

# MAINE STATE LEGISLATURE

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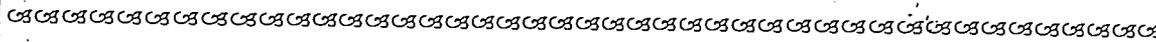
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# ACTIVITY SHEET

COMMITTEE: EDUCATION AND CULTURAL AFFAIRS

L.D. #: 1542

TITLE: An Act to Eliminate the  
Use of Time Out Boxes



HEARING DATE: April 30th, 1997

WORK SESSION DATES: May 7th, 1997

REPORTED OUT DATE: May 19th, 1997

COMMITTEE REPORT: OTPA



# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1542

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H.P. 1099

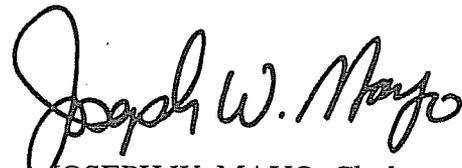
House of Representatives, March 18, 1997

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### An Act to Eliminate the Use of Time-out Boxes.

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative PLOWMAN of Hampden.  
Cosponsored by Senator CATHCART of Penobscot and  
Representatives: BERRY of Belmont, BROOKS of Winterport, JOY of Crystal, McELROY  
of Unity, OTT of York, SAXL of Portland, VEDRAL of Buxton, WINSOR of Norway.



STATE OF MAINE  
118TH LEGISLATURE

LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

Sen. Peggy A. Pendleton, Senate Chair  
Rep. Shirley K. Richard, House Chair

PUBLIC HEARING: Wednesday, April 30, 1997, 1:00 pm, Room 120 State  
Office Building

- (L.D. 1671) Bill "An Act Concerning the Calculation of the State's Share of School Funding" (H.P.1180) (Presented by Representative SKOGLUND of St. George) (Cosponsored by Representative GAGNE of Buckfield, Representative SIROIS of Caribou, Representative VOLENIK of Brooklin)
- (L.D. 1739) Bill "An Act to Amend the Formula Determining the Local Share in the School Funding Process" (H.P.1227) (Presented by Representative PLOWMAN of Hampden) (Cosponsored by Representative DRISCOLL of Calais, Representative MURPHY, JR. of Kennebunk)
- (L.D. 1209) Bill "An Act Regarding the School Administrative District No. 46 Applied Technology Center" (H.P.0892) (Presented by Representative TOBIN, JR. of Dexter) (Cosponsored by Senator HALL of Piscataquis, Representative CROSS of Dover-Foxcroft, Representative JONES of Greenville, Representative KASPRZAK of Newport)
- (L.D. 1699) Bill "An Act to Expand the Law Pertaining to Nepotism" (H.P.1199) (Presented by Representative AHEARNE of Madawaska) Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.
- (L.D. 1529) Bill "Resolve, to Determine How to Increase the Number of Students Consuming School Meals" (H.P.1086) (Presented by Representative WINN of Glenburn)
- (L.D. 1542) Bill "An Act to Eliminate the Use of Time-out Boxes" (H.P.1099) (Presented by Representative PLOWMAN of Hampden) (Cosponsored by Senator CATHCART of Penobscot, Representative BERRY, SR. of Belmont, Representative BROOKS of Winterport, Representative JOY of Crystal, Representative MCELROY of Unity, Representative OTT of York, Representative SAXL of Portland, Representative VEDRAL, III of Buxton, Representative WINSOR of Norway)
- (L.D. 1769) Bill "An Act to Authorize Additional Adjustments to the State Share of School Funding" (H.P.1250) (Presented by Representative DESMOND of Mapleton) (Cosponsored by Senator KILKELLY of Lincoln, Senator O'GARA of Cumberland, Senator PARADIS of Aroostook, Representative BELANGER of Caribou, Representative SIROIS of Caribou, Representative STEDMAN of Hartland)
- (L.D. 1805) Bill "An Act to Change the School Calendar" (H.P.1275) (Presented by Representative DONNELLY of Presque Isle) (Cosponsored by Senator PENDLETON of Cumberland, Senator AMERO of Cumberland, Senator MACKINNON of York, Representative BRENNAN of Portland, Representative KERR of Old Orchard Beach, Representative MCELROY of Unity, Speaker MITCHELL of Vassalboro, Representative STEDMAN of Hartland, Representative TRUE of Fryeburg)

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CONTACT PERSON:

Douglas Clopp  
115 State House Station  
Augusta, ME 04333-0115  
287-3125

# TESTIMONY SIGN IN SHEET

COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

L.D.# or CONFIRMATION: 1542

DATE: April 30th, 1997

| NAME                          | TOWN/AFFILIATION | PROPONENT | OPPONENT | NEITHER |
|-------------------------------|------------------|-----------|----------|---------|
| 1. Cynthia Philbrick          | Hampden, ME      | ✓         |          |         |
| 2. Sandra Elhac               | Hampden, ME      | ✓         |          |         |
| 3. Betsy Chapman              | Hampden, Me      | ✓         |          |         |
| 4. Monica Strobel             | Augusta, Me      | ✓         |          |         |
| 5. <del>David [unclear]</del> |                  |           |          |         |
| 6.                            |                  |           |          |         |
| 7.                            |                  |           |          |         |
| 8.                            |                  |           |          |         |
| 9.                            |                  |           |          |         |
| 10.                           |                  |           |          |         |
| 11.                           |                  |           |          |         |
| 12.                           |                  |           |          |         |
| 13.                           |                  |           |          |         |
| 14.                           |                  |           |          |         |
| 15.                           |                  |           |          |         |
| 16.                           |                  |           |          |         |

**TESTIMONY OF REPRESENTATIVE DEBRA D. PLOWMAN  
IN SUPPORT OF LD 1542 AN ACT TO ELIMINATE THE USE  
OF TIME OUT BOXES**

**GOOD AFTERNOON MEMBERS OF THE JOINT STANDING  
COMMITTEE ON EDUCATION. SENATOR PENDLETON AND  
REPRESENTATIVE RICHARD**

My name is Debra Plowman and I am the State Representative for the towns of Hampden, Newburgh and Dixmont and I am here to present to you LD #1542 An Act to Eliminate the Use of Time Out Boxes.

Imagine for a moment a child acting out for perhaps the 100th time by running down the hallway after repeated admonitions not to do so. Imagine the adult determining that "enough is enough". The adult grabs the young child by the arm drags the child to a small enclosure no bigger than a closet and forces the child into the "box" forcing shut the door and holding it closed, all the while saying that the child's behavior is inappropriate and that this child needs a time out. Imagine the feelings of that child as he or she throws his or her body against the door, desperate to escape, heart beating wildly, screams tearing forth from his chest and all the while the utter lonely feeling of powerlessness compounds the punishment from one of isolation to one of psychological punishment.

Wow, can you just see that parent in Court now trying to explain to the Court that the child was not in jeopardy from his or her actions, that DHS had no right to remove the child, that he or she never dreamed that locking the child in a closet was abuse. What a nightmare.

The situation described above between a child and an adult is a true story. The only detail I left out was that the child was a student and that the adult was a teacher. There was no DHS investigation, no determination of child in jeopardy and no recognition of the psychological trauma which this child experienced at the hands of a teacher in a public school.

Situations just like this occur across the United States with regularity. It matters not whether the State has outlawed corporal punishment. Confinement in a small, isolated room is regarded as time out. The effective and pure Time out is based on the concept that removing a child from a positive experience (a classroom) to a negative experience (a situation away from the classroom) will cause the child to want to return to the positive experience: the classroom. Research indicates that the correct duration of the time-out is what works best but usually is for one minute less than the child's age. Short time outs can be very effective when used with positive reinforcement.

According to Drs. Irwin Hyman and Ron Drabman, time out should never be the equivalent of solitary confinement. Time out is never to be used in a small enclosed space where children are confined for long periods of time. Time out areas are NOT to be locked closets, storage rooms, cardboard boxes, broom closets or plywood boxes. Time out rooms should be simple, unstimulating areas. They should not be dark or scary, "they should be basically boring." Dr. Ron Drabman a psychology professor at the University of Mississippi Medical Center in Jackson.

Research indicates that students who are subjected to these time out techniques (isolation, segregation) suffer from a form of Educator-Induced Post Traumatic Stress Disorder. In addition, other students who are witnesses to the chaos and struggle suffer from a measurable amount of stress. Still other students who are aware of the imprisonment of a child in the time out box, suffer stress. Children not only empathize with the punished child, but also suffer great fear for themselves. Children with siblings in the school have the increased stress of fearing for the safety of their brothers or sisters.

