



EQUALITY ♦ LAW ♦ JUSTICE

## Disability Rights Center of Kansas

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### Testimony in Opposition to HB 2243

Chairman Jennings and Members of the House Corrections and Juvenile Justice Committee:

My name is Rocky Nichols. I am the Executive Director of the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy organization that is part of a national network of federally mandated organizations empowered to advocate for Kansans with disabilities. DRC is the officially designated protection and advocacy system in Kansas. As such, we are granted specific powers under federal law to investigate abuse and neglect against people with disabilities, including students in public schools. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection and enhancement of the civil and legal rights of Kansans with disabilities.

HB 2243 would undo the historic and unprecedented compromise reached last year when a legislatively mandated and created Emergency Safety Intervention Task Force (see attached report) unanimously agreed to endorse policy changes on the use of seclusion and restraint in public schools. These recommendations were passed into law just last year. The changes passed last year were 13 years in the making. Over the past 13 years other Legislative Committees (House Children and Seniors, Senate Education, etc.) have heard heartbreaking stories from parents whose special needs children were subjected to horrific instances of seclusion and restraint. Thankfully, the different education and disability communities came together and unanimously supported this unprecedented Task Force compromise.

#### **Addition things to consider about this proposal:**

- This bill would create a dangerous new loophole allowing increased use of mechanical restraint in schools. Mechanical restraint is one of the most dangerous types of restraint. This bill would allow a school employee who happens to be a “security officer” – who we would remind you is not a certified law enforcement officer – to hand cuff, zip tie, roll a child up in a gym mat, use a dog kennel, strap a child with Cerebral Palsy to a Rifton chair, duct tape a child to a chair, or as the bill states use “any device” to mechanically restrain a child.

- These examples are not hyperbole. The examples above are actual reports of the abuses of mechanical restraint in Kansas schools that we have received in our role as the federally designated protection and advocacy system which investigates abuse and neglect. The last one I mentioned, where a child was literally taped to a chair as a form of mechanical restraint, occurred after last year's law went into effect and it was reported to us within the past month.
- If the federal protection and advocacy system is still getting reports of school staff taping children to their chair to immobilize them, which is clearly illegal under the current law, this highlights yet another reason why you should not create a new loophole in the law for schools to exploit and use dangerous mechanical restraints.
- Finally, current law already exempts certified law enforcement officers from the mechanical restraint prohibition when they are carrying out their law enforcement duties. Also exempted are needed and appropriate protective or stabilizing devices. The Task Force agreed these exemptions are sufficient.
- Our understanding is this bill is being pursued by Wichita Public Schools. Mr. Chairman and members of the Committee, you need to know that a current Board member of Wichita Public Schools was a voting member of the ESI Task Force. In fact, at the time of the Task Force's actions, this Task Force member was actually the Board President of Wichita Public Schools. Like the other 16 members of the Task Force, the Board President of the Wichita Public Schools voted to support the Task Force recommendations. The Task Force did not recommend to allow school safety officers to use mechanical restraint.
  - The issue of whether school security officers should be exempted from the mechanical restraint requirements was specifically and carefully considered and vetted by the task force and it was not adopted.
    - Given the vast differences in the training, knowledge and abilities of a certified law enforcement officer versus a "school security officer," the Task Force rightfully did not recommend an exemption to use mechanical restraint for mere school security officers.
  - Again, all members of the task force voted for the final recommendations, which the Legislature passed into law.
- This bill violates one of the Core 15 Principles endorsed by the US Department of Education (see attached) in regards to the effective and safe use of seclusion and restraint in public schools. For many, the USDE's 15 Principles were something of a blue print for Kansas law:
  - "Schools should never use mechanical restraints to restrict a child's freedom of movement ... " (Principle Number 2 from USDE recommendations)
- 34 disability organizations supported the Task Force recommendations and opposed an exemption for school security officers regarding mechanical restraint (see next page).

# **34 Organizations who Supported the ESI Task Force Recommendations and did NOT support a mechanical restraint exemption for school security officers**

Coalition to Protect Children from Unnecessary Seclusion and Restraint  
Interhab  
Disability Rights Center of Kansas  
Big Tent Coalition of Kansas  
Kansas Governor's Commission on Autism  
Autism Speaks  
Shawnee Mission Special Education PTA (Parent Teachers Association)  
Alliance for Childhood Education (business leaders advocating for education)  
Johnson County Developmental Supports (JCDS)  
National Alliance on Mental Illness – NAMI Kansas  
Association of Community Mental Health Centers of Kansas  
Autism Society for the Heartland (ASH)  
National Down Syndrome Society (NDSS)  
Down Syndrome Guild of Greater Kansas City  
Self Advocate Coalition of Kansas (SACK)  
The Center for Child Health and Development at University of Kansas Medical Center  
Kansas Mental Health Coalition  
Kansas Council on Developmental Disabilities  
Kansas Association of Centers for Independent Living  
Keys for Networking  
Puzzle Piece Ranch  
Disability Supports of the Great Plains  
The Alliance for Kansans with Developmental Disabilities  
Topeka Independent Living Resource Center (TILRC)  
The Arc of Douglas County  
Breakthrough House, Inc.  
Skills to Succeed  
Inclusion Connections, Inc.  
Down Syndrome Society of Wichita  
Kansas Developmental Disabilities Coalition  
University of Kansas Center on Developmental Disabilities (UCDD)  
Easter Seals Capper Foundation  
Kansas Appleseed  
Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council