

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:35 p.m. on March 3, 2005, in Room 123-S of the Capitol.

Committee members absent:

Committee staff present: Carolyn Rampey, Kansas Legislative Research Department
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Rocky Nichols, Disability Rights Center of Kansas
James Bart, Lawrence parent
Lilly Shipman, Wichita parent
Shari Coatney, Southeast Kansas Independent Living
Resource Center
Kerrie Bacon, Kansas Commission on Disability Concerns
Leigh Ann Carroll, Lenexa parent
Kevin Graham, Office of the Attorney General
Bob Coleman, Kansas Association of Special Education
Administrators

SB 241—Special Education Seclusion and Restraint Modernization and Parental Support Act

Carolyn Rampey, Legislative Research Department, explained that the bill would establish guidelines for the use of seclusion and restraints for special education children. It prohibits placing a special education child in a locked seclusion room, the use of chemical restraints (medication), or the use of mechanical restraints such as tying or taping a student down. She noted that, based upon testimony heard by the Legislative Education Planning Committee (LEPC) during the Interim, school districts presently have their own local board policies on how to deal with time outs, seclusion rooms, etc. The bill would establish a state law.

Ms Rampey called attention to the definition section beginning on page 1, section 2. She noted that “extended seclusion” refers to keeping a child in a seclusion room for more than one minute for each year of the child’s age. She explained that “Human Rights Committee” in subsection (k) refers to a mandated committee that each school district must establish to review documentation on the use of seclusion rooms and restraints. The committee would be comprised of family members of special education children, advocacy representatives, and school district staff. She noted that subsection (m) includes a list what characterizes “positive behavior support,” which is a teaching method developed as an alternative to traditional ways of dealing with children wherein, instead of punishing inappropriate behavior, there is a focus on creating an environment that provides incentive to behave appropriately. She noted that Section 3 includes a list of things a school district cannot do with regard to seclusion rooms and gives guidelines as to when a seclusion room may be used. Page 3, subsection (2) addresses extended seclusion. Keeping a child in a seclusion room for more than a minute for each year requires prior parental consent, and written documentation must be provided following the incident. Subsection (D) on page three outlines the guidelines for the use of physical restraints when a student poses imminent risk of physical harm to himself or to others and provides that the incident must be documented. Section (5) provides that, if physical restraint or seclusion rooms are used, there must be notification to the parents, and documentation must be sent to the building administrators and the Human Rights Committee within 24 hours of the incident. She noted that the list of items that must be documented in that report begins on page 5 of the bill. In Section 6, the Department of Education is required to collect and compile data on a quarterly basis on the use of seclusion and restraint. Section 7 provides that school district staff must receive specialized individual training and demonstrate competency before the school can use restraint and seclusion. She noted that Section 9 provides that the State Department of Education must annually grant \$400,000 each to designated associations and agencies who must use the money for training parents of children with disabilities, for legal advocacy services, and for assistance and support for parents with disabled children.

Ms. Rampey noted that, according to the Division of Budget, in addition to a \$1.2 million grant, the State Department of Education indicated that it needs \$68,000 to administer the program. In addition, there could be costs at the school district level for staff training, and possibly some school districts would have to remodel building space for seclusion rooms.

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MINUTES OF THE Senate Education Committee at 1:35 p.m. on March 3, 2005, in Room 123-S of the Capitol.

Rocky Nichols, Disability Rights Center of Kansas (DRC), testified in support of **SB 241** on behalf of DRC, Families Together, Keys for Networking, and the Kansas Council on Developmental Disabilities. He pointed out that currently there is no state law to limit the use or require standards when placing children in seclusion rooms or potentially harmful restraints in Kansas schools. However, Kansas closely regulates and limits seclusion and restraint in state institutions and residential treatment facilities. He noted that proposals to significantly reduce the use of seclusion and restraint have received national attention in recent years, and the U.S. Department of Health and Human Services has set out a plan to dramatically reduce and eventually eliminate the use of seclusion and restraint in all publically funded treatment programs. He went on to say that the bill attempts to carry out the objectives of President Bush's New Freedom Commission on Mental Health. He explained that the Child Health Act of 2000 addresses the use of seclusion and restraint for people up to age 21 in public facilities, but the act is limited to emergency situations only. He noted that research at the University of Nebraska on physical restraints in schools found that immediate action is required to ensure that schools employing restraint do not jeopardize student safety and that there is a need for clear standards regarding the use of restraint procedures in schools as well as training of staff before they use restraints. He noted that the Kansas Attorney General recently stated that state policy needs to hold schools accountable for the use of seclusion rooms and restraint, and he worked with DRC to develop the bill. In drafting the bill, DRC focused on laws and policies enacted in several other states and model legislation developed by the National Association of Protection and Advocacy Systems. He pointed out that the bill does not outlaw the use of all forms of seclusion and restraint in schools, but it establishes specific policies, standards, and requirements for the proper use of seclusion rooms and restraint. In conclusion, he discussed what the bill specifically does. (Attachment 1)