In 1975 Maine became the 5th state to eliminate corporal punishment in its schools:

Title 17-A Section 106(1) provides "the parent, foster parent, guardian or similar person responsible for the long term general care and welfare ... is justified in using reasonable force ... to prevent or PUNISH such person's misconduct." (Emphasis supplied).

Section 106(2) addresses the "teacher or other person entrusted with care or supervision of a person for special and limited purposes is justified in using a reasonable degree of force a ... necessary to control the disturbing behavior or to remove a person from the scene of such disturbance."

Comment on Section 106 for 1975 states that parents may use reasonable force for punishment while teachers may not. The teacher may use reasonable force to maintain order so that he may teach.

(I have attached copies of the above-quoted statutes and notes to my testimony.)

**ATTACHMENT A**

Time out is defined as a punishment procedure and when used appropriately can be an effective tool to modify behavior.

Corporal punishment takes the form of not only direct physical assaults but the use of electrical shock, the confinement of a child in closed spaces, or forcing students to assume painful bodily postures or engage in excessive exercise drills as punishment. Solitary confinement of children in small areas for long periods of time have become an increasingly popular version of "time out." "Too frequently, this approach to discipline is a distortion of a legitimate punishment procedure, time-out." Hyman, I. Reading, Writing and the Hickory Stick.

Dr. Hyman is director of the National Center for the Study of Corporal Punishment and Alternative at Temple University in Pennsylvania. Dr. Hyman is a graduate of the University of Maine. He has spent the last 30 years studying discipline and school psychology in an effort to protect school children from traumatic corporal punishment and excessive discipline in the public school systems.

I have attached to my testimony a copy of my letter to the Commissioner of Education describing the intent of my bill. Consultations with Craig Scott of the DOE have resulted in the development of common ground on the bill. The common ground is as follows:

1. A definition of a time out box needs to be developed that is both concise and understood yet flexible enough to include minute variations which might serve as a loophole.
2. The Department opposes the use of boxes, and any unsupervised, segregated space.

ATTACHMENT  
B

3. The rules for Licensure of Residential Child Care facilities through DHS address procedures for the use of isolation for behavior management and may be a source of information to the Committee (I have attached those rules for your information).

### *Attachment C*

4. The DOE does not currently have rules governing the use of such procedures in an education setting. The DOE would consider the DHS rules as a base for the development of rules regarding the use of these procedures in school settings.

Curiously, the Supreme Court has ruled that the use of this method of punishment, as well as others, does not violate a child's 14th Amendment Rights regarding cruel and unusual punishment. The Court suggests that criminal penalties for excessive force are available through the criminal justice system. The Court further suggests that agencies such as our Department of Human Services has a duty to investigate possible child abuse. And finally, the Court suggests that the parents may seek damages in a tort action on behalf of their child. All of these remedies are available after the damage has been wrought on a child. All of these remedies are available after the Court determines the issues of reasonable force and the civil immunities provided to educators. Not one of these remedies will prevent the harm from occurring.

The extent of the use of time out boxes or isolation rooms in Maine is not clear. Knowledge of the existence of such segregated areas becomes known only after a gross misuse of the time out box. Media coverage or back fence gossip spread the word of the use and Mainers shake their heads after inquiring "What is a time out box anyway?" And "Isn't that against the law?"

Well, these boxes are not against the law in Maine. At least not yet. I urge this Committee to vote out legislation that prohibits the use of solitary confinement as a means to punish Maine's schoolchildren. If you can, imagine its your child. If you can, imagine you are the child. And if you can, please help Maine children and their parents to know that we in the 118th Legislature know there are other ways to modify behavior and so should our public schools.

Thank you.

Ch. 5 DEFENSES; JUSTIFICATION 17-A § 106

This section permits property owners to use reasonable and non-deadly force to prevent theft or destruction of their property. The use of deadly force, however, is to be governed by the section on that subject.

Historical Note

The 1975 amendment substituted "only under such circumstances as are prescribed in sections 104, 107, and 108" for "under such circumstances only in defense of a person as prescribed in section 108".

Cross References

Nondeadly disabling chemicals, use, see § 1002 of this title.

Library References

Assault and Battery ⇐69.  
Homicide ⇐124.

C.J.S. Assault and Battery §§ 94,  
95.  
C.J.S. Homicide §§ 110, 111.

Notes of Decisions

In general 1  
Jury questions 2

1. In general

Evidence of defendant's threatened use of deadly force to prevent alleged theft of property was insufficient to generate issue of "deadly force" for jury's consideration in prosecution for criminal threatening with the use of a firearm in that threat as a matter of law, did not constitute "deadly force"; thus, instruction regarding possible existence of deadly force as an abrogating factor in application of defense of justification had potential of misleading jury into thinking

that it could, on the evidence before it, find that defendant had actually used deadly force, and so constituted prejudicial error. *State v. Williams* (1981) Me., 433 A.2d 765.

One is not entitled to use any greater force than he has reasonable ground to believe is necessary in order to secure retention of his property. *Id.*

2. Jury questions

Whether degree of force used in defense of property was greater than was justified by circumstances is for jury to decide under proper instructions from the court. *State v. Williams* (1981) Me., 433 A.2d 765.

§ 106. Physical force by persons with special responsibilities

1. A parent, foster parent, guardian or other similar person responsible for the long term general care and welfare of a person is justified in using a reasonable degree of force against such person when and to the extent that he reasonably believes it necessary to prevent or punish such person's misconduct. A person to whom such parent, foster parent, guardian or other responsible person has expressly delegated permission to so prevent or punish misconduct is similarly justified in using a reasonable degree of force.

A-1

2. A teacher or other person entrusted with the care or supervision of a person for special and limited purposes is justified in using a reasonable degree of force against any such person who creates a disturbance when and to the extent that he reasonably believes it necessary to control the disturbing behavior or to remove a person from the scene of such disturbance.

3. A person responsible for the general care and supervision of a mentally incompetent person is justified in using a reasonable degree of force against such person who creates a disturbance when and to the extent that he reasonably believes it necessary to control the disturbing behavior or to remove such person from the scene of such disturbance.

4. The justification extended in subsections 1, 2 and 3 does not apply to the purposeful or reckless use of force that creates a substantial risk of death, serious bodily injury, or extraordinary pain.

5. A person required by law to enforce rules and regulations, or to maintain decorum or safety, in a vessel, aircraft, vehicle, train or other carrier, or in a place where others are assembled, may use nondeadly force when and to the extent that he reasonably believes it necessary for such purposes.

6. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious bodily injury upon himself may use a degree of force on such person as he reasonably believes to be necessary to thwart such a result.

7. A licensed physician, or a person acting under his direction, may use force for the purpose of administering a recognized form of treatment which he reasonably believes will tend to safeguard the physical or mental health of the patient, provided such treatment is administered:

A. With consent of the patient or, if the patient is a minor or incompetent person, with the consent of the person entrusted with his care and supervision; or

B. In an emergency relating to health when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person concerned for the welfare of the patient would consent.

8. A person identified in this section for purposes of specifying the rule of justification herein provided, is not precluded

Ch. 5 DEFENSES; JUSTIFICATION 17-A § 106

from using force declared to be justifiable by another section of this chapter.

1975, c. 499, § 1, eff. May 1, 1976; 1979, c. 127, § 127, eff. April 23, 1979; 1979, c. 512, § 22; 1979, c. 663, § 121, eff. March 28, 1980.

Comment—1975

This section is patterned on the New Hampshire Criminal Code, § 627:6.

Several statutes deal with the subject matter of this section. Under Title 19, section 218 a parent is guilty of a crime if he "cruelly treats" his child, or uses "extreme punishment." In Title 15, section 2716 the superintendent of a state school is given the same powers as a parent.

It appears that teachers may inflict corporal punishment and incur liability only for the use of excessive force. See *Patterson v. Nutter*, 78 Me. 509, 7A.273 (1886).

In regard to public conveyances, Title 35, section 1171 gives to the conductor a power to eject "in a reasonable manner and at a reasonable place anyone acting in a drunk or disorderly manner." This authority may be exercised against a person who refuses to pay his fare. *State v. Goold*, 53 Me. 279 (1865).

Physicians have an immunity from civil liability when they administer, with due care, emergency medical treatment. Title 32, section 3291.

This section deals with several different roles under circumstances where the use of force is not uncommon.

