

# STATE OF NEW YORK

3311

2023-2024 Regular Sessions

## IN ASSEMBLY

February 2, 2023

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to prohibiting the use of restraints and seclusion in schools; and to providing for more rapid notice to parents if restraints or seclusion is used

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Title 1 of the education law is amended by adding a new  
2 article 2-A to read as follows:

### ARTICLE 2-A

#### PROHIBITIONS ON RESTRAINT AND SECLUSION

##### Section 20. Legislative intent.

###### 21. Short title.

###### 22. Definitions.

###### 23. Prohibitions on restraint and seclusion.

###### 24. Program requirements.

###### 25. Enforcement.

###### 26. Private right of action.

###### 27. Grants.

###### 28. Assessment and reporting.

###### 29. Protection and advocacy systems.

###### 30. Construction.

###### 31. Applicability to private schools and home schools.

17 § 20. Legislative intent. It is the policy of the state of New York to  
18 promote safety and prevent harm to all students, staff, and visitors in  
19 the public schools and to treat all school students with dignity and  
20 respect in the delivery of discipline, use of physical restraints or  
21 seclusion, and use of reasonable force as permitted by law.

22 To accomplish such policy, it is the intention of the legislature to  
23 provide school staff with clear guidelines about what constitutes use of  
24 reasonable force permissible in New York schools with the goal of  
25 improving student achievement, attendance, promotion, and graduation  
26 rates by employing positive behavioral interventions to address student  
27 behavior in a positive and safe manner while promoting the retention of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD03884-01-3

1 valuable teachers and other school personnel by providing appropriate  
2 training in prescribed procedures, which address student behavior in a  
3 positive and safe manner.

4 § 21. Short title. This article shall be known and may be cited as the  
5 "Keeping All New York Students Safe Act".

6 § 22. Definitions. As used in this article:

7 1. "Chemical restraint" means a drug or medication used on a student  
8 to control behavior or restrict freedom of movement that is not:

9 (a) prescribed by a licensed physician, or other qualified health  
10 professional acting under the scope of the professional's authority  
11 under state law, for the standard treatment of a student's medical or  
12 psychiatric condition; and

13 (b) administered as prescribed by the licensed physician or other  
14 qualified health professional acting under the scope of the profes-  
15 sional's authority under state law.

16 2. "Commissioner" means the commissioner of education.

17 3. "Early childhood education program", "educational service agency",  
18 "elementary school", "local educational agency", "other staff", "para-  
19 professional", "parent", "school leader", "secondary school", "special-  
20 ized instructional support personnel", "state", and "state educational  
21 agency" have the meanings given the terms in section 8101 of the Elemen-  
22 tary and Secondary Education Act of 1965 (20 U.S.C. 7801).

23 4. "Head Start program" means a program that serves children who  
24 receive services for which financial assistance is provided in accord-  
25 ance with the Head Start Act (42 U.S.C. 9831 et seq.).

26 5. "Law enforcement officer" means any person who:

27 (a) (i) is a state or local law enforcement officer; and  
28 (ii) is assigned by the employing law enforcement agency to a program,  
29 who is contracting with a program, or who is employed by a program; and

30 (b) includes a "school resource officer" if such person meets the  
31 definition in paragraph (a) of this subdivision.

32 6. "Mechanical restraint" means the use of devices as a means of  
33 restricting a student's freedom of movement.

34 7. "Physical escort" means the temporary touching or holding of the  
35 hand, wrist, arm, shoulder, or back for the purpose of inducing a  
36 student who is acting out to walk to a safe location.

37 8. "Physical restraint" means a personal restriction that immobilizes  
38 or reduces the ability of an individual to move the individual's arms,  
39 legs, torso, or head freely, except that such term does not include a  
40 physical escort, mechanical restraint, or chemical restraint.

