SENATE CONCURRENT
RESOLUTION No. 138

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED SEPTEMBER 18, 2014

Sponsored by:
Senator KEVIN J. O'TOOLE
District 40 (Bergen, Essex, Morris and Passaic)
Senator STEPHEN M. SWEENEY
District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS
Urges Congress to enact the “Keeping All Students Safe Act.”

CURRENT VERSION OF TEXT
As introduced.
A CONCURRENT RESOLUTION urging Congress to enact the “Keeping All Students Safe Act.”

WHEREAS, The use of physical means to immobilize uncooperative students, known as “physical restraint,” and the involuntary confinement of a child to a room or area, known as “seclusion,” have drawn national attention when use of the technique as a disciplinary measure or for the sake of convenience has resulted in trauma, injury, or death; and

WHEREAS, In 2009, the United States Government Accountability Office (GAO) reviewed available information on incidents of seclusion and restraint that resulted in abuse and death during the preceding 20 years in public and private schools, and treatment centers, and found that alleged abuse was often associated with untrained or poorly trained staff; and

WHEREAS, While the GAO noted a lack of reliable national data on the frequency of use of the techniques, it is estimated that teachers or other school staff used restraint and seclusion at least 66,000 times in United States schools during the 2009-2010 school year; and

WHEREAS, Federal law governs the use of restraint and seclusion in certain hospital and health care facilities, and on children in certain residential non-medical facilities, however, there are no federal laws restricting the use of restraint and seclusion in public and private schools; and

WHEREAS, Despite the widely recognized risks of physical restraint and seclusion, existing state laws on the use of physical restraint or seclusion vary widely in their content, including whether parental consent is required prior to use of restraint, whether parental notification is required following its use, and whether staff must be trained before being permitted to restrain students; and

WHEREAS, H.R. 1893, the “Keeping All Students Safe Act,” currently pending in Congress would require the Secretary of Education to establish minimum standards in schools to protect each student from aversive behavioral interventions that compromise student safety and health or from any physical restraint or seclusion imposed solely for purposes of discipline or convenience; and

WHEREAS, One of the minimum standards included in the federal legislation is the prohibition of the use of physical restraint or seclusion unless the student’s behavior poses an imminent danger of physical injury and less restrictive interventions would be ineffective in stopping the behavior; and

WHEREAS, Other minimum standards included in H.R. 1893 are the requirement that sufficient numbers of school personnel are trained in crisis intervention techniques, that the use of restraint or seclusion not be written into a student’s individualized education program, and that schools establish procedures after each incident
involving the imposition of restraint or seclusion including notification to the parent; and

WHEREAS, H.R. 1893 represents an important national effort to prevent the misuse of restraint or seclusion in our nation’s schools, and to promote a positive school culture and climate that ensures the safety of all students and school personnel; now, therefore,

BE IT RESOLVED by the Senate of the State of New Jersey (the General Assembly concurring):

1. The Legislature of this State respectfully urges the Congress of the United States to enact H.R. 1893, the “Keeping All Students Safe Act.”

2. Copies of this resolution, as filed with the Secretary of State, shall be transmitted by the Clerk of the General Assembly or the Secretary of the Senate to the Majority and Minority Leaders of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, and every member of Congress elected from this State.

STATEMENT

This resolution urges Congress to enact H.R. 1893, the “Keeping All Students Safe Act,” which regulates the use of restraint and seclusion in public and private schools. These techniques are widely recognized to pose risks to students and have resulted in physical injury, psychological trauma, and death.

H.R. 1893 restricts the use of restraint and seclusion to cases of imminent danger of physical injury to the student or others. The legislation also requires that sufficient school personnel are trained in crisis intervention techniques, which would include techniques related to positive behavior supports and conflict management, first aid and cardiopulmonary resuscitation, and the imposition of physical restraint and seclusion in an effective manner that keeps both students and personnel safe. H.R. 1893, in addition, mandates annual reporting by the states to the Secretary of Education on the use of restraint and seclusion, and prohibits the inclusion of physical restraint or seclusion as a planned intervention written into a student’s individualized education program. This resolution urges Congress to enact the “Keeping All Students Safe Act” to assure the safety and dignity of all students and the training of school staff to intervene appropriately when necessary to avoid imminent danger of physical injury to the student or others.