James Bart, whose son Jacob is autistic, testified in support of **SB 241**. Mr. Bart discussed his son's extreme behavioral challenges in his educational and family life. At one point, it became necessary to admit him to a Wichita private school specializing in autism. After eight months, he was able to transition back into his home and his local school. Unfortunately, there was public debate about the merits of the IEP team's decision to send him to a private school for special education, and he was labeled a "tax burden." In Mr. Bart's opinion, the state should be held responsible for coverage for catastrophic expenses for special education. He believes that the bill will have a positive impact on the lives of a population this is often overlooked or hidden. As part of his testimony, Mr. Bart distributed pictures of Jacob's school, classroom, and his family. He noted that the pictures illustrate that, "Real people are being affected by this everyday." (Attachment 2)

Lilly Shipman, whose son Kenneth was diagnosed with severe autism and tourettes syndrome, testified in support of **SB 241**. At the outset, she distributed pictures of Kenneth. She noted that her family moved from New York to Wichita six years ago for the sole purpose of obtaining an appropriate education for him. However, the last six years have proven to be a fight every step of the way to protect him from cruel and disrespectful professionals in his school. She complained that her son has become the victim of a school system which, at this time, has no law, regulations, or safeguards in place. She explained that her son has been secluded in the "time out" room 334 times in the 112 days he has attended school this school year. During those time outs, he has been physically restrained more than 100 times, resulting in severe bruising to several parts of his body. He has been placed in a time-out box, depriving him of all sensory needs, which was justified as "behavior modification." Ms. Shipman described the time-out box as essentially an unfinished wooden closet with an area no more than three feet square. She reported that she recently attempted to photograph the box, but she was not allowed to enter the room and was told that the building principal warned security that no one is ever allowed go photograph the room or the boxes. Due to his experience with seclusion and restraint, her son has become afraid of teachers and other school staff, and he flinches whenever anyone nears to touch him. She urged the Committee "to stop the abuse of her child and every other imperfect school child in the state." (Attachment 3)

Shari Coatney, Southeast Kansas Independent Living Resource Center, testified in support of **SB 241**. She informed the Committee that one of her sons is autistic and was put into restraints in a seclusion room many times. She commented that, while plans need to be developed to protect the child or others in the classroom, the fact that no guidelines are set and these practices are not monitored put children at risk. After her son went to another school in a classroom setting with positive reinforcement, he was able to end his high school years with many positive outcomes and no restraints. She supports the bill in the interest of allowing other children the opportunity for positive classroom experiences. (Attachment 4) Ms. Coatney distributed copies of

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testimony in support of **SB 241** by Jeannie Ingalsby, who was unable to attend the hearing, but she wanted to relate her son's experiences with restraints. ([Attachment 5](#))

Kerrie Bacon, Kansas Commission on Disability Concerns, testified in support of **SB 241**. She maintained that the use of seclusion and restraint in the education system needs to have clear guidelines. She reasoned that a clear understanding of what action to take when a situation at school escalates would help foster respect between student and staff. ([Attachment 6](#))

Leigh Ann Carroll, the parent of a nine-year-old son with Asperger Syndrome and anxiety disorder, testified in support of **SB 241**. She explained that her son was subjected to frequent, improper restraints in the public school system, including being grabbed, hit, having fingers pulled back, and being forced to lay prone under gym mats for long periods of time. In addition to bodily harm, he felt humiliated and that he was "bad." She orally reported his injuries to school officials, but nothing was done to alleviate these practices. After sending a written complaint, school officials responded by having their attorney call her and attempt to intimidate her. She felt she had no choice but to remove her son from the public school system and home school him. She argued that parents would feel their special education child was safe at school if there were regulations governing the use of restraints, if there was more accountability, if there were better training requirements, and if there was parental input. ([Attachment 7](#))

Connie Zienkewicz, Families Together, stood in support of **SB 241** and distributed a packet including a copy of the booklet, "The President's New Freedom Commission on Mental Health," a sample from a survey prepared through the joint effort of the National Center for Child Traumatic Stress and the Federation of Families, and written testimony from 24 parents in support of the bill. ([Attachment 8](#))

Kevin Graham, Assistant Attorney General, testified in support of **SB 241**. He noted that Attorney General Phill Kline worked with DRC and the disability community to introduce the bill after he became interested in the topic because of the focus that seclusion and restraint has received at the federal level. Mr. Graham noted that schools are the largest provider of services to children in Kansas, yet, there are no consistent state standards to limit the use of seclusion rooms and restraint in schools. ([Attachment 9](#))

Bob Coleman, Special Education Director for Wichita public schools, testified in opposition to **SB 241** on behalf of the Kansas Association of Special Education Administrators. He noted that the challenges that schools and staff have in working with disabled students are very significant, and they have grown every single year. He emphasized that administrators and other school staff do not want to use restraint or seclusion, but providing school safety for all involved is very important. In his opinion, the bill does not identify a significant need. He commented that, through the use of anecdotal evidence, the writers of the bill claim that serious abuse is being inflicted on significant numbers of students, but this simply is not true. He emphasized that schools have been proactive in efforts to meet the needs of these students by training staff in effective methods of managing behavior, including positive behavioral supports and anger management as well as training on how to effectively and safely use physical restraints and seclusion. In addition, he noted that the bill would suggest that no effective recourse exists for parents or students when they believe inappropriate behavioral interventions are being used. He listed the options currently available to parents which address this concern. He noted that, in most cases, schools are able to resolve issues with parents. He went on to say that the bill would add a significant burden to already overstretched school resources, and it would likely create additional harmful effects for staff and students. He pointed out that the bill sets up school staff members for possible litigation, which then precludes them from being able to deliver the appropriate services. He noted that staff members would be asked to make a judgement within a second or two of what they need to do to protect a child and other children and staff within the classroom. He further noted that, although the intent of the bill was to focus on the more severely disabled student population, it would also include the mildly disabled and, thus, would limit school staff in being able to effectively deal with student behaviors that are not a manifestation of the student's disability. ([Attachment 10](#))