41 9. "Positive behavioral interventions and supports":

42 (a) means a schoolwide, systematic approach that embeds evidence-based  
43 practices and data-driven decision making to improve school climate and  
44 culture in order to achieve improved academic and social outcomes and  
45 increase learning for all students (including students with the most  
46 complex and intensive behavioral needs); and

47 (b) encompasses a range of systemic and individualized positive strat-  
48 egies to teach and reinforce school-expected behaviors, while discourag-  
49 ing and diminishing undesirable behaviors.

50 10. "Program" means:

51 (a) all of the operations of a local educational agency, system of  
52 vocational education, or other school system;

53 (b) a program that serves children who receive services for which  
54 financial assistance is provided in accordance with the Head Start Act  
55 (42 U.S.C. 9831 et seq.); or

1 (c) an elementary school or secondary school that is not a public  
2 school that enrolls a student who receives special education and related  
3 services under the Individuals with Disabilities Education Act (20  
4 U.S.C. 1400 et seq.).

5 11. "Program personnel" means any agent of a program, including an  
6 individual who is employed by a program, or who performs services for a  
7 program on a contractual basis, including school leaders, teachers,  
8 specialized instructional support personnel, paraprofessionals and other  
9 staff. "Program personnel" does not include a law enforcement officer or  
10 a school security guard.

11 12. "Protection and advocacy system" means a protection and advocacy  
12 system established under section 143 of the Developmental Disabilities  
13 Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

14 13. "School" means an elementary school, secondary school, or special  
15 education school.

16 14. "School security guard" means an individual who is not a sworn law  
17 enforcement officer and who is responsible for addressing one or more of  
18 the following safety and crime prevention activities in and around a  
19 program:

20 (a) Assisting program personnel in safety incidents.

21 (b) Educating students in crime and illegal drug use prevention and  
22 safety.

23 (c) Developing or expanding community justice initiatives for  
24 students.

25 (d) Training students in conflict resolution and supporting restora-  
26 tive justice programs.

27 (e) Serving as a liaison between the program and outside agencies,  
28 including other law enforcement agencies.

29 (f) Screening students or visitors to the program for prohibited  
30 items.

31 15. "Seclusion" means the involuntary confinement of a student alone  
32 in a room or area from which the student is physically prevented from  
33 leaving, except that such term does not include a time out.

34 16. "Special education school" means a school that focuses primarily  
35 on serving the needs of students with disabilities under the Individuals  
36 with Disabilities Education Act (20 U.S.C. 1400 et seq.) or section 504  
37 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

38 17. "State-approved crisis intervention training program" means a  
39 training program approved by the commissioner that, at a minimum,  
40 provides:

41 (a) training in evidence-based techniques shown to be effective in the  
42 prevention of physical restraint;

43 (b) evidence-based skills training related to positive behavioral  
44 interventions and supports, safe physical escort, conflict prevention,  
45 understanding antecedents, deescalation, and conflict management;

46 (c) training in evidence-based techniques shown to be effective in  
47 keeping both school personnel and students safe when imposing physical  
48 restraint;

49 (d) training in first aid and cardiopulmonary resuscitation;

50 (e) information describing state policies and procedures to ensure  
51 compliance with section twenty-three of this article; and

52 (f) certification for school personnel, law enforcement officers, and  
53 school security guards in the techniques and skills described in para-  
54 graphs (a) through (d) of this subdivision, which shall be required to  
55 be renewed on a periodic basis.

56 18. "Student" includes:

1 (a) a student enrolled in a program; and

2 (b) a student enrolled in an elementary school or secondary school.

3 19. "Time out" means a behavior management technique that may involve  
4 the separation of the student from the group or classroom in a non-  
5 locked setting. "Time out" does not include seclusion or a separation  
6 of the student from which such student is physically or otherwise  
7 prohibited from leaving.

8 § 23. Prohibitions on restraint and seclusion. 1. No student shall be  
9 subjected to unlawful seclusion or restraint by program personnel, a law  
10 enforcement officer, or a school security guard, while attending any  
11 program that receives state financial assistance.

