

## MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairperson Steve Abrams at 1:30 pm on Wednesday, March 11, 2015, 144-S of the Capitol.

All members were present

Committee staff present:

Mark Savoy, Legislative Research Department  
Lauren Douglass, Legislative Research Department  
Erna Fabert, Kansas Legislative Committee Assistant  
Jason Long, Office of Revisor of Statutes

Conferees appearing before the Committee:

Rocky Nichols, Coalition to Protect Children from Unnecessary Seclusion & Restraint  
Tonia Wade  
Shawna Hinkle  
Andrew Ruble  
Jawanda Mast  
Rev. Marvin J. Miller, KSDE Special Education Advocacy Council  
Katherine Kersenbrock-Ostmeyer, Director, NKESC  
Bryan Wilson, Coordinator, Student Support Services, Wichita Public Schools  
Dr. Judy Martin, Director of Special Services, Gardner Schools  
Dr. Joan Robbins, Director of Special Education, Blue Valley School District  
Terry Collins, Kansas Association of Special Education Administrators  
Susan Christensen, Special Education Director, Kaw Valley  
Tom Krebs, Governmental Relations Specialist, KASB  
Bill Reardon, Kansas City, Kansas Public Schools

Others in attendance:

[See Attached List](#)

### **Hearing on: HB2170 — Substitute for HB 2170 - Schools and school districts; seclusion and restraint of pupils.**

Chairperson Abrams opened the hearing on **HB2170** by explaining that there were several conferees signed up to testify, therefore, there will be a three minute time limit imposed and it would be appreciated if all conferees would follow that guideline to allow everyone to have an opportunity to speak.

Jason Long, Staff Revisor, distributed his review of **HB2170** ([Attachment 1](#)).

The chairperson then introduced Rocky Nichols who spoke in support stating that he brought this bill forth as many in the disability community have been working for over 10 years to address the issues of seclusion and physical restraint that have been used, most often unsuccessfully and detrimentally to the very children the schools are trying to help. Mr. Nichols said that his organization of 31 disability and

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education groups is dedicated to fostering common sense approaches to seclusion and physical restraint that will keep both children and teachers safe. ([Attachment 2](#))

Tonia Wade spoke in support of the bill, stating that since the guidelines have changed parents have been taking their concerns to the State Board of Education over the last two years, but still no effective changes have been made. She then described her own daughter's traumatic experience with her school's seclusion policy. ([Attachment 3](#))

Shawna Hinkle also spoke in support by describing the injuries her son received while in seclusion, stating that the current regulations failed to protect her child. ([Attachment 4](#))

Andrew Ruble reported that the new definitions and standards proposed in **HB2170** would have kept his son from spending at least two months of his life in seclusion, as happened under the regulations currently in use by their school district. ([Attachment 5](#))

Jawanda Mast stated that this bill would fix the flaws in existing regulations, as there are measures to enforce the policies as well as involving and treating parents as equals in the process. ([Attachment 6](#))

Chairperson Abrams then introduced Rev. Marvin Miller, who spoke in opposition to the bill, stating that because he has a daughter with disabilities, and he serves as a parent member on the Special Education Advocacy Council, he has done thorough research on Kansas law in the area of restraint and seclusion and he is convinced that the regulations already adopted by the Kansas State Board of Education are some of the most comprehensive, thoughtful, and detailed in the country. ([Attachment 7](#))

Katherine Kersenbrock-Ostmeyer also spoke in opposition, stating that as a parent of a child with behavioral issues, she is very versed on the issues addressed in **HB2170**. She feels that the current regulations being used in Kansas have drawn on the expertise of many stakeholder groups and were reviewed, discussed and vetted very carefully, creating a balanced and workable solution for families and schools. ([Attachment 8](#))

Bryan Wilson then spoke in opposition, stating that as a representative of a large school district he can speak to the effectiveness of the current regulations and the fact that the Kansas State Board of Education provides technical assistance for schools to assist in training for staff. He is concerned that changes proposed in this bill would provide a disincentive for staff to intervene when necessary because of possible legal ramifications. ([Attachment 9](#))