Bobbie Rine, a mother of three children with learning or emotional disabilities, testified in support of **SB 241**. She explained that her 19-year-old son is bipolar. When he was in school, she knew nothing about special education, and school staff never suggested that he might be eligible for special education services. When he was 15, the school referred her to a mental health center. At that time, she learned about Keys for

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Networking, a parent advocacy organization. Keys suggested her son might be eligible for a Section 504 plan; however, by this time he had dropped out of school. Over the years she has received training from parent advocacy organizations. She emphasized that parents never stop needing the support and information these organizations provide. She now uses what she has learned to help other parents. (Attachment 11)

Jenifer Wisdom introduced her nine-year-old son, Micah. She informed the Committee that he attended Wichita public schools all his life until she recently took him out. She explained that he was placed in handcuffs twice because he was playing a radiator that was not turned on in the office at Funston Elementary School. She noted that Micah gets nervous and has to fidget. At the time, the radiator was all that he had to fidget with. Staff placed him in handcuffs, and a few moments later, he started to fidgeting with something else, and they placed him in handcuffs again. Ms. Wisdom explained, "Micah has missed out on a whole lot of education due to the fact that they can't deal with him. He is way behind because the teachers and administration at Funston could not care for him. He has missed a month and a half worth of recess. The first nine weeks of school, my son only received grades in three subjects due to the fact that they would not send him to the other classroom because they couldn't teach him. Now that we've left the Wichita public school system, my son is doing better than he has ever done in his life. He has all A's. Before, he never received an A. Currently, he is reading higher than he was in Wichita public schools. I think that the services that we have received have educated me to the point to where I know what is fair for my child and what is not fair. We were not being treated fairly by the Wichita public schools." Ms. Wisdom noted that Micah now attends school in Maize.

Written testimony in support of **SB 241** was submitted by Jane Adams, Director of Keys for Networking, Inc. Letters from parents in support of the bill were attached to Ms. Adam's testimony. (Attachment 12)

Written testimony in support of **SB 241** was submitted by Jane Rhys, Kansas Council on Developmental Disabilities. Along with her testimony, Ms Rhys included letters in support of the bill from Dr. Charles R. Spellman, University of Kansas, Michael L. Wehmeyer, Ph.D., Kansas University Center on Developmental Disabilities, and a letter from a parent of a child with developmental disabilities, a letter from a foster parent providing foster care for children with disabilities, and a letter from a mother of child with a learning disability. (Attachment 13)

There being no further time, Senator Schodorf continued the hearing on **SB 241** to March 7.

The meeting was adjourned at 2:30 p.m.

The next meeting is scheduled for March 7, 2005.

**SENATE EDUCATION COMMITTEE
GUEST LIST**

DATE: March 3, 2005

NAME	REPRESENTING
KEVIN GRAHAM	AG
Diane Gjersted	USD 259
Bob Coleman	USD 259
Deborah Prestiev	USD 503
Alban A. Edwards	Keys for Networking
Alisa Arnold	Parent
Callie Strahm	
Zook Coak	Inter Rev. Showalter
Pam Blackburn	SKIL Southeast KS Independent Living
Kevin Bacon	KCDC (KS Commission on Disability Concerns)
Kari Heer	Parent
Lynnea Laing	parent
Jimmy D. Sanders	Kansas Youth
James Bart	parent
John Dohy	LINK
Quinton McElwainey	intern Sen. Steineger
Jaelyn Ketter	Intern Sen. Steineger
Brian Simmonds	USD 398
Kathleen Wilson	DISABILITY RIGHTS CENTER

**SENATE EDUCATION COMMITTEE
GUEST LIST**

DATE: 3-3-05

NAME	REPRESENTING
Melissa Lindbly	Disability Rights Center (DRC)
Tom Alstrom	U.S.D. 398
Nancy Heis	Parent 4 Children Special Ed
Saunna Scott	Parent
Hyo Eun Lee	Student.
Leigh Ann Carroll	Parent of Special Education Student
Elizabeth Westmoreland	Keys for Networking
Deborah Horn	Keys for Networking
Molly Gustafman	Keys for Networking & Parent
Sherrin Luthie	Parent / P.A.S.S. Mental Health Assoc.
Mica Wisdom	U.S.D. 259 Student "Spec. Ed.
Jennifer Wisdom	Parent Spec Ed Student 259.
TERRYSIDE BOTTOM	
Archie Helms	Key for Netw. & parent of Special Ed. student ^{U.S.D. 259}
Shari Lyndee Wells	Independence Inc.
John	Keys for Netw.
Bob	Keys for Networking
Mercedes Anzpe	Parent
Rhonda Craft	parent of SPEP children / Key for Netw.