Subsection 1 permits parents to use force, against their children which they reasonably believe is necessary for punishment or to prevent misbehavior. This would appear to be the same rule as is implied in the statutory prohibition against extreme punishment.

Teachers, however, are not granted authority to use force in order to punish by subsection 2 which thereby changes present law. It is necessary for a teacher to have order so that he may teach, and subsection 2 gives him authority to maintain order when a child is creating a disturbance or when he refuses to leave the classroom or other school area.

Persons in charge of institutions, such as mental hospitals, are given a broader scope of authority by virtue of their 24 hour responsibility for their patients.

Subsection 4 serves to place a legislative limit on what may be deemed reasonable under the first three subsections. That is, the purpose of the subsection is to prohibit death, se-



# HOUSE OF REPRESENTATIVES

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Debra D. Plowman

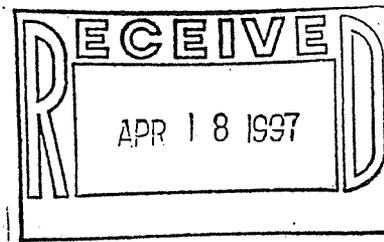
P. O. Box 468

Hampden, ME 04444

Residence: (207) 862-6011

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April 15, 1997



Commissioner J. Duke Albanese  
Department of Education  
Augusta, ME 04333

Dear Commissioner Albanese:

I write to draw your attention to LD 1542 "An Act to Eliminate the Use of Time-out Boxes." I have submitted this legislation after an incident in Winterport in which a child was placed in a closed-in area for discipline purposes and suffered trauma and stress as a result.

I understand that this situation has occurred in at least one other district in Maine. The use of time-out areas or boxes has grown throughout the country with very little or no direction as to their construction, use, duration, purpose, etc. In fact, one Superintendent attempting to determine the appropriateness of its use could find only that it was not prohibited in statute and received suggested guidelines to follow.

In speaking with Leigh Phillips I drafted this legislation carefully to assure the following elements: this applies only to public school settings; the prohibition is not against time out but against time out in a confined area and time out for discipline and punishment in a confined time out area. The legislation recognizes the potential need for therapeutic time out in a confined area as ordered by a physician or a PET.

In all other respects, the use of the time out confined area is left to rulemaking by the Department of Education. Other States require videotaping of the area, log books detailing "check in and check out time", the reason for the confinement and the person making the decision. Notification of parents is also an issue which should be addressed in rulemaking

I am requesting that the Department of Education support this bill.

We expect testimony from Dr. Irwin A. Hyman, Professor, Temple University and Director of the National Center for the Study of Corporal Punishment and Alternative...

District 114 Dixmont, Hampden and Newburgh

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B-1

Page -2-

I would be pleased to discuss this bill with you and answer any questions.

I also am always open to suggestions to improve any piece of legislation which I sponsor before the Legislature. Your thoughts would be greatly appreciated..

Sincerely,

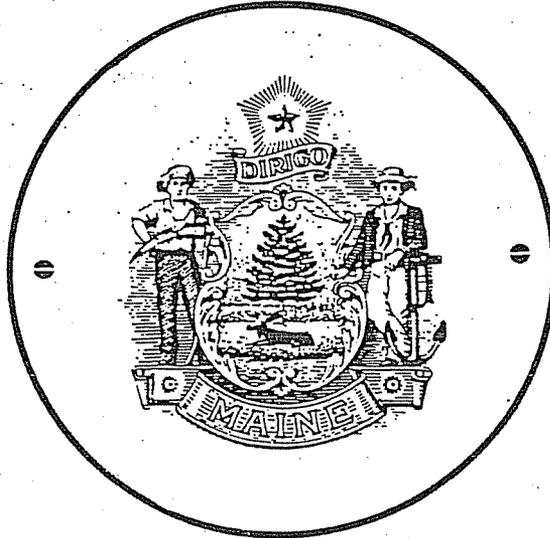
A handwritten signature in cursive script that reads "Debra D. Plowman". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Debra D. Plowman

/ddp

B-2

RULES FOR THE LICENSURE OF  
RESIDENTIAL CHILD CARE FACILITIES



STATE OF MAINE  
AUGUSTA, MAINE 04333

10 Department of Human Services  
-148 Bureau of Social Services  
Chapter 18 - Children's Homes

14 Department of Mental Health and  
Mental Retardation  
-191 Bureau of Mental Health  
Chapter 18 - Children's Homes

10 Department of Human Services  
-153 Office of Alcoholism and Drug  
Abuse Prevention  
Chapter 18 - Children's Homes

05 Department of Educational and  
Cultural Services  
-071 Bureau of Instruction  
Chapter 18 - Children's Homes

C-1

Effective March 15, 1989

4.B.4.a.iv.

- iv. Procedures for a staff supervised, resident-conducted child management group, if used;
- v. Description of the mechanism for ongoing monitoring of child management policies and procedures;
- vi. Use of isolation procedures, if utilized, in accordance with the following:
  - (a) The facility shall use isolation procedures in accordance with written policies only. Isolation shall not be used for punitive purposes, convenience of staff or as a method of controlling minor misbehaviors.
  - (b) Other less restrictive response shall be considered prior to the use of isolation. These may include, but not be limited to, verbal discussion, counseling, voluntary time-out, etc.
  - (c) Each incident involving the use of isolation shall be recorded and shall include at least the following:
    - (i) An assessment of the precipitating cause or reason for using isolation;
    - (ii) Documentation of the length of time isolation was used and documentation of each visual check on the child;
    - (iii) An explanation of less restrictive intervention tried prior to isolation or the reason why such preventions were not appropriate;
    - (iv) An assessment of the procedures benefit relative to treatment goals established for the child;
    - (v) Name(s) of the authorizing staff person(s) and staff involved.
  - (d) Each use of isolation procedures shall be authorized and monitored by supervisory staff.
  - (e) Any use of isolation procedures exceeding thirty (30) minutes in duration shall be approved by the chief administrative officer.
  - (f) Isolation procedures exceeding thirty (30) minutes in duration shall be visually monitored at intervals appropriate to the child's needs but not to exceed fifteen (15) minutes.

4.B.4.a.vi.(g):

- (g) Any use of isolation shall not exceed twenty-four (24) hours continuous duration.
  - (h) The facility shall not permit the seclusion of a child in a locked space.
- b. The facility shall prohibit all punishments which are cruel, severe, unusual or subject a child to verbal abuse, ridicule or humiliation.
  - c. The facility shall be prohibited from any type of physical punishment inflicted in any manner upon the body.
  - d. The facility shall not administer psychotropic medications as a means of punishment or disciplining a child.
  - e. The facility shall ensure that disciplinary measures are:
    - i. Administered as soon after the offensive behavior as possible;
    - ii. Reasonably related to the nature of the offense and are not excessive;
    - iii. Not delegated to persons who are not known to the child;
    - iv. Not administered by residents, volunteers or inadequately trained staff.
  - f. The facility shall allow the use of passive physical restraint only when one or more of the following exists:
    - i. Threat of harm inflicted on staff or residents;
    - ii. Threat of harm inflicted on self; or
    - iii. Excessive and continuous damage to property.
  - g. The facility shall not permit the use of any form of restraint other than passive physical restraint without the prior approval of the licensing authority.
- \*5. Grievances. The facility shall adopt written policies and procedures for children in care and their guardian(s) covering the receipt, consideration, and resolution of complaints and grievances.
- a. Children's grievance procedures shall be written in a clear and simple manner consistent with the age and ability of children in care to understand and shall allow children to make complaints without fear of retaliation.

## Education Commitee

I'm writing this letter to let you now how I feel about the time out room that S.D. #2 use on me and twenty to thirty kids. I was threaten by my teacher and Principal that if I tell anyone about the box, they will put my young brother and sister in the box and beat them up. They threaten all the kids in Winterset Smith School we were all scared to talk to anyone about it. You don't now what it feels like being put in the box. Being put in the box and having the doors lock, that you can't get out and have the light turn off and being put in the dark not being able to see anything. And don't now when you are getting out of the box. I have claustrophobia and the walls, floor and ceiling start to close in on me and I feel like my throat was closing up on me and I couldn't breath any more. Both time I was put in there I fit like I was dying in the box and I just wanted to get out of the box anyway I could. I started to yell and kick the wall and tried to get the ~~door~~ wooden door open to get out but couldn't get it open. Mr. Welsh and the custodian came in and turn the lights on and open the wooden door and grab me and throw me on the floor and sat on me and ~~push~~ <sup>push</sup> me in the face, chest and threaten to put my brother and sister in the box if I don't quite down. But I couldn't quite down because my claustrophobic take me over.