Dr. Judy Martin spoke in opposition by providing a timeline for the current guidelines and an overview outlining procedures that are in place. ([Attachment 10](#))

Dr. Joan Robbins also spoke in opposition by stating that Kansas is listed among states that provide

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meaningful protections by having moved from non-binding guidelines to regulations. Concerns she expressed involved unclear definitions and the fact that law enforcement officers are not exempted in this bill. ([Attachment 11](#))

Terry Collins spoke in opposition by stating that many of the complaints occurred prior to the implementation of the current guidelines and that the current regulations in effect were created through input from many different sources and have been strengthened in response to complaints concerning issues such as definitions, notification of parents and adequate training for staff. ([Attachment 12](#))

Susan Christensen spoke in opposition, stating that she is very pleased with the cooperative effort put into the development of the current regulations used in Kansas and noted that Kansas has even provided national speakers on this issue and is considered a showcase leader. With Ms. Christensen's 30 years experience in Special Education she can attest to the fact that these regulations do work. ([Attachment 13](#))

Since there were no more opponents who wished to testify, Chairperson Abrams introduced Tom Krebs, who presented neutral testimony stating that the Kansas Association of School Boards would like to see concerns of some of the stakeholders addressed in the bill, so the final product can have the broadest possible support. ([Attachment 14](#))

Bill Reardon also presented neutral testimony, stating that the Kansas City, Kansas Public Schools would prefer leaving seclusion and restraint issues as regulations, rather than statutes, since they are easier to change when new and advanced procedures need to be implemented. ([Attachment 15](#))

Written testimony in support is included in committee packets as follows:

Dr. Barbara Thompson, Assoc. Professor, Special Education, University of Kansas ([Attachment 16](#))

Matthew Enyart, University of Kansas, KS Institute for Positive Behavior Supports ([Attachment 17](#))

Mike Burgess, Disability Rights Center of Kansas ([Attachment 18](#))

Kris A. Ehling ([Attachment 19](#))

Rick Cagan, Executive Director, NAMI, Kansas ([Attachment 20](#))

Colin Thomasset, Associate Director, Assoc. of Community Mental Health Centers of Kansas, Inc. ([Attachment 21](#))

Amy Allison, Exec. Director, Down Syndrome Guild of Greater Kansas City ([Attachment 22](#))

Barbara Bishop, Exec. Director, The Arc, Douglas County ([Attachment 23](#))

Dr. H. Jane Rhys ([Attachment 24](#))

Tom Laing, Exec. Director, InterHab ([Attachment 25](#))

Craig Knutson, Public Policy Coordinator, KCDD ([Attachment 26](#))

Kate Rainbolt ([Attachment 27](#))

Rosie Cooper, Exec. Director, KACIL ([Attachment 28](#))

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Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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Combined Written Testimony ([Attachment 29](#))

Written testimony in opposition is also included in committee packets as follows:

Gail Gillespie ([Attachment 30](#))

Ken Willard, Kansas State Board of Education ([Attachment 31](#))

Questions followed concerning differences between current and proposed law; regulations versus statutes; and whether copies of the regulations could be supplied to committee members.

Senator Baumgardner noted that since much of the disagreement surrounds definitions such as **HB2170** using the term "serious physical harm" and the US Department of Education, Division of Special Education, using the term "serious bodily injury", why these definitions have not been cleared up by now.

Senator Pettey questioned whether destruction of property would invoke the use of seclusion or restraint to which Scott Gordon, attorney for the Kansas Department of Education, replied that the House bill addresses this issue by including "violent action that destroys property if it imposes an immediate danger."

There being no further conferees or questions, Chairperson Abrams adjourned the meeting at 2:35 pm.

The next meeting of the Senate Education Committee will be Thursday, March 12, 2015 at 1:30 pm in Room 144-S of the Capitol.