EQUALITY ♦ LAW ♦ JUSTICE

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**Testimony in Support of SB 241
Seclusion and Restraint Modernization and Parent Support Act
March 3, 2005**

Chairman Schodorf and members of the committee, my name is Rocky Nichols. I am the Executive Director of the Disability Rights Center of Kansas, formerly Kansas Advocacy and Protective Services (KAPS). The Disability Rights Center of Kansas (DRC) is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As such, DRC is the officially designated protection and advocacy system for Kansans with disabilities. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of both state government and disability service providers. As the federally designated protection and advocacy system for Kansans with disabilities our task is to advocate for the legal and civil rights of persons with disabilities as promised by federal, state and local laws, including children receiving special education services.

Kansas has three primary special education advocacy organizations that focus on the needs of children receiving disability services throughout the state: Families Together, Keys for Networking and the Disability Rights Center of Kansas. These three organizations, along with other parent and disability groups (Kansas Council on Developmental Disabilities, Kansas Association of Centers for Independent Living, Topeka Independent Living Resource Center, Kansas University Center on Developmental Disabilities, etc.) have developed SB 241. Each of these organizations has experienced an increased demand for parent support, training and advocacy assistance in the last few years. These organizations have also seen an increase in complaints by parents in the numbers of children being subjected to the inappropriate use of seclusion and restraints. The LEPC hearings on special education held in September 2004 brought a new focus to the issue of how seclusion is being administered in public schools, and the ways in which children are being restrained.

SB 241 establishes standards, protocol and limitations on the use of seclusion and restraint in Kansas's schools. There is currently no state law to limit the use or require standards when placing children in seclusion rooms or potentially harmful restraints and restraint holds in Kansas's schools. Stated differently, the lack of a state law guiding the use of seclusion and restraint in our schools allows for *unlimited* usage. This lack of oversight and accountability is in stark contrast with the high thresholds and more stringent limits placed on the use of seclusion and restraint many other settings where Kansas's children receive services. Kansas closely regulates and limits seclusion and restraint in state institutions (Rainbow, KNI, Parsons, Osawatomie, and Larned State Hospitals), residential treatment facilities, etc., but not in schools. SB 241 establishes a baseline statewide policy on seclusion and restraint used on students with disabilities in special education and also promotes the evidenced-based practice of positive behavior supports in Kansas's schools.

Proposals to significantly limit the use of seclusion and restraint have received national attention in recent years, and have been endorsed at the highest levels of our government. The US Department of Health and Human Services (HHS) has set out a detailed action plan to dramatically reduce, and eventually eliminate, the use of seclusion and restraint in all publicly funded treatment programs. HHS is trying to eliminate the need for these invasive tactics because "In addition to the very real risk of death and injury, individuals who have experienced previous physical or sexual abuse can suffer further traumatization when subject to these practices."

Limiting seclusion and restraint and making services "consumer and family-driven" are also key policy objectives of President George W. Bush and the President's New Freedom Commission on Mental Health. The President's report has identified the dangers and concerns of seclusion and restraint:

"... It is inappropriate to use seclusion and restraint for the purposes of discipline, coercion, or staff convenience ... Seclusion and restraint are safety interventions of last resort; they are not treatment interventions. In light of the potentially serious consequences, seclusion and restraint should be used only when an imminent risk of danger to the individual or others exists and no other safe, effective intervention is possible. It is also inappropriate to use these methods instead of providing adequate levels of staff..."

SB 241 attempts to carry out those exact objectives laid out in President Bush's New Freedom Report – to limit the use of seclusion and restraint to when there is imminent risk of danger to self or others; to

limit the use of these interventions with “potentially serious consequences;” and to have their use be “consumer and family driven” – and apply them to protect 65,000 students receiving special education in Kansas schools.

The Child Health Act of 2000 addresses the use of seclusion and restraint for young people up to age 21 in public facilities. Both the law and the implementing regulations limit the use of seclusion and restraint to “emergency” situations only. Among other things, this law (PL 106) establishes national standards for the use of restraints and seclusion for children with disabilities being treated in some type of facility.

The Child Health Act of 2000 and its implementing regulations prohibit the use of seclusion and / or restraint except for an emergency and for the safety of the individual and others around them. It requires training of personnel implementing seclusion and restraint, reporting back to an appropriate authority when seclusion or restraint is used, and that every effort is made to use alternative methods of behavior management that keep the situation from escalating to emergency status. SB 241 accomplishes the same for students receiving special education services in Kansas’s schools.

The University of Nebraska – Lincoln Report by Joseph B. Ryan and Reece L. Peterson conclude in their research *Physical Restraints in School* that:

“Due to the current risk of student injuries and the mortality rates associated with the use of physical restraint, immediate action is required to ensure that schools employing restraint do not jeopardize student safety. Based on the review of case law, legislation, and recommended procedures from both professional organizations and advocacy groups, there is a need for clear standards regarding the use of restraint procedures in schools, as well as mandatory training of staff before they use restraints. Improved and standardized record keeping, and notification of administrators and parents of incidents where restraint occurs are also important.”