We had to go pass the room everyday wondering who is going to be the next one that is going in the room. Or when I was going to be put in the room next. When you going pass the room you stop and listen to see if someone was in the box by hearing

them yelling and screaming and crying to get out of the rooms, if you crying Keith will beat on you and tell you that you can't cry so you learn not to cry about anything, you must be there and go through this yourself to see what it is. ~~Look like~~ <sup>through</sup>

I put up with this from Sept to ~~March~~ <sup>the end</sup> of Nov before I was move to Hampden school. But the rest of the kids in Winterport Smith School had to put up with it from Sept to March and they had to be scared and afraid that they will be put in the box next. I ~~found~~ <sup>found</sup> out that the teachers was putting kids in <sup>the</sup> box after I left Winterport from Kindergarten to fifth grade in that box, so I went on tv and blew papers and told them my story about the box. They roaring my life and my family life because I told on them and they got cut with their hands in the cookies jar. The Superintendent and School board members couldn't fine anything wrong with the box and way it was being used. I got to live with being the box boy every way I go and everyone in Hampden School system for the rest of my life. I will like to have the Superintendent, Special Ed Director and the School board members and teachers one out a time and do the something to them as they did to us kids in Winterport they will not like it. You must go through the something that we what through everyday, then you will now how much hell we had to go through.

Please pass this bill through the committee

so no one use have to go through this  
everyday of the week and for the rest of  
these lifes, like I have to live with it.  
It will never go away. This time out room  
has taking my child hood away from me,  
had taking my idenity away from me and I  
must live with this for the rest of my life.  
I will probably have nightmares for the rest of my  
life. The doctor I have seen told my parents  
and me that I have some OSBOW has. I will  
always have a flash back from this box. I can  
be sitting some way and I just start to shake  
and sweat and the water just runs off me  
what hoped to ~~be~~<sup>me</sup> in the box's comes all back  
on me night or day. I don't have no one to  
talk to about that that will understand  
me and what I went through. Must all the  
kids and their family's move away because  
of the school system and there lies about the  
box and the way that the school system  
is treat us. I know about 10 of the kids  
that was put in this box is on heavy  
illegal drugs because they can't live with it  
and what ~~hoped to be in the box~~<sup>to die</sup>. No one  
understand me and what I went through and  
the other kids went through.

My mother made a promiss to me and  
all the kids that was put in this box that  
she will change the laws that no one will  
every be put in the box or a time out room again.  
My mother keep her promiss to all of us and  
this is why we are here today <sup>and my family life</sup>

This box has turn my life <sup>and my family life</sup> upside down. I  
miss one year of school I had my left waist backeing  
by a pincipal. My older brother had his head

split open in school with a lunch tray,  
my young brother had his leg broken all  
over the box. My life is being threaten  
that if I came back to Hampden schools  
that I will be killed by someone. No one  
find themselves in the wrong for what they  
are doing to my family. My mother and father  
cant go on the school property because Mr  
Lyons does ~~not~~ not want them in his school  
it no court order its Mr. Lyons and the  
police dept. in Hampden. They are threaten  
to put them in jail it all over the box  
and my mother fighting with them for  
all rights in school.

Please look out this picture of Winterport  
box and the video that Hard Copy made  
in Texas school. The tape tells you all listen  
to the boy yell and screaming for hope and  
put yourself in the boys shoe, I was there  
I was that boy out one time. You dont now  
how it fears.

If it a god I hope that ~~god~~ <sup>god</sup> makes you  
understand what I went through. I hope you  
have a consience and pass this through without  
change this Bill and leave it get past by  
you and ~~the~~ the House of Rep. & Senerte

Please for the Children of Maine.

Thank you for listening to this letter.

April 29, 1997

To: All Maine Legislative Representatives of Aroostook and Penobscot Counties,  
Maine

Re: Time-out boxes

From: Gail Orndorf-Sperry  
206 Stillwater Ave.  
Old Town, Maine 04468

I came to Aroostook County, Maine in 1971 and began working there in the public schools as a speech and language therapist in March, 1971. By 1976, I became head teacher of a district wide program for behaviorially handicapped children, grades K-8, in SAD # 42 in Mars Hill, Maine

In 1982, after completing a M.Ed. program in Special Education at the University of Maine, I became a special education teacher at the elementary level for the Brewer School Department. In 1986, I transferred to the middle school level and remain employed at the Brewer MiddleSchool.

This experience, added to two years experience as a special education teacher in Pennsylvania from 1968 - 1970, gives me a total of 29 years working and observing practices used in the public schools in two counties in Maine and in one county in Pennsylvania. It also gave me the opportunity to work in 30 different schools and work with the teachers, parents, classroom aides, and administrators of those schools.

This is my position on TIME-OUT BOXES:

The original concept of time-out, as I understood it, was to be used in day-care centers, schools, hospitals or homes and meant that a person was to move to an "area." In this "area" she or he could think or calm or quiet down. Under this premise, "time-out" could be a social skill learned by a child or adult to help him/her deal with stress, anger, aggression, conflict, sadness, or hyperactivity and/or to help him or her make better choices.

However, this concept when used by the wrong persons - meaning agresssive or angry or frightened persons - usually is disasterous and develops into punishment and trauma for everyone involved.

In my experience by the time people have resorted to using time-out boxes there has already been serious damage done. Needless to say, putting anyone into a box of any size for any amount of time is inhumane and will cause psychological damage that will have to be undone at some point.

There are children and adults in our society with special needs needing restraint and intervention, but again these folks do not change their behaviors because of being placed in time-out boxes. I am, without reservation, against the use of time-out boxes. I am also in agreement that the use of time-out boxes, over a period of time, will cause trauma disorders in children and adults. Please vote to ban them from being used in schools in Maine.

# Too Much Timeout

*Teachers who use the popular discipline tool sometimes get carried away.*

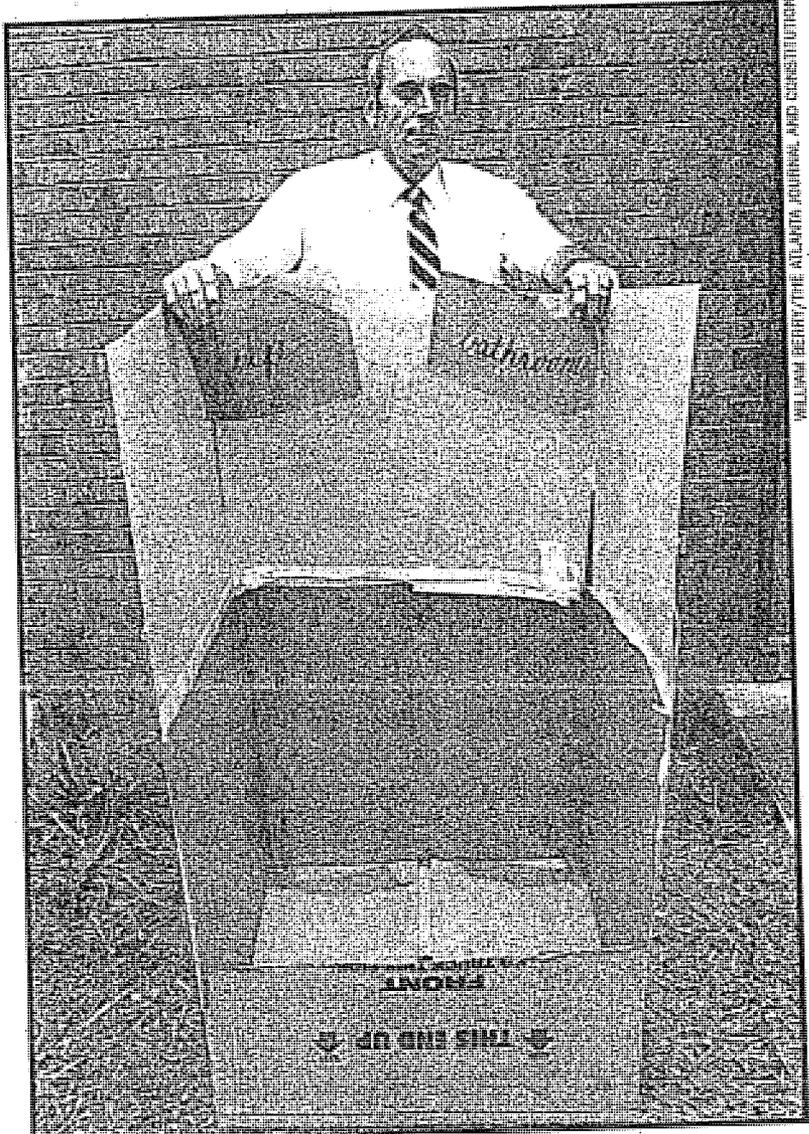
**W**hen she first heard the rumor in the spring of 1993, Charlene Rogers couldn't believe it. A 10-year-old boy was reportedly being confined in a cardboard box during class at Upson Lee South Elementary School in Thomaston, Georgia, where she is a school board member. So Rogers went to the school to see for herself.

