education. For those  
103 students eligible for special education and related services under  
104 the Individuals with Disabilities Education Act (20 USC 1400 et  
105 seq.), the term "free appropriate public education" or has the  
106 meaning given such term in Section 602 of such act (20 USC 1401).

107 (e) "Local school district" means a Mississippi public  
108 school district governed by a local school board or a nonpublic  
109 school governed by its board of trustees.

110 (f) "Mechanical restraint" has the meaning given the  
111 term in Section 595(d)(1) of the Public Health Service Act [42 USC  
112 149 290jj(d)(1)], except that the meaning shall be applied by  
113 substituting "student's" for "resident's." The term mechanical  
114 restraint does not mean devices implemented by trained school  
115 personnel, or utilized by a student, for the specific and approved  
116 therapeutic or safety purposes for which such devices were  
117 designed and, if applicable, prescribed, including:



118 (i) Restraints for medical immobilization;  
119 (ii) Adaptive devices or mechanical supports used  
120 to achieve proper body position, balance or alignment to allow  
121 greater freedom of mobility than would be possible without the use  
122 of such devices or mechanical supports; or

123 (iii) Vehicle safety restraints when used as  
124 intended during the transport of a student in a moving vehicle.

125 (g) "Parent" has the meaning given the term in Section  
126 9101(31) of the Elementary and Secondary Education Act of 1965 (20  
127 USC 7801(31)).

128 (h) "Physical escort" means the temporary touching or  
129 holding of the hand, wrist, arm, shoulder or back for the purpose  
130 of inducing a student who is acting out, and able to respond to  
131 such physical prompt, to move to a safe location.

132 (i) "Physical restraint" means a personal restriction  
133 that immobilizes or reduces the ability of an individual to move  
134 the individual's arms, legs, body or head freely. Such term does  
135 not include a physical escort.

136 (j) "Positive behavior supports" means a systematic  
137 approach to embed evidence-based practices and data-driven  
138 decision making to improve school climate and culture, including a  
139 range of systemic and individualized strategies to reinforce  
140 desired behaviors and diminish reoccurrence of problem behaviors,  
141 in order to achieve improved academic and social outcomes, and



142 increase learning for all students, including those with the most  
143 complex and intensive behavioral needs.

144 (k) "Program or activity" means all of the operations  
145 of:

146 (i) A local school district system of vocational  
147 education, or other school system;

148 (ii) A department, agency, school, special purpose  
149 district, or other instrumentality of a state or of a local  
150 government; or the entity of such state or local government that  
151 distributes such assistance and each such department or agency  
152 (and each other state or local government entity) to which the  
153 assistance is extended, in the case of assistance to a state or  
154 local government;

155 (iii) An entire corporation, partnership, or other  
156 private organization, or an entire sole proprietorship:

157 1. If assistance is extended to such  
158 corporation, partnership, private organization, or sole  
159 proprietorship as a whole; or

160 2. Which is principally engaged in the  
161 business of providing education; or

162 3. The entire plant or other comparable,  
163 geographically separate facility to which federal financial  
164 assistance is extended, in the case of any other corporation,  
165 partnership, private organization, or sole proprietorship;



166 (iv) Any other entity which is established by two  
167 (2) or more of the entities described in paragraph (i), (ii) or  
168 (iii) any part of which receives financing from the United States  
169 Department of Education.

170 (l) "Protection and advocacy system" means the  
171 Mississippi protection and advocacy system established under  
172 subtitle C of Title I of the Developmental Disabilities Assistance  
173 and Bill of Rights Act of 2000 (42 USC 15041 et seq.).

174 (m) "Restraint" means a chemical restraint, mechanical  
175 restraint or physical restraint as defined in this act.

176 (n) "School" means an entity that:

177 (i) Is public or private:

178 1. Day or residential elementary school or  
179 secondary school; or

180 2. Early childhood, elementary school or  
181 secondary school program that is under the jurisdiction of a  
182 school, local educational agency, educational service agency, or  
183 other educational institution or program; and

184 (ii) Is a participant in any program or activity  
185 receiving financial assistance from the United States Department  
186 of Education.

187 (o) "School personnel" has the meaning:

188 (i) Given the term in Section 4151(10) of the  
189 Elementary and Secondary Education Act of 1965 (20 USC 7161(10));

190 and





191 (ii) Given the term "school resource officer" in  
192 Section 4151(11) of the Elementary and Secondary Education Act of  
193 1965 (20 USC 7161(11)).

194 (p) "Secondary school" has the meaning given the term  
195 in Section 9101(38) of the Elementary and Secondary Education Act  
196 of 1965 (20 USC 7801(38)).

197 (q) "Seclusion" means the involuntary confinement of a  
198 student in a room, enclosure or space which is locked or from  
199 which the student is physically prevented from leaving. Such term  
200 does not include time-out.