The National Association of State Mental Health Program Directors (NASMHPD) have taken a position and produced recommendations on use of seclusion and restraint (*Reducing the Use of Seclusion and Restraint: Part II Findings, Strategies, and Recommendations for Special Needs Populations*)

- The members of the National Association of State Mental Health Program Directors (NASMHPD) believe that seclusion and restraints, including “chemical restraints,” are safety interventions of last resort and are not treatment interventions. Seclusion and restraint should never be used for the purposes of discipline, coercion, or staff convenience, or as a replacement for adequate levels of staff or active treatment.”

The Center for Mental Health Services (HHS / SAMHSA) National Advisory Council identified seclusion and restraint as a “front burner issue” in their January 25-26, 2001 meeting.

And back home here in Kansas, our State’s chief law enforcement officer, Kansas Attorney General Phill Kline, also sees SB241 as a public safety issue, which is why he worked with DRC to propose this legislation that will restrict the use of seclusion rooms and restraint holds on students with disabilities in special education programs. "Persons in state institutions have more protection from seclusion and restraint than do our school children," Kline said in a recent event. "State policy needs to hold schools accountable for the use of seclusion rooms and restraint."

It is not just the dozens of disability groups, the Kansas Attorney General and hundreds of thousands of parents and family members of students receiving special education services who are asking that Kansas policy makers answer this call to limit seclusion and restraint in Kansas schools. It is also the overwhelming numbers of reports and initiatives from our government. The use of seclusion and restraint is not a new issue. It is an issue, however, that begs a policy answer.

Nearly one-third of states have implemented laws or policy that provide either bans on the use of seclusion or restraint, or implement guidelines in their use. In drafting SB 241 we focused closely on: 1) the goals of President Bush’s New Freedom report, 2) laws and policies enacted in Texas, Illinois, Maryland, Massachusetts, Nevada and other states to limit seclusion and restraint, 3) model legislation developed by the National Association of Protection and Advocacy Systems, and evidenced based approaches like Positive Behavior Interventions and Supports. We have also tempered our proposal and tried to make it more reasonable by not including some of the more stringent standards and limitations placed on many Kansas facilities that serve youth with disabilities and the federal The Child Health Act of 2000. We also did not specifically outlaw the use of all forms of seclusion and restraint in schools. Because we took this reasoned approach and did not outlaw all forms of seclusion

and restraint, SB 241 establishes several specific policies, standards and requirements for the proper use of seclusion rooms and restraint.

WHAT SB 241 DOES:

Taking directly from the President's New Freedom Report – SB 241 makes seclusion and restraint “consumer and family-driven,” ensuring it is the intervention of “last resort” and that “no other safe, effective intervention is possible.”

1. SB 241 defines how seclusion rooms and restraint can be implemented in Kansas public schools to ensure safety. Only restricts seclusion rooms and restraint (not other options).
 - a. Unlocked seclusion rooms and extended seclusion are allowed with restrictions.
 - b. Timeout - is untouched & unlimited (does not involved the use of a seclusion room).
 - c. Physical restraint and extended physical restraint are allowed.
2. SB 241 establishes clear policy standards for the use of seclusion and restraint when:
 - a. Student is at risk of imminent substantial physical harm to self or others;
 - b. There is no medical contraindication for its use;
 - c. The staff has been trained to safely implement the intervention (including least amount of force necessary for restraint);
 - d. The seclusion room is unlocked;
 - e. Staff is in visual contact with the student;
 - f. Longer durations of seclusion rooms and restraint require additional justification and alternatives tried prior to seclusion, but no arbitrary time limits are placed;
 - g. (For seclusion rooms only) Parental consent has been obtained in advance;
 - h. The use of seclusion or restraint is in the student's IEP
3. SB 241 includes training to ensure that seclusion and restraint are used as a “last resort” and that other “safe and effective interventions are not possible.”
 - a. Staff who implement seclusion & restraint must be trained in positive behavior techniques and to use other safe, effective and less dangerous and damaging options.
4. SB 241 keeps school personnel and students safe.
 - a. Does not prevent school personnel from using reasonable force (in addition to seclusion and restraint) to protect students, other persons or themselves from assault or imminent, serious, physical harm.

5. SB 241 keeps and parents informed and involved in the use of these techniques (“parent and consumer-driven”)
 - a. Parents have to be notified when their child is placed in a seclusion room or restraint.
 - b. Use of seclusion and restraint is specifically listed on the Individual Education Plan, which includes less aversive techniques to address problem behavior.
6. SB 241 establishes a system of accountability of schools to the state department.
 - a. Schools report use of seclusion and restraint to KSDE, who compiles data.
 - b. The State Advisory Council for Special Education reports to the State Board of Education on recommendations to reduce the use seclusion rooms and restraint. State Board reports to the Legislature (including number of incidences, system wide improvements to reduce or eliminate the use, etc.).
7. SB 241 Provides Services, Supports and Training for Parents –
 - a. Accessing Special Education services is complex, confusing and intimidating to parents of students with disabilities. SB 241 provides state support and funding for services, supports and training for parents to make the system less confusing and less adversarial for the parents of the 65,000 students with disabilities receiving Special Education services. Currently, no state SGF dollars are spent for these purposes, and the limited federal dollars are not sufficient to provide the proper level of support. Educated and trained parents make for a less adversarial system.
 - b. According to a KSDE 2002 report and a University of Kansas Beach Center study even school personnel admitted that, the “processes required by law overwhelms and intimidates parents.” Those same reports describe current interactions between schools and parents as “battles, fights, face-offs and bloodbaths.” The way to change that system is to give parents the services and supports they need.