Arriving at the school unannounced, she saw the large empty box. Inside were two handmade signs. One read "bathroom"; the other said "help." Police would later confirm that the boy, Raphael Chambles, had been kept in the box during class for two weeks and that the signs were the only way he was allowed to communicate. "I told the custodian the box had to go, and it had to go now," Rogers says.

The school board member wasn't the only one disturbed. News of the 3rd grader's punishment worried other school officials and shocked the rural community in central Georgia. "Everyone was concerned," Rogers recalls.

The story is just one of many reported abuses of the common disciplinary tool known as "timeout." Educators and experts on children's behavior agree that the method can be effective. It is widely used to calm troublesome or disruptive students by removing them from stimulating classroom situations and placing them for a while in quiet, neutral settings. Teachers like the practice because it allows a disruptive child to calm down and reflect while the others continue their lessons.

But as cases like Raphael's show, the practice sometimes gets abused. "Timeout is an effective discipline strategy for both home and school," says Bill



**Thomaston superintendent Lynn Bates displays the box where Raphael Chambles was confined for two weeks in 1993.**

Pfohl, president of the National Association of School Psychologists. "Unfortunately many people do not understand the principles and therefore misuse or overuse it."

Indeed, although intended only as a temporary measure, timeout quickly becomes ineffective, even dangerous, when teachers use it too often or place

children in small, enclosed places for long periods of time. "Locked closets, storage rooms—it's all been done, but it's not appropriate," Pfohl says.

The Thomaston case is one of several reported involving the use of cardboard boxes. Denise Freeman, a spokeswoman for Citizens United for Rural Empowerment in Tignall, Georgia,

says she has also heard of students being placed in broom closets, locked rooms, and even plywood boxes designed for timeout. "There are all kinds of abuses going on," Freeman says. "If the teachers were parents, we'd have them behind bars."

In Illinois alone, more than a dozen parents over the past several years have filed complaints about school timeout practices with the state affiliate of the American Civil Liberties Union. And in Paradise Valley, Arizona, not far from Phoenix, the parents of a 14-year-old boy with attention deficit disorder sued the school district for allegedly placing their son in a locked booth. District officials contest the charges, saying the booth was not locked and did not violate state regulations.

Abuse aside, most experts say timeout, when used correctly, is an effective way to discipline disruptive students. "The concept is not flawed," says Jake Burks, director of instructional services for the 4,000-student Orange County district in central Virginia. "What's flawed is how people use it."

For schools wishing to use the timeout approach, discipline experts recommend the following:  
• Schools and districts should have clearly defined policies for its use. Administrators, teachers, and psychologists should meet to design the program and define the types of disruptive behaviors it will address. "To use it for students who just aren't doing their homework doesn't seem appropriate," Pfohl says.

• Teachers, students, and parents should be informed about the program so that everyone is aware of the practice.

• Timeout rooms should be simple, unstimulating areas—"just basically boring," says Ron Drab-

WILLIAM BERRY, THE ATLANTA JOURNAL AND CONSTITUTION

man, a psychology professor at the University of Mississippi Medical Center. They should not be dark, scary, or frightening.

- Though the rooms should be isolated and away from the stimulation of daily activities, they should always be equipped with a designated monitor or teacher's aide to ensure that students are both safe and well-behaved.

- Time spent in the discipline room should be limited and should reflect the age of the student. Drabman recommends that 5- to 10-year-olds remain no longer than 10 minutes and that 10- to 14-year-olds be given about 15 minutes to cool off.

- The timeout should include follow-up activities. "Timeout should be a small part of a positive program," says Irwin Hyman, a professor of school psychology at Temple University in Philadelphia. "The best way to deal with misbehavior is to talk about prevention." Educators, for example, should require post-timeout conferences with students and their parents to dis-

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'Timeout  
should be a  
small part  
of a positive  
program,' says  
one expert.

---

cuss the behavior problem and ways to improve it. "If you don't do those things," he says, "you're just crossing your fingers and hoping that miraculously this problem solves itself."

At Prospect Heights Middle School in Virginia's Orange County, students who have been given a timeout must complete a written plan describing their disruptive behavior and explaining how they will work to change it. Students then meet with their teachers to discuss the plan before they return to class. "The written plan is the ticket back to class," says assistant principal Gena Johnson.

In Thomaston, Raphael Chambles' two weeks of timeout in a box led to similar changes in discipline policy. Although a police investigation found that no crime was committed, district officials later reprimanded Raphael's teacher and moved her to another classroom.

—Laura Lang

### Suggestions on dealing with definition of time out box

Rather than trying to say what a time out box is, perhaps setting down the requirements for an appropriate time out area is more easily achieved.

Dr. Hyman suggests the following:

adequate ventilation and lighting

safety - child cannot be hurt or hurt himself

the child can be observed from outside the room

the door must not be able to be locked from inside or outside the the room

the child must be able to leave the room and the child must be able to be heard from the room

Pennsylvania actually has a square foot minimum which must be met in order to prevent the problem of deciding is it or isn't it a closet, etc.

## "THE BOX"

Good afternoon. I want to thank you for giving me this opportunity to express my passionate concern about The Time Out Room, or in Hampden, better known as "THE BOX".

My name is Cindy Philbrick. I live in Hampden with my husband Paul and three of our four children. Our oldest is now on his own.

I served on the SAD22 school board for three years. During my term, there was a 3 1/2' X 5 1/2' box constructed in our district that was used for discipline. The first the school board learned of this box was from Supt. Richard Lyons. He called all the board members one hour prior to it hitting the 6:00 pm news. I was horrified at viewing the actual pictures of "THE BOX" on local television.

At our next school board meeting several parents came to plead with the board to do something. Parents were begging and crying for the board to respond. They just wanted to be assured that this would never happen again. Supt. Richard Lyons announced to the public that he was going to do an investigation. He also placed Mr. Welch, the principal, on a paid leave of absence.

After eight weeks of investigating his own staff, Mr. Lyons and Special Ed Director, RUEY Yehle produced their investigative report, a justification for "THE BOX". They not only admitted no wrong doing, they announced that since use of the box wasn't illegal, we would now have Time Out in every school. They gallantly tried to cover their tracks by orchestrating a "behavior modification" document supporting their actions.

What they used for behavior modification was not a room, it was a 3 1/2' X 5 1/2' box with a door and a lock, all located inside a cinderblock storage closet. Mr. Welch, the principal, caught a Mother taking pictures of "THE BOX". He then ordered her to give him the camera. The Mom refused and had the film developed. Thus, we have the pictures.

(2)

Suspiciously, "THE BOX" was taken down after the news picked up the story. I asked Supt. Lyons why this "BOX" was taken down since the administration strongly supported its use. At first, Supt. Lyons said he didn't know. I also asked if we could reconstruct the box with all the same pieces. Ironically, Mr. Lyons didn't know where the pieces went. There were no remains to be found. I asked Mr. Lyons if he knew about "THE BOX". "No", he said, "I knew nothing." I then asked: "who in the world ordered this to be built?" He said: "a parent wanted it built for their child who is in Special Ed."

In Mr. Lyons investigation, he claims eight children were put in "THE BOX", for disciplinary purposes. Most of the eight were not special ed. students. One 11 year old boy, not in special ed., was confined to "THE BOX" all day. I asked his mother what her son did to get 6 hours in solitary confinement in the box. She started to cry and told me he got caught running down the hall. This Mom was so crushed and felt so guilt ridden for sending her son to school. Several nights after her son's corporal punishment, while tucking him into bed, she asked him why he didn't tell her about this incident. He said: "you always told me that if I got in trouble in school, I would be in trouble when I got home." This was a parent that always supported the school and wanted the best for her child. This Mom proceeded to listen to her son about his day in "THE BOX". He said, "It was o.k., I was cold, and I cried." "I was scared, it was dark in there." " But, I'm o.k.." He was eleven years old. He got caught running down the hall.

Shortly after, this family moved away.