12 2. (a) As used in this article "unlawful seclusion or restraint"  
13 means:

14 (i) seclusion;

15 (ii) mechanical restraint;

16 (iii) chemical restraint;

17 (iv) physical restraint or physical escort that is life threatening,  
18 that restricts breathing, or that restricts blood flow to the brain,  
19 including prone and supine restraint;

20 (v) physical restraint that is contraindicated based on the student's  
21 disability, health care needs, or medical or psychiatric condition, as  
22 documented in:

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

24 (B) a behavior intervention plan;

25 (C) an individualized education program or an individualized family  
26 service plan (as defined in section 602 of the Individuals with Disabili-  
27 ties Education Act (20 U.S.C. 1401));

28 (D) a plan developed pursuant to section 504 of the Rehabilitation Act  
29 of 1973 (29 U.S.C. 794) or title II of the Americans with Disabilities  
30 Act of 1990 (42 U.S.C. 12131 et seq.); or

31 (E) another relevant record made available to the state or the program  
32 involved; or

33 (F) any physical restraint that is not in compliance with the  
34 student's health care directive or medical management plan.

35 (b) "Unlawful seclusion or restraint" does not include:

36 (i) a time out; or

37 (ii) a device implemented by trained school personnel, or utilized by  
38 a student, for the specific and approved therapeutic or safety purposes  
39 for which such devices were designed and, if applicable, prescribed,  
40 provided that such devices are not used to purposefully cause a student  
41 pain as a means of behavioral modification, including:

42 (A) restraints for medical immobilization;

43 (B) adaptive devices or mechanical supports used to achieve proper  
44 body position, balance, or alignment to allow greater freedom of mobili-  
45 ty than would be possible without the use of such devices or mechanical  
46 supports; or

47 (C) vehicle safety restraints when used as intended during the trans-  
48 port of a student in a moving vehicle.

49 § 24. Program requirements. The commissioner shall ensure that each  
50 program that receives state financial assistance complies with the  
51 following requirements:

52 1. The use of physical restraint by any program personnel, a school  
53 security guard, or a law enforcement officer shall be considered in  
54 compliance with the requirements of this subsection only if each of the  
55 following requirements are met:

1 (a) The student's behavior poses an imminent danger of serious phys-  
2 ical injury to the student, program personnel, a school security guard,  
3 a law enforcement officer, or another individual.

4 (b) Before using physical restraint, less restrictive interventions  
5 would be ineffective in stopping such imminent danger of serious phys-  
6 ical injury.

7 (c) Such physical restraint is imposed by:

8 (i) program personnel, a school security guard, or a law enforcement  
9 officer trained and certified by a state-approved crisis intervention  
10 training program; or

11 (ii) program personnel, a school security guard, or a law enforcement  
12 officer not trained and certified as described in subparagraph (i) of  
13 this paragraph, in the case of a rare and clearly unavoidable emergency  
14 circumstance when program personnel, a school security guard, or a law  
15 enforcement officer trained and certified as described in subparagraph  
16 (i) of this paragraph is not immediately available due to the unforesee-  
17 able nature of the emergency circumstance.

18 (d) Such physical restraint ends immediately upon the cessation of the  
19 imminent danger of serious physical injury to the student, any program  
20 personnel, a school security guard, a law enforcement officer, or anoth-  
21 er individual.

22 (e) The physical restraint does not interfere with the student's abil-  
23 ity to communicate in the student's primary language or primary mode of  
24 communication.

25 (f) During the physical restraint, the least amount of force necessary  
26 is used to protect the student or others from the threatened injury.

27 2. The commissioner, in consultation with program officials and the  
28 Head Start Collaboration Program, shall ensure that a sufficient number  
29 of program personnel are trained and certified by a crisis intervention  
30 training program approved by the commissioner to meet the needs of the  
31 specific student population in each program.