WHAT SB 241 DOES NOT DO:

1. SB 241 does not outlaw the use of all seclusion rooms or physical restraint.
 - a. Only prohibits locked seclusion, chemical restraint and mechanical restraint.
2. SB 241 does not set arbitrary time limits on the use of seclusion or restraint.
 - a. Duration and frequency are only used to determine whether the seclusion or restraint are considered “extended”, which only necessitates additional justification to ensure that it is a “last resort” and document the other “safe and effective interventions” attempted.

3. SB 241 does not stop schools from addressing problem behaviors.
4. SB 241 does not impact the use of timeout or any other less intrusive or damaging intervention.
5. SB 241 does not change or prevent any forms of appropriate discipline procedures.
6. SB 241 does not impose burdensome documentation on schools.
7. SB 241 does not take money from schools. It establishes the standard by which schools will be held accountable on the use of seclusion and restraint.

Following the standards and goals established at the national level on the use of seclusion and restraint will better protect Kansas's school children from the trauma of unnecessary use of seclusion rooms and restraints. Passing SB 241 will establish the policy and protections to ensure that, as was stated in President Bush's New Freedom Initiative, "seclusion and restraint are safety interventions of last resort ... In light of the potentially serious consequences, seclusion and restraint should be used only when an imminent risk of danger to the individual or others exists and no other safe, effective intervention is possible." Better educated, prepared and supported parents will result in better parent/school relationships, better designed IEPs, improved outcomes for students receiving special education services and supports. An informed and supported parent makes the special education system and process less adversarial, better facilitated and more accountable.

Select Examples of Restrictions on the Use of Seclusion and Restraint in Kansas (but not in required in Kansas Schools)

Code of Federal Regulations – Title 42 – Public Health.....Subpart G – Condition of Participation for the use of restraint or seclusion in Psychiatric residential treatment facilities providing inpatient psychiatric services for individuals under age 21.

§ 483.356 Protection of residents ...

(1) Each resident has the right to be free from restraint or seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation ...

(2) An order for restraint or seclusion must not be written as a standing order or on an as-needed basis ...

(3) Restraint or seclusion must not result in harm or injury to the resident and must be used only ...

(i) To ensure the safety of the resident or others during an emergency safety situation; and ...

(ii) Until the emergency safety situation has ceased and the resident's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired ...

(4) Restraint and seclusion must not be used simultaneously.....

§ 483.358 Orders for the use of restraint or seclusion.

(a) Orders for restraint or seclusion must be by a physician, or other licensed practitioner permitted by the State and the facility to order restraint or seclusion and trained in the use of emergency safety interventions ...

(d) If the order for restraint or seclusion is verbal, the verbal order must be received by a registered nurse or other licensed staff ...

(e) Each order for restraint or seclusion must:

(1) Be limited to no longer than the duration of the emergency safety situation ...

(f) Within 1 hour of the initiation of the emergency safety intervention a physician, or other licensed practitioner trained in the use of emergency safety interventions and permitted by the state and the facility to assess the physical and psychological well being of residents, must conduct a face-to-face assessment of the physical and psychological well being of the resident ...

§ 483.360 Consultation with treatment team physician ...

If a physician or other licensed practitioner permitted by the state and the facility to order restraint or seclusion orders the use of restraint or seclusion, that person must contact the resident's treatment team physician, unless the ordering physician is in fact the resident's treatment team physician ...

§ 483.362 Monitoring of the resident in and immediately after restraint.

(a) Clinical staff trained in the use of emergency safety interventions must be physically present, continually assessing and monitoring the physical and psychological well-being of the resident and the safe use of restraint throughout the duration of the emergency safety intervention.

42 USC 290 jj , Sec. 595 (b)(1) – “Physical restraints and seclusions may only be imposed on a resident of a facility... if (A) the restraints or seclusion are imposed only in emergency circumstances and only to ensure the immediate physical safety of the resident, staff member, or others and less restrictive interventions have been determined ineffective; and (B) the restraints or seclusion are imposed only by an individual trained and certified...”

From Federal requirements ... Funding termination - A facility's failure to comply with any of the above provisions may result in its ineligibility for participation in federally supported programs