I also served on the board with a gentleman from Winterport ,where this school with the box is located. He said his daughter was scared to go to school every day for fear of being put in "THE BOX".

On Nov. 18th, 1993 Carsten Geisel was another victim of the box. Carsten is a special ed. student. I read his Nov. 15, 1993 IEP report, that his Mother, Linda, showed to me. The Doctor clearly stated in this report that Carsten was never to be put in a small, enclosed area, as he is claustrophobic. Carsten did not go to "THE BOX" willingly. It took several adults, a janitor, the principal, and two teachers to drag Carsten down the hall. Carsten was kicking, screaming, fighting, biting etc. all the way.

(3)

The principal ended up on top of Carsten to hold him down in "THE BOX". Carsten had several ribs broken as a result of his incarceration in the box. Imagine the spectacle of a school full of trained adults and professional teachers and administrators who find it necessary to forcibly and with bodily injury place a child in solitary confinement, sometimes for long periods of time to maintain control of the classroom. This is a cruel and troubling picture.

Our public school systems need to focus, not on building prison cells, but on retraining or replacing staff and administration. If you have to put a child in "THE BOX", the problem is not the school, it's the administration. Carsten's fear of claustrophobia is very real. I am not a psychiatrist so I cannot address this fear. The only thing I can equate this to, is my own fear of snakes. If you tried to put me in a large room with a snake in it, I would do just as Carsten Geisel did. I would kick, holler, scream, bite, scratch, and anything else that came to mind. I cannot imagine that this practice hasn't caused long term emotional damage. This is clearly a case of educator induced post traumatic syndrome. I can't imagine a child having to walk back in that school day after day knowing "THE BOX" is just waiting, down the hall.

Ruey Yehle, our very own, Special Ed. Director ordered this "BOX" built. Supt. Richard Lyons claimed he didn't know there was a "BOX" built.

Parents were never notified about "THE BOX". In this country, people aren't thrown in jail without a trial. You are entitled to a hearing with your counselor. Citizens are entitled to a trial, with a jury and representation by one's own lawyer. Imagine children going to school thinking they may end up in jail. Imagine the social stigma a child endures when he becomes a jail bird in 2nd grade. Now imagine it's your child or grandchild.

Not one teacher, principal, janitor or administrator in SAD #22 was ever disciplined for using this "BOX" as solitary confinement or corporal punishment.

If I had locked my children in a closet at home as a punishment, DHS would take my children away. And they should!

(4)

In this case in SAD# 22, not one apology was ever issued to any of the children, or the parents. In fact, those parents and children received just the opposite response. Almost every teacher set out to justify the way "THE BOX" was used. For example, Debby Peet, an SAD#22 guidance councilor, told students: "those children deserved it." My children too, sat in classroom after classroom (during valuable school time) listening to their SAD#22 teachers remark: "it really wasn't a box, besides, that lady that went to the news and reported it with pictures is crazy anyway." That lady, to whom they referred, Linda Geisel, knew it was wrong to put children, including her own, in a "BOX". Our SAD#22 trained professionals still don't know this practice is wrong. This case exemplifies best, how character assassination is used by SAD#22 staff to undermine the credibility of the very people the public has entrusted them to serve.

It's no small wonder that in the past 5 years, (10) SAD#22 school board members have tuitioned their own children to other schools outside SAD# 22 (HAMPDEN, NEWBURGH AND WINTERPORT).

Before you make your final decision on the disposition of this bill, I request that you check with the Attorney General concerning the legal and procedural aspects of using "TIME OUT BOXES" in Maine. At places, like the Levenson Center in Bangor, even when the child's life is in danger, by trying to harm himself or others, a box cannot be used to modify behavior. In many cases they have to get permission from the Attorney General in a life threatening case. Shouldn't we offer our public school children as much protection when they are misbehaving as we do our handicapped?

We need help in SAD#22. Unfortunately, we need another law, to protect the children. School should not be a painful or fearful place to send our children.

I urge you to support Rep. Debra Plowman's legislative bill. Legislative Bill's like this shouldn't be necessary, but they are.

Sincerely Yours,

*Cynthia L. Philbrick*  
Cynthia L. Philbrick

Former SAD#22 School Board Member, and Concerned Parent

April 30, 1997

Your Honorable Education Committee members,

My name is Sandra Albair, I am married and the mother of two children and we live in Hampden, Maine. I have a degree in Speech Pathology and Audiology from the University of Maine at Orono. My background includes directing a federally funded pilot program for the deaf, blind and mentally handicapped which included studying at Perkins Institute for the Blind in Boston, Massachusetts. During that time, I studied behaviorism and behavior modification techniques under the direction and supervision of psychologists, social workers, and professors while working with children with moderate to severe mental and physical problems.

First, I feel it is important to understand that the techniques for behavior modification and discipline are different. Successful behavior modification techniques are based primarily on positive reinforcements to bring about desirable behavior, whereas discipline focuses on the withdrawal of positive reinforcement and/or negative consequences to extinguish inappropriate behavior. Both approaches require goals and several objectives to meet these goals based on observable behavior that can be measured both in frequency and time. Identifying what are positive and negative reinforcements for each person is critical in order to change their behavior because of individual likes and dislikes. For example, placing a disruptive child who is claustrophobic in a box for "time out" to cool down will only make him more disruptive, not calmer, because of his fear and dislike of small spaces.

Experts on student discipline suggest that the only time isolation booths (time out boxes) have a role in the educational setting is when educators are working with children with severe mental or emotional problems and they should only be used for a short period of time 5-30 minutes and only as an opportunity for the child to settle down. Isolation can lead to anxiety to post-traumatic stress and anger can develop -especially among teenagers - which can be counterproductive. This technique has lost favor to alternative techniques to calming disruptive behavior.

In 1993-1994, I served on the Board of Directors in SAD #22 during which time the incident with the time-out "box" occurred in Winterport at the Smith School (K-5). In February 1994, the Board of Directors became aware of allegations that two students at Smith School had been unjustly placed in a 4' x 6' structure parents called the "box" for disciplinary and disruptive behavioral reasons without the parents knowledge beforehand. As a result, the media, parents, citizens, students, teachers, board of directors, neighbors, and surrounding communities were shocked to learn that children in their own backyard were being mistreated as what some termed as "institutionalized child abuse."

One mother, Linda Geisel, whose claustrophobic son, Carston, was wrongfully put in this "Box" twice has been fighting for his rights and education since 1993. Initially, all Linda

wanted was a written apology to lift the stigma from her son and a promise that it would never happen again. Superintendent, Richard Lyons, did not offer an apology nor counseling to Carston and his family. Carston still suffers today.

As this issue grew, another mother called me whose son had been placed in a time out room in the resource room at Hampden Academy. She explained that he spent the first six weeks of school in this room and was told that he had to earn his way out. He said he was cold in this room and that the other kids labeled, teased and tormented him once he got out.

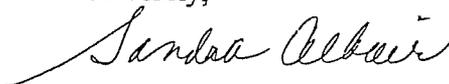
Later, I called Celeste, the mother of the boy who was put in the "box" for the entire day for an in-school detention to see if she was satisfied with the response of our administration. She stated she was very dissatisfied and I was the first person to call her. No one apologized for what had happened to her son. I asked her if her son had retracted any of his statements as our Superintendent stated he had. This was so upsetting to Celeste that she sent me the following letter denying that her son had lied and had it notarized. She stated that her son has issues with authority figures and trust. Counseling was not offered to this family. (See attachment)

This time was very difficult for me as a board member because I knew as a school official I was responsible for the welfare of the district's children and I was not in support of the actions taken by the Superintendent, Richard Lyons, and the Board of Directors of SAD #22. Therefore, I submitted a letter and documentation to the Commissioner of Education requesting an investigation of the use of time out in SAD #22. As a parent, I would never accept this form of abusive punishment to my child, so how could I accept if it happened to someone else's child. It is immoral, irresponsible, and abhorrent to place anyone's child in a "box" in school for any reason.

The use of a time out box belongs in the clinical setting where trained specialists are constantly present to supervise the behavior of their patients. The public school system does not have the physical resources and personnel to get involved in this sort of behavior modification technique.

I wholeheartedly support Deborah Plowman's bill and her co-sponsors to ban time out boxes in schools, and I thank them for their genuine care and concern for the well being of all Maine's school children. Also, I admire Linda Geisel and her son, Carston, for their strength and courage to continue to fight for their rights over the past several years. Hopefully, she and Carston will be able to say they made a difference.

Sincerely,



Sandra Albair

October 25, 1994

To Whom IT May Concern,

I swear that the following information is true and that I am stating the following facts as to the best of my ability.