201 (r) "Board" means the State Board of Education acting  
202 through the State Superintendent of Education.

203 (s) The term "serious bodily injury" has the meaning  
204 given the term in Section 1365(h) of Title 18, United States Code.

205 **SECTION 5. Minimum standards; rule of construction.** (1)  
206 Minimum standards. Not later than one hundred eighty (180) days  
207 after the date of the enactment of this act, in order to protect  
208 each student from physical or mental abuse, aversive behavioral  
209 interventions that compromise student health and safety, or any  
210 restraint or seclusion imposed solely for purposes of discipline,  
211 convenience, or as a substitute for or in a manner otherwise  
212 inconsistent with this act, the State Board of Education shall  
213 promulgate regulations establishing the following minimum  
214 standards:



215 (a) School personnel shall be prohibited from imposing  
216 on any student the following:

217 (i) Seclusion;

218 (ii) Mechanical restraints;

219 (iii) Chemical restraints;

220 (iv) Physical restraint or physical escort that  
221 restricts breathing;

222 (v) Restraint when contraindicated based on the  
223 student's disability, health care needs, medical, or psychiatric  
224 condition as documented in a health care directive/medical  
225 management plan, an Individualized Education Program (IEP) or 504  
226 Plan, or other relevant record made available to the Local  
227 Education Agency; and

228 (vi) Any of the prohibited methods described in  
229 subparagraphs (i) through (v) on any student determined by the  
230 local school district to have a cognitive or intellectual  
231 disability or developmental delay as indicated in an IEP or 504  
232 Plan developed for said student;

233 (b) School personnel shall be prohibited from imposing  
234 physical restraint on a student unless:

235 (i) The student's behavior poses an imminent  
236 danger of serious bodily injury to the student, school personnel,  
237 or others;

238 (ii) Less restrictive interventions have been  
239 ineffective in stopping the imminent danger of serious bodily



240 injury, or in the case of a rare and clearly unavoidable emergency  
241 circumstance posing imminent danger of serious bodily injury,  
242 would be ineffective;

243 (iii) Such physical restraint is imposed by school  
244 personnel who:

245 1. Continuously monitor the student  
246 face-to-face; or

247 2. If school personnel safety is  
248 significantly compromised by such face-to-face monitoring, or in  
249 continuous direct visual contact with the student;

250 (iv) Such physical restraint is imposed by:

251 1. Trained school personnel; or

252 2. Other school personnel in the case of a  
253 rare and clearly unavoidable emergency circumstance when school  
254 personnel trained are not immediately available due to the  
255 unforeseeable nature of the emergency circumstance;

256 (v) Such physical restraint shall end:

257 1. When a medical condition occurs putting  
258 the student at risk of harm;

259 2. When the student's behavior no longer  
260 poses an imminent danger of serious bodily injury to the student,  
261 school personnel or others; or

262 3. When less restrictive interventions would  
263 be effective in stopping such imminent danger of serious bodily  
264 injury;



265 (vi) The degree of force used and the duration of  
266 the physical restraint do not exceed the degree and duration that  
267 are reasonable and necessary to resolve the risk; and

268 (vii) The physical restraint imposed upon the  
269 student shall not interfere with the student's ability to  
270 communicate or mode of communication. At all times during  
271 physical restraint or seclusion there shall be school personnel  
272 present who can communicate with the student in the student's mode  
273 of communication for health or safety purposes;

274 (c) Local school districts and private school officials  
275 shall ensure that a sufficient number of school and program  
276 personnel are trained and certified by a state-approved crisis  
277 intervention training program to meet the needs of the specific  
278 student population in each school and program providing  
279 educational services to students; and

280 (d) The use of physical restraint as a planned  
281 intervention shall not be written into a student's education plan,  
282 individual safety plan, behavioral plan, or Individualized  
283 Education Program (as defined in Section 602 of the Individuals  
284 with Disabilities Education Act (20 USC 1401)). However, the  
285 prohibitions on the use of certain seclusion and restraint methods  
286 to intervention shall be provided in the required student plans.  
287 Local school districts, schools or programs may establish policies  
288 and procedures for use of physical restraint in school safety or



289 crisis plans, provided that such school plans are consistent with  
290 the standards in this act.