SB 241

Sampling of *some* Federal policy deal w/ similar issues

Section 1. This act shall be known and referred to as the Special Education Seclusion and Restraint Modernization and Parent Support Act. The purpose of this statute is:	
a. To ensure that every student receiving Special Education and related services is free from the unreasonable, unsafe and unwarranted use of restraint practices.	42 C.F.R. §482.13(c), (e), and (f) (West 2005). 42 C.F.R. §483.356(a) (West 2005). 42 C.F.R. §483.420(a) and (d) (West 2005).
b. To encourage the use of positive behavioral support methods in schools and to develop a well-trained staff in order to reduce the emergence of unsafe situations in which seclusion and restraint practices may be used.	42 C.F.R. §483.450(a) and (b) (West 2005).
Sec. 2. As used in this act:	
a. "Locked seclusion room" means a locked box, locked closet, locked room or any other locked structure.	
b. "Seclusion room" means a room that is unlocked and monitored but is designed to isolate a person and is at least 50 square feet, free of any condition that could be a danger to the student, well ventilated and sufficiently lighted.	42 C.F.R. §483.352 (West 2005).
c. "Extended seclusion" means use of the seclusion room for a period longer than one minute for every year of the student's age.	
d. "Timeout" means a behavior management technique that involves removing a student from sources of reinforcement following an inappropriate behavior for a limited period of time that does not involve the use of a seclusion room.	42 C.F.R. §483.352 (West 2005). 42 C.F.R. §483.368 (West 2005).
e. "Restraint" means any physical method of restricting a person's freedom of movement, physical activity or normal access to the person's body.	42 C.F.R. §482.13(e) and (f) (West 2005). 42 C.F.R. §483.352 (West 2005).
f. "Mechanical restraint" means the use of any device or object, including, but not limited to: 1. Tape;	42 C.F.R. §482.13(e) and (f) (West 2005). 42 C.F.R. §483.352 (West 2005).

<p>2. blankets; 3. tiedowns; and 4. body carrier; which limit a person’s body movement, except that protective or stabilizing devices ordered by a physician shall not be considered to be a mechanical restraint when used in the manner in which the device is prescribed.</p>	
<p>g. “Physical restraint” means the use of bodily force to limit a student’s freedom of movement or action, except that consensual, solicited or unintentional touching shall not be construed to be physical restraints.</p>	<p>42 C.F.R. §482.13(e) and (f) (West 2005). 42 C.F.R. §483.352 (West 2005).</p>
<p>h. “Extended restraint” means a physical restraint, the duration of which is more than five minutes, or the use of restraint more than once in a school day.</p>	
<p>i. “Chemical restraint” means the administration of medication for the purpose of restraint.</p>	<p>42 C.F.R. §482.13(e) and (f) (West 2005). 42 C.F.R. §483.352 (West 2005).</p>
<p>j. “School day” means any day or partial day that students are in attendance at an accredited education program for instructional purposes.</p>	
<p>k. “Human rights committee” means a committee each school district board shall establish that reviews documentation of the use of seclusion rooms and restraint which is composed of family members of students with disabilities who receive special education and related services, advocacy representatives and school district employees.</p>	<p>42 C.F.R. §482.13(a)(2) (West 2005). 42 C.F.R. §483.420(a) and (d) (West 2005).</p>
<p>l. “School employees” means teachers, administrators, and support staff employed by a school or special education cooperative.</p>	<p>42 C.F.R. §483.352 (West 2005).</p>
<p>m. “Positive behavior support” means a school-wide approach to preventing and responding to problem behavior that: 1. Is proactive and instructional, rather than reactive and</p>	

<p>punitive;</p> <ol style="list-style-type: none">2. operates on the following three levels:<ol style="list-style-type: none">A. Individual,B. Group or classroom,C. And whole school,3. includes a system of continual data collection;4. utilizes data-based decision-making; and5. applies research-validated positive behavioral interventions.	
<p>Sec. 3. a. Every student who receives special education and related services has the right to be free from unnecessary seclusion or restraint.</p>	<p>42 C.F.R. §482.13(c), (e), and (f) (West 2005). 42 C.F.R. §483.356(a) (West 2005). 42 C.F.R. §483.420(a) and (d) (West 2005).</p>
<p>b. No student shall at any time be placed in a locked seclusion room.</p>	
<p>c. The use of a seclusion room is permitted only if:</p> <ol style="list-style-type: none">1. The student poses an imminent risk of substantial physical harm to self or others;2. there is no medical contraindication for its use;3. staff using seclusion has been trained to safely implement the intervention;4. the space is unlocked and there is no physical impediment to the exit of the room;5. school staff is in visual contact with the student at all times, not to exceed a distance of two feet from the room;6. the duration is limited to one minute or less per year of age of the student. Durations greater than this amount shall be considered extended seclusion and are permissible only by following the requirements of this act;7. prior written parental consent has been obtained including the specific behaviors that will result in use of a seclusion room; and8. use of a seclusion room is expressly included in the child's	<p>42 C.F.R. §482.13(b) and (f) (West 2005). 42 C.F.R. §483.352 (West 2005). 42 C.F.R. §483.356(a) and (c) (West 2005). 42 C.F.R. §483.358(a) (West 2005). 42 C.F.R. §483.364(a) and (b) (West 2005). 42 C.F.R. §483.368 (West 2005). 42 C.F.R. §483.450(c) (West 2005).</p>