32 3. The use of physical restraint as a planned intervention shall not  
33 be written into a student's education plan, individual safety plan,  
34 behavioral intervention plan, or individualized education program (as  
35 defined in section 602 of the Individuals with Disabilities Education  
36 Act (20 U.S.C. 1401)), except that a program may establish policies and  
37 procedures for use of physical restraint in program safety or crisis  
38 plans, provided that such a plan is not specific to any individual  
39 student.

40 4. Each program shall establish procedures to be followed after an  
41 incident involving the imposition of physical restraint upon a student,  
42 which shall include each of the following:

43 (a) Procedures to provide to the parent of the student, with respect  
44 to such incident:

45 (i) an immediate verbal or electronic communication, as soon as is  
46 practicable and not later than two hours after the incident; and

47 (ii) written notification, as soon as is practicable, and not later  
48 than twenty-four hours after the incident that shall include, at mini-  
49 mum:

50 (A) a description of the incident, including precipitating events;

51 (B) positive interventions used prior to restraint;

52 (C) the length of time of restraint; and

53 (D) a description of the serious physical injury of the student or  
54 others that occurred or was about to occur that necessitated the use of  
55 restraint.

1 (b) A meeting between parents of the student and the program, as soon  
2 as is practicable, and not later than five school days following the  
3 incident (unless such meeting is delayed by written mutual agreement of  
4 the parent and the program):

5 (i) which meeting shall include, at a minimum:

6 (A) the parent of such student;

7 (B) the student involved (if appropriate);

8 (C) the program personnel, law enforcement officer, or school security  
9 guard who imposed the restraint;

10 (D) a teacher of such student;

11 (E) a program leader of such student; and

12 (F) an expert on behavior interventions, who may be a special educa-  
13 tion teacher;

14 (ii) the purpose of which shall be to discuss the incident, as  
15 described by both the student and the program personnel, law enforcement  
16 officer, or school security guard involved, including:

17 (A) any precipitating events;

18 (B) how the incident occurred; and

19 (C) prior positive behavioral interventions and supports used to dees-  
20 calate the situation; and

21 (iii) which meeting shall include:

22 (A) the discussion of proactive strategies to prevent future need for  
23 the use of physical restraint;

24 (B)(1) for a student identified as eligible to receive accommodations  
25 under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or  
26 title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131  
27 et seq.), or accommodations or special education or related services  
28 under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et  
29 seq.), a discussion of the need for a functional behavioral assessment  
30 and a behavior intervention plan; or

31 (2) for a student not identified as eligible to receive accommodations  
32 under the provisions of law described in item one of this clause,  
33 evidence of a referral for such accommodations or special education or  
34 related services, or documentation of the basis for declining to make  
35 such a referral for the student; and

36 (C) providing to the parent, for use during the meeting, a written  
37 statement from each adult witness who was in the proximity of the  
38 student immediately before and during the time of the physical  
39 restraint, but was not directly involved in such restraint.

40 § 25. Enforcement. 1. The commissioner shall address any complaints  
41 alleging a violation of section twenty-three of this article for an  
42 appropriate investigation.

43 2. The commissioner may withhold up to one-half of all state moneys  
44 from any program, which, in his or her judgment, willfully omits and  
45 refuses to enforce the provisions of this article, after due notice, so  
46 often and so long as such willful omission and refusal shall, in his or  
47 her judgment, occur, or continue. If the provisions of this article are  
48 complied with at any time within one year from the date on which said  
49 moneys were withheld, the money so withheld shall be paid over by the  
50 commissioner to such program, otherwise forfeited to the state.

51 § 26. Private right of action. 1. A student who has been subjected to  
52 unlawful seclusion or restraint in violation of section twenty-three of  
53 this article, or the parent of such student, may file a civil action  
54 against the program under which the violation is alleged to have  
55 occurred in an appropriate district court of the United States or in

1 state court for declaratory judgment, injunctive relief, compensatory  
2 relief, attorneys' fees, or expert fees.