In the month of February 1994 my son Jason Wayne DeLong was eating breakfast at the Smith school when he was approached by the principal Mr. Welch and the Janitor we call Jim. They asked Jason to follow them in order to speak to him. He was taken to a utility room. They then informed Jason that he was to be put in an area which resembles a stall like structure and that he would remain there for the remainder of the day. They explained to him that this was being done due to an incident that had occurred the day before. At this time Mr. Welch took Jason by the hand and placed him in the box. Jason then began to cry and asked to be sent home. Mr. Welch told him NO. Mr. Welch told Jason that he was going to call home. I did not receive any call from the school nor did the person who is listed to be called if I am not able to be reached. Jason was monitored by many teachers and the guidance person through out the day. He was given his work for the day and was expected to do this work on the mat on the floor which was his only place to do this as there was no chair or desk. At lunch time Jason was given a chair. He then placed his meal on the chair and sat on the floor in order to find some dignified way to eat and still maintain his manners. Jason cried through the day and continued to beg to go home. His request was met with no mercy. Since the incident has been brought to my attention Jason has revealed to me that this was not the only time he was placed in the box. I was informed of this situation at a P.E.T. meeting for Jason by Mr. Welch. He also commended Jason on his good behavior while in the box. This I find appalling. I would like to add the fact that my precious son complained only that he was VERY cold and scared.

I DID NOT AT ANY TIME CALL MR. LYONS. I CERTAINLY DID NOT EVER SAY THAT MY SON LIED OR THAT ANY OF THIS WAS IN ANY WAY ACCEPTABLE. NOR DID I AT ANY TIME RETRACT ANY STATEMENT THAT I MADE PERTAINING TO THIS SICK AND ABUSIVE TREATMENT OF MY CHILD.

I pray that I will be able to do something to insure that no other child will ever have to endure the horror that my son lived and continues to try to over come with every day of his life.

Sincerely,

Mary "Celeste" Vose

Annis Phillinck

127/94

Edo, ss.

personally appeared the above named my "Celeste" Vose before me.



# MADSEC

Maine Association of Directors of Services for Children with Exceptionalities  
Kennebec Centre RR #2, Box 1856 • Manchester, ME 04351 • (207) 626-3380 • FAX (207) 626-3347  
Internet: MADSEC@SATURN.caps.maine.edu DSS/First Class: MADSEC

Wayne L. Newland, Ed.D., Executive Director

Penelope A. Morrell, Adm. Asst./Office Mgr.

**TO:** Joint Standing Committee on Education and Cultural Affairs

**FROM:** Monica Strobel, Vice President & Co-Chair, Legislative Committee  
Hanneke McQuoid, Co-Chair, Legislative Committee  
Wayne Newland, Executive Director

**DATE:** April 30, 1997

**RE:** L.D. 1542 "An Act to Eliminate the Use of Time-out Boxes."

MADSEC is opposed.

We do not support the use of aversive consequences, and we do not tolerate abuse of students.  
We want children to remain in school.

However, some children need to be removed from the immediate area to ensure the safety of students and staff. The use of various positive, appropriate behavioral techniques should be described in the child's Individualized Education Program (IEP).

#### Officers 1996-97

**President**  
Paige Coville  
SAD #32/DOE

**Past President**  
Carolyn A. Crowell  
Brunswick

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Augusta

**Secretary**  
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SAD #9

**Treasurer**  
Michael Butler  
SAD #58

**OFFICE OF POLICY AND LEGAL ANALYSIS**

Date: May 7, 1997  
To: Education and Cultural Affairs  
From: Phillip D. McCarthy, Legislative Analyst  
Roy Lenardson, Legislative Analyst

**LD 1542 An Act to Eliminate the Use of Time-out Boxes**

**SUMMARY**

This bill prohibits the use of time-out boxes for purposes of punishment or detention and requires the Department of Education to adopt rules regarding the use of punishment techniques and areas.

**TESTIMONY**

**Written:** Rep. Plowman  
Gail Orndorf - Sperry  
Monica Strobel, MADSEC  
Cindy Philbrick  
Sandra Albair  
Carsten Geisel

**Proponents**

- We do not need to use time-out boxes, which are a form of solitary confinement, as a means to punish children
- Time-out boxes are detrimental to the learning process, and they do not have a place in the school setting
- They expose school districts to unnecessary liability
- Putting anyone into a box of any size for any amount of time is inhumane and will cause psychological damage
- The use of a "box" or other confined area may be used in a psychiatric facility, however, the staff at such a facility would have training, that no

**Neither for nor Against**

- The bill is not a good vehicle to get at the problem. It may be too broad and include time out areas, which are effective
- Discipline is a local control issue

school administrator or other staff member is likely to possess

**POTENTIAL ISSUES OR TECHNICAL PROBLEMS:**

- Does it make sense to ban time-out boxes versus setting minimum standards for time-out areas?
- 

**FISCAL IMPACT:**

The prohibition on the use of certain methods of punishment in school administrative units represents a state mandate pursuant to the Constitution of Maine. The additional local costs to develop and provide punishment alternatives can not be determined. General Fund appropriations will be required to fund at least 90% of the additional costs unless a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirements.

The additional costs associated with adopting rules related to punishment techniques in schools can be absorbed by the Department of Education in utilizing existing budgeted resources.

A fiscal note must be amended to the bill pursuant to Joint Rule 312.

Committee: EDU  
LA: RWL  
File Name:  
LR (item)#:002302  
New Title?: YES  
Add Emergency?: No  
Date: May 7, 1997

Amend the bill by striking out the title and inserting in its place a new title as follows: ‘  
**An Act to Define Time-out Areas**’

Further amend the bill by striking out everything after the enacting clause and inserting in its place the following:

**Sec. 1. 20-A MRSA §4502, sub§5, ¶M** is enacted to read:

M. Any disciplinary procedures, including the use of time out, will be administered in accordance with rules adopted by the Department and with this paragraph. Any use of a time-out area is subject to the following:

(1) The time-out area must be well ventilated, sufficiently lighted and the area may not be locked; and

(2) The time-out area must be designed to ensure the safety of the student so that the student is supervised by a professional staff member in the room or be subject to observation from outside of the area and any person supervising the time-out is able to hear the student from the area.

**Sec. 2** is enacted to read:

The Commissioner of Education shall adopt rules, (major substantive), regarding the use of time out procedures by school administrative units which are in accordance with the standards established by the Department of Human Services for licensing residential child care facilities, and the Department of Mental Health and Mental retardation, and substance Abuse services for mental health treatment.

### Summary

The amendment replaces the original bill and delineates certain specifications regarding the use of a time out area. The amendment also direct the commissioner to adopt rules regarding time out procedures generally and to ensure that they are consistent with other Department and state agencies.

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(2) The time-out area must be designed to ensure the safety of the student so that the student is supervised by a professional staff member in the room or be subject to observation from outside of the area and any person supervising the time-out is able to the hear the student from the area.

**Sec. 2 is enacted to read:**

The Commissioner of Education shall adopt rules regarding the use of time out procedures by school administrative units which are in accordance with the standards established by the Department of Human Services for licensing residential child care facilities, and the Department of Mental Health and Mental retardation, and substance Abuse services for mental health treatment. These rules are major substantive rules for the purpose of Title 5, chapter 375, sub-chapter 2-A.

### Summary

The amendment replaces the original bill and delineates certain specifications regarding the use of a time out area. The amendment also direct the commissioner to adopt rules regarding time out procedures generally and to ensure that they are consistent with other Department and state agencies.

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OFFICE OF FISCAL AND PROGRAM REVIEW  
AMENDMENT FISCAL REVIEW

May 13, 1997  
Revision #1

LD: 1542 LR: 23 Item: 2 Filing#: Analyst: SLB  
Type of Amendment: C A Requester: RWL  
Sponsor:  
Fiscal Note Only Request: NO  
Fiscal Impact of Amendment: FISCAL IMPACT  
Fiscal Note Required: YES  
Approp./Alloc. section(s) or additional attachments required: NO  
Mandate Exemption: ADDED  
Drafting Notes: Mandate preamble will be added per RWL.

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FISCAL NOTE

This bill requires school administrative units that are currently using time-out areas to comply with additional requirements. To assure that those units comply with these requirements, a General Fund appropriation or a mandate preamble must be amended to the bill. The additional costs to these school units are expected to be minor, relating only to the meetings to come up with an alternative discipline procedure and notifying the affected schools.

