Testimony Opposed to HB 2243

Mr. Chairman and Members of the Committee:

My name is Austin Rencarge. I am the proud parent of a beautiful seven year old girl, Hailey, who was born with Down Syndrome. Our family recently moved to Olathe Kansas for my job. Hailey has attended school in the Olathe School District for the past four months. Prior to that Hailey attended school in Colorado. We had researched Kansas schools and were excited about what we read. The reality was far from the perception. We have had numerous problems with Kansas schools and the use of seclusion and restraint. We did not have these problems in Colorado. After hearing our story, you will hopefully see why we are losing our faith in Kansas schools.

Mr. Chairman, I ask at the onset that you allow me a little leeway to be able to tell our story, because it is key to the bill at hand. I have come from out of town and I am just a parent and not a seasoned lobbyist. However, if you give me some time and the latitude to tell our story you will see how it illustrates why this Committee should absolutely not pass any new loopholes for school security officers to use mechanical restraints. Our story shows how schools are already subverting the law you passed just last year in multiple ways. The last thing you should do is give schools another loophole to make it easier to use mechanical restraint against children.

Our first example is about Hailey being subjected to physical restraint, which is the use of bodily force to substantially limit a child's movement. You may have read how physical restraint done wrong can injure a child or even cause death. Our example shows how Olathe schools selectively and blatantly ignored the current law and additionally refused to provide written notification of the use of restraint against Hailey in the timeline required under law.

Two incidences of inappropriate physical restraint occurred in one day against my daughter Hailey. Both incidents were witnessed by a school employee, who reported the incidents. The first incident involved a para educator closing a door on Hailey and kicking her in the ribs to get her to move from the door way where she was laying on the ground. Hailey has Down Syndrome, developmental delays and some behavior issues. She was simply laying on the ground in the doorway, not being a threat to anyone. This was a manifestation of her disability. However, the law you passed last year, and unanimously endorsed by the special Task Force, makes it illegal to use physical restraint unless there is a "reasonable and immediate danger of physical harm" to self or others. Hailey was not a danger to anyone. The law you passed also requires the school to try or rule out as ineffective "less restrictive alternatives" such as positive behavior interventions. Those were never considered with Hailey. The para just kicked her in the ribs and applied bodily force to try to get her to move.

The second example of inappropriate restraint happened the same day. This was also witnessed by school staff and reported. Hailey was holding a crayon and a para asked to have the crayon. Hailey was confused and did not understand because she was using and enjoying the crayon. The para grabbed Hailey by the arm, restrained her, and forcefully took the crayon away from her. Again, Hailey posed no "danger of physical harm" to herself or others with this crayon. No less restrictive measures were tried. Positive behavior interventions were ignored. Kansas law was selectively ignored by the school. Olathe schools, just like the old saying goes, were granted an inch and they took a mile. With schools thwarting and subverting the new law you passed last year, you absolutely should not give them new loopholes to exploit.

Adding insult to Hailey's injury, the school also refused to provide us timely written notice and documentation of the use of these two incidents of bodily force and restraint. The law you passed is clear. Schools must provide written documentation of the use of emergency safety intervention "to the parent no later than the school day following the day on which the emergency safety intervention was used." The law goes on to spell out seven different facts the school must provide to parents

about the seclusion and restraint incident. The school never provided us with the information required under the law about these incidents.

The final examples we have are about the inappropriate use of seclusion against Hailey. These examples illustrate how schools are not always following the current law, and therefore the last thing you should do is weaken that law to create new loopholes. Seclusion is when you isolate a child in a room. My wife and I witnessed on three separate occasions where Hailey was forced into seclusion in violation of Kansas law. Before I go over these last examples, I want to remind you that we have been in Kansas for all of four months! We attended three IEP meetings where Hailey was forced to be in a seclusion room (they call it the "Wildcat Den" at Hailey's school). Hailey is not able to attend these IEP meetings do to some attention and cognition issues (the three meetings in question were roughly 4 hours each). So, the school's response was to force Hailey into the "Wildcat Den" room during the whole time we were in the IEP meetings. When we asked why wasn't Hailey in her classroom, the school said it was because the special education teachers who are normally with Hailey were in the IEP meeting. This bothered us immensely. Just because the special education staff who normally serve Hailey were at the IEP meeting, Hailey should not be punished and forced to be in seclusion. We found out later that this too was in violation of the state law you just passed last year. Again, Hailey was not in immediate danger of causing physical harm to herself or others. Danger of physical harm is the only acceptable reason to use seclusion or restraint under the law. There is another provision in the law you passed last year that says you cannot use seclusion or restraint for "the convenience of staff." Again, state law was clearly ignored. Putting Hailey in seclusion was absolutely for staff convenience. Other special education staff could have worked with Hailey while her primary staff were in the IEP Team meeting, but it was more convenient for the staff to put her in seclusion.

Mr. Chairman, for the sake of time I will summarize by noting that we did not get written notice of the use of seclusion in either of these three incidents or in other incidents where we are sure it happened. Give them an inch and they will take a mile. Well the Olathe school district claimed that it was not "seclusion" because they wrongfully believe Hailey was not "isolated" from other adults simply because a para was watching her in the "wildcat den" through the window. That is hogwash.

The law specifically requires that "when a student is placed in seclusion, a school employee shall be able to see and hear the student at all times." That is a precursor requirement of what must be done when you place a student in seclusion. It is asinine to think that by following the law regarding seclusion, and having an adult watch over and "see and hear" the student, that somehow it means the student is not "isolated" from "adults," which is a test of whether something rises to the level of seclusion. Schools cannot have it both ways. Schools cannot follow the law to have an adult observe the student because they are placing them in seclusion and then say that by having that adult nearby observing the student that the student somehow magically is not in seclusion anymore!

In Summary:

Give schools an inch and they will take a mile. Seeing how schools are thwarting the current law, you should not grant them more leeway to harm students with a new loophole. I hope you will agree that what I have summarized is pretty bad. However, it is nothing compared to the harm caused to Hailey because of the misuse of seclusion and restraint against her. **Hailey is not the same beautiful, bubbly child we moved here to Kansas with.** Hailey cries because she doesn't want to go to school and be subjected to seclusion and restraint. She say's "no mommy, no daddy, me no wanna go to wildcat room." (which is what they call the seclusion room). It breaks my heart when I see her acting out her painful seclusion and restraint episode with her dolls. As an obvious coping mechanism and to project her pain outward, she now places her dolls in seclusion and restraint. Playing with her dolls she is clearly acting out the role of the authority figure – the school – as she commands her dolls in an adult voice to "go to the wildcat room." "You have been bad." "Don't leave. You stay there. Don't move." Again, we have been here for only four months and I fear for my child. Please hold the State Department of Education accountable to enforce the current law you have on seclusion and restraint. Please do not give schools a new tool to harm my Hailey any more than they already have.

I will stand for your questions. However, please know I am just a parent here today to share my story with you.