3 2. Program personnel shall not be liable to any person in a proceeding  
4 described in subdivision one of this section or in an arbitration  
5 proceeding for a violation of section twenty-three of this article.

6 3. No program shall be immune under the Eleventh Amendment of the  
7 Constitution of the United States from suit in Federal or state court  
8 for a violation of subsection (a) of this section.

9 § 27. Grants. 1. (a) From the amounts appropriated to carry out this  
10 section for a fiscal year, the commissioner shall award grants to school  
11 districts with an application approved under subdivision two of this  
12 section, on the basis of their relative need, as determined with the  
13 commissioner in accordance with paragraph (b) of this subdivision, to  
14 assist the school districts in:

15 (i) establishing, implementing, and enforcing the policies and proce-  
16 dures that ensure compliance with section twenty-three of this article;

17 (ii) improving state and local capacity to collect and analyze data  
18 related to physical restraint; and

19 (iii) improving school climate and culture by implementing schoolwide  
20 positive behavioral interventions and supports, mental health supports,  
21 restorative justice programs, trauma-informed care, and crisis and  
22 de-escalation interventions.

23 (b) In determining the relative need of a school district under para-  
24 graph (a) of this section, the commissioner shall consider:

25 (i) the physical restraint and seclusion incidents that occurred at a  
26 school served by the school district for the most recent academic year  
27 for which data is available;

28 (ii) the capacity needs of the school district to collect and analyze  
29 the data described in subparagraph (ii) of paragraph (a) of this subdi-  
30 vision; and

31 (iii) whether the school district has been carrying out the activities  
32 described in subparagraph (iii) of paragraph (a) of this subdivision  
33 and, if so, how the activities are being implemented.

34 (c) A grant under this section shall be awarded to a state educational  
35 agency for a three-year period.

36 2. (a) To be eligible to receive a grant under this section, each  
37 school district desiring a grant shall submit an application to the  
38 commissioner at such time, in such manner, and accompanied by such  
39 information as the commissioner may require.

40 (b) Each application submitted under paragraph (a) of this subdivision  
41 shall include:

42 (i) the total number of incidents in which physical restraint was  
43 imposed upon students for the most recent school year;

44 (ii) the total number of incidents in which seclusion was imposed upon  
45 students for the most recent school year;

46 (iii) a description of the school district's data collection policies  
47 and procedures;

48 (iv) a description of crisis intervention or prevention trainings used  
49 in the school district to prevent or reduce physical restraint and  
50 seclusion (if applicable);

51 (v) a description of school district initiatives regarding school  
52 climate and culture (if applicable), such as schoolwide positive behav-  
53 ioral interventions and supports, mental health supports, restorative  
54 justice programs, trauma-informed care, and crisis and de-escalation  
55 interventions;

1 (vi) a description of activities to be funded under the grant and the  
2 goals of such activities, including how the activities will eliminate  
3 seclusion and reduce and prevent physical restraint; and

4 (vii) a description of how the activities under the grant will coordi-  
5 nate and align with current federal, state, and local policies,  
6 programs, or activities regarding seclusion and physical restraint,  
7 crisis intervention, and school climate or culture.

8 3. A school district receiving a grant under this section may use such  
9 grant funds to award subgrants, in the manner determined by the school  
10 district, to local schools within the school district. A school desiring  
11 to receive a subgrant under this section shall submit an application to  
12 the applicable school district at such time, in such manner, and  
13 containing such information as the school district may require.

14 4. A school district receiving funds under this section shall ensure  
15 that educators working in an early childhood education program, as  
16 defined in section 103 of the Higher Education Act of 1965 (20 U.S.C.  
17 1003), may participate, to the extent practicable, on an equitable basis  
18 in activities supported by subgrant funds under this section that are  
19 trainings on developmentally appropriate practices for meeting the needs  
20 of young children.

