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**TESTIMONY BEFORE THE HOUSE CORRECTIONS AND JUVENILE
JUSTICE COMMITTEE IN OPPOSITION TO HB 2243**

FEBRUARY 6, 2016

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

I appreciate this opportunity to present to you my written testimony in strong opposition to HB 2243. I write to you as a private citizen, based on my experience and expertise gained as a former member of the Kansas House, former Chairman of this Committee, a member of our state's multi-disciplinary Emergency Safety Interventions ("ESI") Task Force which considered and made recommendations to the Legislature regarding the issue of seclusion and restraint of schoolchildren in Kansas, and as one of the chief House negotiators of 2016's House Substitute for Senate Bill 193, which is the underlying law this bill seeks to amend.

I write you in opposition to HB 2243 for several reasons. I hope you will carefully review the following important public policy considerations before you decide how to dispose of HB 2243:

- 2016 H Sub SB 193 is an incredibly complex and complicated law. This policy was literally 13 years in the making. It took 13 years for disability advocates and school special interest groups to finally agree on the language and policies that ended up being contained in our current law. If you have somehow been told that HB 2243 is a simple bill that only makes technical changes to the law, you have been sorely misled. The underlying policy is a tenuous compromise reached over 13 years of trial, error, negotiation and compromise on the part of all stakeholders on this issue.
- I was a member of the ESI Task Force that developed the specific policy language contained in the current law. This Task Force did what many

thought and warned was the impossible. It put forth policy conclusions and recommendations regarding the use of seclusion and restraint in Kansas schools which were adopted unanimously by both education stakeholders and disability advocates alike. There was considerable give and take from all sides to reach that point. Like any good compromise, all sides were less than fully satisfied with the ultimate result. I am certain that it is one or more dissatisfied participants in this process that led to the introduction of the bill before you today. However, I would offer you a word of caution before you consider upsetting the delicate balance struck in the ESI compromise reflected in 2016 H Sub SB 193. If you reopen the compromise agreed to last year to consider this one proposal, you will be opening up a veritable Pandora's Box. Please know that several members of the House and many in the disability advocacy community were not fully satisfied with the protections in the current law. If you go forward with disturbing the carefully crafted compromise reflected in the current law, you need to be prepared for amendment after amendment from your fellow House members trying to re-litigate this issue in order to either strengthen or further weaken the protections it affords our disabled, and indeed all Kansas schoolchildren. Thus, if you are going to consider this proposal to weaken the law, you need to be prepared to consider the dozens and dozens of proposals to strengthen the law as well. Given the fact that a Task Force of both education and disability interests took the rarely employed step of agreeing to move unanimously to endorse the ESI Task Force conclusions and recommendations that resulted in the current law, it would seem wise not to work this bill in your Committee, and instead to give the current policy time to be fully implemented and evaluated in actual practice.

- The Kansas House has passed numerous versions of bills protecting students from the harmful use of seclusion and restraint in public schools, which testimony on last year's H Sub SB 193 convincingly established is particularly devastating to our autistic and other disabled children and their families. However, none of those bills ever had a provision allowing school security officers – as opposed to full law enforcement officers -- to have carte blanche powers to use mechanical restraints. This bill would dramatically alter the prior precedent established by the House in these carefully considered policy matters.

- As mentioned above, several House Committees have heard powerful testimony from numerous parents over the years regarding the harmful effects of the use of seclusion and restraint, especially mechanical restraints, on our children, in particular those who are autistic or otherwise disabled. If the House is going to open up this previously agreed upon policy, you need to afford parents of disabled schoolchildren, indeed all parents and other interested Kansas citizens, time to prepare and present testimony on this important issue. My understanding is that this bill was introduced and first appeared on the House Calendar on Thursday, February 2 and it was promptly set for a hearing on Monday February 6. That is simply not enough time for busy parents with special needs children to consider this bill and weigh in on its possibly deleterious effects. However, if you are going to open up this issue, a word of caution. The stories you will hear from parents are both powerful and horrific. Because I have heard first-hand these stories from parents, I am convinced that, if you take the time listen to the parents of disabled children in particular, you will reach the same conclusion that several former House Committees, and indeed this entire Legislature and the Governor reached in enacting this important law last year: the carefully-crafted, thoroughly vetted compromise reflected in 2016 H Sub SB 193 reflects the absolute minimum public policy measures necessary to protect our disabled kids, and indeed all Kansas schoolchildren, from the devastatingly harmful physical, emotional and mental damage caused by the extreme and unwarranted excessive use of seclusion and restraint in our schools.

For all these reasons, I respectfully urge this Committee to take no action on HB 2243. The compromise on these issues contained in the current law was and still remains unprecedented. I can think of no other example in my many years of public service in the Legislature when the school lobby and disability stakeholders came together to support true compromise on the seclusion and restraint policies that are contained in the current law. Please allow time for this carefully crafted, thoroughly vetted, evidence-based compromise to be fully implemented, consistently applied throughout our state, and thoughtfully evaluated. Thank you.