291 (2) Standards for use of exclusion time-out shall be as  
292 follows:

293 (a) Intervention strategies and techniques based upon a  
294 comprehensive Functional Behavioral Assessment (FBA) and must be  
295 included in the student's Behavioral Intervention Plan (BIP) if it  
296 is utilized on a recurrent basis to increase or decrease a  
297 targeted behavior. Physical force or threat of physical force  
298 shall not be used to place a student in time-out;

299 (b) Use of time-out shall not be implemented in a  
300 fashion that precludes the ability of a student to be involved in  
301 and progress in the general curriculum and advance appropriately  
302 toward attaining the annual goals specified in a student's IEP;

303 (c) A student who is subject to time-out must be  
304 supervised at all times; the use of locked doors is prohibited.  
305 Trained personnel must have a line of sight with the student at  
306 all times during the process and must be in the room with the  
307 student;

308 (d) Time-out must end as soon as the supervisor can  
309 determine that the student is sufficiently calm and under control  
310 such that the student can safely return to class without  
311 presenting a danger to himself, other students or any others. No  
312 instance of time-out may last longer than one (1) hour; and



313 (e) Time-out shall not be imposed as a means of  
314 coercion, convenience or retaliation.

315 (3) Interaction with minimum safety standards shall be as  
316 follows:

317 (a) Any implementation of this act shall be subject to  
318 all rights, remedies and procedures contained in the Individuals  
319 with Disabilities Education Act and Section 504 of the  
320 Rehabilitation Act, and the Americans with Disabilities Act for  
321 students covered thereunder. This includes, but is not limited  
322 to, identification, assessment, procedural safeguards and  
323 provision of free appropriate public education. Failure to meet  
324 the minimum student safety standards of this act as applied to an  
325 individual child eligible under IDEA may constitute a denial of  
326 free appropriate public education; and

327 (b) If the local educational agency or school  
328 establishes policies and procedures for use of physical restraint  
329 pursuant to Section 102(a)(4), those policies and procedures shall  
330 be applied so as not to discriminate against children and youth  
331 with disabilities under the Individuals with Disabilities  
332 Education Act, Section 504 of the Rehabilitation Act, and the  
333 Americans with Disabilities Act for students covered there under,  
334 and shall provide a total prohibition on the use of seclusion and  
335 physical restraint determined under the provisions of these acts  
336 to have a cognitive or intellectual disability or developmental  
337 delay.



338           **SECTION 6. State plan and report requirements and**

339 **enforcement.** (1) Local plan. Not later than two (2) years after  
340 promulgation of regulations pursuant to Section 5(1), and each  
341 year thereafter, each local school board and nonpublic school  
342 board of trustees shall submit to the State Superintendent of  
343 Public Education a plan that provides:

344           (a) Assurances that the school district or appropriate  
345 nonpublic school has in effect:

346                   (i) Policies and procedures that meet the minimum  
347 standards, including the standards with respect to state-approved  
348 crisis intervention training programs, established by regulations  
349 promulgated by the State Board of Education;

350                   (ii) Mechanism to ensure the recording of any  
351 incident involving restraint imposed upon a student or use of  
352 time-out for longer than thirty (30) minutes. Incidents shall be  
353 recorded on a standardized incident report developed by the State  
354 Department of Education. Such reports shall be completed no later  
355 than the school day following the incident; and

356                   (iii) Mechanism to effectively monitor and enforce  
357 the minimum standards; and

358           (b) A description of the state policies and procedures,  
359 including a description of the state-approved crisis intervention  
360 training programs in Mississippi.

361           (2) Reporting. Reporting requirements. Each year each  
362 local school district shall (in compliance with the requirements



363 of Section 444 of the General Education Provisions Act (commonly  
364 known as the "Family Educational Rights and Privacy Act of 1974")  
365 (20 USC 1232g)) prepare and submit to the State Board of Education  
366 the information required in this subsection (3) of this section.

367 (3) (a) General information requirements. The report  
368 described in subsection (2) shall include information on:

369 (i) The total number of incidents in the preceding  
370 full-academic year in which restraint was imposed upon a student;  
371 and

372 (ii) The total number of incidents in the  
373 preceding full-academic year in which seclusion was imposed upon a  
374 student;

375 (b) General disaggregation requirements. The  
376 information described in subsections (2) and (3) shall be  
377 disaggregated by:

378 (i) The total number of incidents in which  
379 restraint or seclusion was imposed upon a student:

- 380 1. That resulted in injury; and  
381 2. That resulted in death.

382 (4) Unduplicated count; exception. The disaggregation  
383 required under paragraph (b) of this subsection shall:

384 (a) Be carried out in a manner to ensure an  
385 unduplicated count of the:





386 (i) Total number of incidents in the preceding  
387 full-academic year in which physical restraint was imposed upon a  
388 student; and

389 (ii) Total number of incidents in the preceding  
390 full-academic year in which seclusion was imposed upon a student;  
391 and

392 (b) Not be required in a case in which the number of  
393 students in a category would reveal personally identifiable  
394 information about an individual student.

395 **SECTION 7.** This act shall take effect and be in force from  
396 and after July 1, 2018.