21 5. A school district receiving funds under this section shall, after  
22 timely and meaningful consultation with appropriate private school offi-  
23 cial, ensure that private school personnel may participate, on an equi-  
24 table basis, in activities supported by grant funds under this section.

25 6. A school district receiving a grant, or a school receiving a  
26 subgrant, under this section shall use such grant or subgrant funds to  
27 carry out the following:

28 (a) Establishing and implementing policies to prohibit seclusion,  
29 mechanical restraint, chemical restraint, and other forms of prohibited  
30 restraint in schools, consistent with section twenty-three of this arti-  
31 cle.

32 (b) Implementing and evaluating strategies and procedures to prevent  
33 seclusion and to prevent and reduce physical restraint in schools,  
34 consistent with such policies.

35 (c) Providing professional development, training, and certification  
36 for school personnel to comply with such policies.

37 (d) Analyzing the information included in a report prepared under this  
38 section to identify student, school personnel, and school needs related  
39 to preventing seclusion, and preventing and reducing the use of physical  
40 restraint.

41 (e) Providing training to school security guards and, as appropriate,  
42 school personnel, on how to comply with education and civil rights laws,  
43 including the Individuals with Disabilities Education Act (20 U.S.C.  
44 1400 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C.  
45 12101 et seq.), when interacting with students with disabilities,  
46 including, when conducting disciplinary actions involving students with  
47 disabilities.

48 7. In addition to the required activities described in subdivision six  
49 of this section, a school district receiving a grant, or a school  
50 receiving a subgrant, under this section may use such grant or subgrant  
51 funds for one or more of the following:

52 (a) Developing and implementing high-quality professional development  
53 and training programs to implement evidence-based systematic approaches  
54 to schoolwide positive behavioral interventions and supports, including  
55 improving coaching, facilitation, and training capacity for administra-

1 tors, school leaders, teachers, specialized instructional support  
2 personnel, paraprofessionals, and other staff.

3 (b) Providing technical assistance to implement evidence-based system-  
4 atic approaches to schoolwide positive behavioral interventions and  
5 supports, including technical assistance for data-driven decision making  
6 related to behavioral supports and interventions in the classroom.

7 (c) Researching, evaluating, and disseminating high-quality evidence-  
8 based programs and activities that implement schoolwide positive behav-  
9 ioral interventions and supports with fidelity.

10 (d) Supporting other local positive behavioral interventions and  
11 supports implementation activities consistent with this subsection.

12 (e) Developing, implementing, and providing technical assistance to  
13 support evidence-based programs that reduce the likelihood of physical  
14 restraint, such as mental health supports, restorative justice programs,  
15 trauma-informed care, and crisis and de-escalation interventions.

16 8. Each school district receiving a grant under this section shall, at  
17 the end of the three-year grant period for such grant:

18 (a) evaluate the school district's progress toward the elimination of  
19 seclusion and the prevention and reduction of physical restraint in the  
20 schools located in the school district, consistent with section twenty-  
21 three of this article;

22 (b) submit to the commissioner a report on such progress; and

23 (c) publish such report on the school district's website in an acces-  
24 sible format.

25 9. The commissioner shall include in the department's annual budget a  
26 request for an appropriation of such sums as may be necessary to carry  
27 out this section for each fiscal year commencing on and after the effec-  
28 tive date of this section.

29 § 28. Assessment and reporting. 1. The commissioner shall carry out a  
30 national assessment to determine the effectiveness of this article,  
31 which shall include:

32 (a) analyzing data related to incidents of physical restraint in  
33 schools and programs that serve children who receive services for which  
34 financial assistance is provided in accordance with the Head Start Act  
35 (42 U.S.C. 9831 et seq.) (referred to in this title as "Head Start  
36 programs");

37 (b) analyzing the effectiveness of state, and local efforts to elimi-  
38 nate seclusion and prevent and reduce the number of physical restraint  
39 incidents in schools and Head Start programs;

40 (c) identifying the types of programs and services that have demon-  
41 strated the greatest effectiveness in eliminating and preventing seclu-  
42 sion and preventing and reducing the number of physical restraint inci-  
43 idents in schools and Head Start programs; and

44 (d) identifying evidence-based personnel training models with demon-  
45 strated success in preventing seclusion and preventing and reducing the  
46 number of physical restraint incidents in schools and Head Start  
47 programs, including models that emphasize positive behavioral inter-  
48 ventions and supports and de-escalation techniques over physical inter-  
49 vention.