The additional costs associated with adopting rules regarding the use of time-out procedures can be absorbed by the Department of Education utilizing existing budgeted resources.

Committee: EDU

LA: PDM

LR (item)#:

New Title?:

Add Emergency?:

Date: March 28, 1997

File Name: G:\OPLAGEA\COMMTTEE\EDU\AMENDMTS\LD1542AM.DOC (00/00/00 0:00 AM)

## PROPOSED COMMITTEE AMENDMENT

Prepared for Senator Cathcart

### COMMITTEE AMENDMENT “.” To LD 1542, An Act to Eliminate the Use of Time-out Boxes

Amend the bill in Sec. 1 in the part designated section 11 as follows:

Sec. 1. 20-A MRS § 11 is enacted to read:

#### § 11. Time-out boxes ~~areas prohibited~~ defined

~~The use of a time out box is prohibited. For purposes of this section, "time out box" means any segregated area in which a child is placed for purposes of punishment or detention.~~

The department shall define and evaluate "time-out" behavioral intervention techniques and their appropriate uses and adopt rules, by January 1, 1998, regarding the use of punishment techniques and areas. The department shall appropriate adequate funds to train all teachers in the use of intervention strategies for disciplinary measures. Rules adopted pursuant to this section are routine technical rules, pursuant to Title 5, chapter 375, subchapter II-A.

### SUMMARY

This bill ~~prohibits~~ evaluates the use of time-out boxes for purposes of punishment or detention and requires the Department of Education to adopt rules regarding the use of punishment techniques and areas and funds the training of teachers regarding proper techniques.

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L.D. 1542

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DATE: (Filing No. H- )

**EDUCATION AND CULTURAL AFFAIRS**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
118TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT " " to H.P. 1099, L.D. 1542, Bill, "An Act to Eliminate the Use of Time-out Boxes"

Amend the bill by striking out the title and substituting the following:

**'An Act Concerning Time-out Areas'**

Further amend the bill by inserting before the enacting clause the following:

**'Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

**'Sec. 1. 20-A MRSA §4502, sub-§5, ¶K,** as enacted by PL 1983, c. 859, Pt. A, §§20 and 25, is amended to read:

K. School improvement; and

**Sec. 2. 20-A MRSA §4502, sub-§5, ¶L,** as amended by PL 1989, c. 415, §11, is further amended to read:

**COMMITTEE AMENDMENT**

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L. Prepare and implement an on-going ongoing school improvement process and annually update a written school improvement plan, including a fully developed staff development plan for identifying at-risk students in kindergarten through to grade 12, including, but not limited to, truants and dropouts, and the development of appropriate alternative programs to meet their needs; and

**Sec. 3. 20-A MRSA §4502, sub-§5, ¶M is enacted to read:**

M. The use of time-out areas, administered in accordance with standards adopted by the department and with this paragraph. The use of a time-out area is subject to the following:

(1) The time-out area must be well ventilated and sufficiently lighted. The time-out area may not be locked; and

(2) The time-out area must be designed to ensure the safety of the student so that the student is supervised by a professional staff member in the room or can be observed from outside of the time-out area and can be heard by a person supervising the time-out area.

**Sec. 4. Adoption of rules for use of time-out procedures.** The Commissioner of Education shall adopt rules by January 1, 1998 regarding the use of time-out procedures by school administrative units that are in accordance with the standards established by the Department of Human Services for licensing residential child care facilities and the Department of Mental Health and Mental Retardation and Substance Abuse Services for mental health treatment. These rules are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.'

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

This bill requires school administrative units that are currently using time-out areas to comply with additional requirements that may necessitate additional expenditures. The additional costs to these school units are expected to be minor, relating only to the meetings to come up with an alternative discipline procedure and notifying the affected schools. Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional local costs.

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The additional costs associated with adopting rules regarding the use of time-out procedures can be absorbed by the Department of Education utilizing existing budgeted resources.'

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SUMMARY

The amendment replaces the original bill and delineates certain specifications regarding the use of a time-out area. The amendment also directs the Commissioner of Education to adopt rules regarding time-out procedures generally and to ensure that those rules are consistent with other departments and state agencies. The amendment also adds a mandate preamble and a fiscal note to the bill.

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JOHN D. WAKEFIELD  
Director

Date: 04/30/97 ORIGINAL  
Hearing Date: 04/30/97  
Committee: Education and Cultural Affairs

JAMES A. CLAIR  
Deputy Director

Maine State Legislature  
**OFFICE OF FISCAL AND PROGRAM REVIEW**  
Augusta, Maine 04333

TO: Senate Chair - Sen. P. Pendleton  
House Chair - Rep. S. Richard  
Sponsor - Rep. Plowman of Hampden  
FROM: Grant T. Pennoyer, Principal Analyst  
SUBJECT: FISCAL NOTE INFORMATION FOR LD 1542

**An Act to Eliminate the Use of Time-out Boxes**

**Comments:**

The prohibition on the use of certain methods of punishment in school administrative units represents a state mandate pursuant to the Constitution of Maine. The additional local costs to develop and provide punishment alternatives can not be determined. General Fund appropriations will be required to fund at least 90% of the additional costs unless a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement.

The additional costs associated with adopting rules related to punishment techniques in schools can be absorbed by the Department of Education utilizing existing budgeted resources.

A fiscal note must be amended to the bill pursuant to Joint Rule 312.

STATE OF MAINE

118th Legislature

OFFICE OF FISCAL AND PROGRAM REVIEW

06/10/97 <sup>RP</sup>

H.P. 1099 - L.D. 1542

MANDATE

**CURRENT TITLE: An Act Concerning Time-out Areas**

**Committee: Education and Cultural Affairs**

**Fiscal Impact of LD: Current Costs**

**This Fiscal Note is for the bill as Engrossed with the Following Amendments:**

C "A" (H-541)

Fiscal Impact

H "A" (H-612) to C "A" (H-541)

No Fiscal Impact

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FISCAL NOTE

This bill requires school administrative units that are currently using time-out areas to comply with additional requirements that may necessitate additional expenditures. The additional costs to these school units are expected to be minor, relating only to the meetings to come up with an alternative discipline procedure and notifying the affected schools. Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional local costs.

The additional costs associated with adopting rules regarding the use of time-out procedures can be absorbed by the Department of Education utilizing existing budgeted resources.

### COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 1542

Committee: EDUCATION AND CULTURAL AFFAIRS

Date: May 7<sup>th</sup> 1997

Motion: OTPA

Motion by: Stedman

Seconded by: Barth

| Those Voting in Favor of the Motion | Recommendation of those opposed to the Motion |     |        |           |          | Absent | Abstain |
|-------------------------------------|---|-----|--------|-----------|----------|--------|---------|
|                                     | ONTP  | OTP | OTP-AM | New Draft | Re-Refer |        |         |

**Senators**

|             |   |  |  |  |  |  |  |
|-------------|---|--|--|--|--|--|--|
| 1 PENDLETON | ✓ |  |  |  |  |  |  |
| 2 SMALL     | ✓ |  |  |  |  |  |  |
| 3 CATHCART  | ✓ |  |  |  |  |  |  |

**Representatives**

|               |   |  |  |  |  |  |  |
|---------------|---|--|--|--|--|--|--|
| 1 RICHARD     | ✓ |  |  |  |  |  |  |
| 2 BAKER       | ✓ |  |  |  |  |  |  |
| 3 BARTH       | ✓ |  |  |  |  |  |  |
| 4 BELANGER    | ✓ |  |  |  |  |  |  |
| 5 BRENNAN     | ✓ |  |  |  |  |  |  |
| 6 DESMOND     | ✓ |  |  |  |  |  |  |
| 7 McELROY     | ✓ |  |  |  |  |  |  |
| 8 SKOGLUND    | ✓ |  |  |  |  |  |  |
| 9 STEDMAN     | ✓ |  |  |  |  |  |  |
| 10 WATSON     | ✓ |  |  |  |  |  |  |
| <b>TOTALS</b> |   |  |  |  |  |  |  |

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# HOUSE REPORT

THE COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

to which was referred the following:

**An Act to Eliminate the Use of Time-out Boxes.**

H.P. 1099

L.D. 1542

has had the same under consideration, and asks leave to report that the same

\_\_\_\_\_  
OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT " "

*Steve J. Richard*  
\_\_\_\_\_  
(Signature)

of MADISON

\_\_\_\_\_  
For the Committee.

REP. RICHARD

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(Type)  
Rep. of (Town) and/or Sen. of (County)

(Signatures)

# HOUSE REPORT