50 2. The commissioner shall submit to the legislature and the governor:

51 (a) not later than three years after the date of the effective date of  
52 this article, an interim report that summarizes the preliminary findings  
53 of the assessment described in subdivision one of this section; and

54 (b) not later than five years after the date of the effective date of  
55 this article, a final report of the findings of the assessment.

1 § 29. Protection and advocacy systems. 1. In a case in which physical  
 2 injury or death of a student or of a child enrolled in a Head Start  
 3 program occurs in conjunction with the use of seclusion or physical  
 4 restraint or any intervention used to control behavior at a school or  
 5 Head Start program, the local educational agency serving such school or  
 6 the agency administering a Head Start program under the Head Start Act  
 7 (42 U.S.C. 9801 et seq.) shall have procedures to:

8 (a) notify, in writing, not later than twenty-four hours after such  
 9 injury or death occurs:

10 (i) the department;

11 (ii) the local law enforcement agency; and

12 (iii) the relevant protection and advocacy system; and

13 (b) provide any information that the protection and advocacy system  
 14 may require.

15 2. Protection and advocacy systems shall have the same authorities and  
 16 rights provided under subtitle C of title I of the Developmental Disa-  
 17 bilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et  
 18 seq.) with respect to protections provided for students or children  
 19 enrolled in Head Start programs under this article when such students or  
 20 children are otherwise eligible to be clients of the protection and  
 21 advocacy system, including investigating, monitoring, and enforcing such  
 22 protections.

23 § 30. Construction. Subject to section twenty-four of this article,  
 24 nothing in this article shall be construed to prohibit a sworn law  
 25 enforcement officer with probable cause from arresting a student for  
 26 violating a federal or state criminal law.

27 § 31. Applicability to private schools and home schools. 1. Nothing  
 28 in this article shall be construed to affect any private school that  
 29 does not receive, or does not serve students who receive, support in any  
 30 form from any program or activity supported, in whole or in part, with  
 31 state funds.

32 2. Nothing in this article shall be construed to:

33 (a) affect a home school, whether or not a home school is treated as a  
 34 private school or home school under state law; or

35 (b) consider parents who are schooling a child at home as program  
 36 personnel.

37 § 2. Subdivision 9 of section 4402 of the education law, as added by  
 38 chapter 516 of the laws of 2022, is amended to read as follows:

39 9. The board of education or trustees of each school district shall  
 40 develop a procedure to notify the parent or person in parental relation  
 41 of a student with a disability [~~on the same day~~ within two hours of the  
 42 time when a physical or mechanical restraint is applied on such student  
 43 or such student is placed in a time out room. When the student's parent  
 44 or person in parental relation cannot be contacted after reasonable  
 45 attempts are made, the principal shall record and report such attempts  
 46 to the committee on special education.

47 § 3. Severability. If any clause, sentence, paragraph, subdivision,  
 48 section or part of this act shall be adjudged by any court of competent  
 49 jurisdiction to be invalid, such judgment shall not affect, impair, or  
 50 invalidate the remainder thereof, but shall be confined in its operation  
 51 to the clause, sentence, paragraph, subdivision, section or part thereof  
 52 directly involved in the controversy in which such judgment shall have  
 53 been rendered. It is hereby declared to be the intent of the legislature  
 54 that this act would have been enacted even if such invalid provisions  
 55 had not been included herein.

1 § 4. This act shall take effect on the first of July next succeeding  
2 the date upon which it shall have become a law.