<p>individual education plan (IEP). Any other use of a seclusion room is prohibited.</p>	
<p>d. Use of extended seclusion requires: 1. Additional written documentation and justification that includes the alternatives to extended restraint that were attempted, the outcome of those efforts, and the justification for administering the extended restraint; and 2. if the extended seclusion is used more than two times in a month, the IEP Team will be convened. This team meeting will examine changes to the behavioral intervention plan to prevent the need for future extended seclusion and potential referrals to mental health or outside professionals and agencies to help address the behaviors that led to use of extended seclusion.</p>	<p>42 C.F.R. §483.364(c) (West 2005).</p>
<p>e. 1. The use of chemical restraints is prohibited in public education programs. 2. The use of mechanical restraints is prohibited in public education programs. 3. The use of physical restraint is limited to times when: A. The student poses an imminent risk of substantial physical harm to self or others; B. there is no medical contraindication for its use; C. the staff applying restraint have been trained to safely implement the intervention; D. a person administering a physical restraint shall use the least amount of force necessary to protect the student or others from physical injury or harm. It must be performed in a manner that is safe, proportionate, appropriate to the severity of the behavior, and the student's chronological and developmental age, size, gender, physical, medical, psychiatric condition and personal history including any history of emotional trauma, physical abuse</p>	<p>42 C.F.R. §482.13(b), (e), and (f) (West 2005). 42 C.F.R. §483.352 (West 2005). 42 C.F.R. §483.356(a), (b), and (c) (West 2005). 42 C.F.R. §483.358(a) (West 2005). 42 C.F.R. §483.362(a) and (b) (West 2005). 42 C.F.R. §483.450(d) and (e) (West 2005).</p>

<p>or sexual abuse; E. supporting documentation is completed within 24 hours; and F. use of restraint is on the student’s behavior intervention plan, noting specific behaviors that will warrant the use of the seclusion room and it is incorporated into the individual education plan. 4. Physical restraint is prohibited as a means of punishment or as a response to: A. Insubstantial property destruction; B. disruption of school order; C. a student’s refusal to comply with a school rule or staff directive; or D. verbal threats that do not constitute a threat of imminent, serious physical harm.</p>	
<p>Sec. 4. a. Only school personnel who have received training pursuant to this statute may administer physical restraint on students.</p>	<p>42 C.F.R. §482.13(e) and (f) (West 2005). 42 C.F.R. §483.350(a) (West 2005). 42 C.F.R. §483.358(f) (West 2005).</p>
<p>b. The administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint.</p>	
<p>c. This section does not preclude school staff from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.</p>	
<p>d. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in this statute.</p>	<p>42 C.F.R. §482.13(e) and (f) (West 2005). 42 C.F.R. §483.356(b) (West 2005). 42 C.F.R. §483.358(c) (West 2005).</p>
<p>e. No restraint shall be administered in such a way that a student is prevented from breathing or speaking.</p>	
<p>f. During the administration of the restraint, a staff member who is not involved in the restraint shall monitor the physical status of the student and teacher, including skin color and respiration.</p>	<p>42 C.F.R. §482.13(e) and (f) (West 2005). 42 C.F.R. §483.360(c) (West 2005).</p>
<p>g. The restraint shall be immediately released upon a</p>	<p>42 C.F.R. §482.13(e) (West 2005).</p>

determination by a staff member that the student is no longer likely to cause imminent physical harm to self or others.	42 C.F.R. §483.358(e) (West 2005).
h. Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and medical assistance shall be sought.	42 C.F.R. §482.13(e) and (f) (West 2005). 42 C.F.R. §483.358(f) (West 2005). 42 C.F.R. §483.360(a) and (c) (West 2005). 42 C.F.R. §483.362(c) (West 2005). 42 C.F.R. §483.372(a) (West 2005).
Sec. 5. a. Circumstances under which a physical restraint or seclusion was used must be reported to the parent. Program staff shall report the use of any physical restraint or extended seclusion to the building administrator, or designee, immediately.	42 C.F.R. §482.13(b) and (d) (West 2005). 42 C.F.R. §483.356(c) (West 2005). 42 C.F.R. §483.358(f), (g), and (h) (West 2005). 42 C.F.R. §483.360 (a) and (b) (West 2005). 42 C.F.R. §483.366(a) (West 2005). 42 C.F.R. §483.370(a) and (b) (West 2005). 42 C.F.R. §483.374(b) (West 2005).
b. The building administrator, or designee, shall immediately contact the student's parents to inform them of the intervention and mail written follow-up notification within 24 hours that includes a specific person to contact for more details.	42 C.F.R. §482.13(b) and (d) (West 2005). 42 C.F.R. §483.356(c) (West 2005). 42 C.F.R. §483.360(a) and (b) (West 2005). 42 C.F.R. §483.366(a) (West 2005). 42 C.F.R. §483.370(a) (West 2005). 42 C.F.R. §483.374(b) (West 2005).
c. A form documenting the use of seclusion room or physical restraint must be completed and sent to the building administrator, the parents, and the human rights committee within 24 hours of each incident. The documentation shall include: 1. The names and job titles of the staff who administered the restraint, any witnesses, and the name of the administrator or designee who was informed following the seclusion or restraint, and time contacted; 2. the date of the seclusion or restraint, the time of initiation, ending time, duration and location of the intervention;	42 C.F.R. §482.13(d) (West 2005). 42 C.F.R. §483.356(c) (West 2005). 42 C.F.R. §483.358(f), (g), and (h) (West 2005). 42 C.F.R. §483.360(b) (West 2005). 42 C.F.R. §483.366(b) (West 2005). 42 C.F.R. §483.370(b) and (c) (West 2005). 42 C.F.R. §483.372(c) and (d) (West 2005). 42 C.F.R. §483.374(b) (West 2005).

<p>3. a description of the antecedents that immediately preceded the use of seclusion or restraint and the specific behavior being addressed;</p> <p>4. the alternative methods used to de-escalate the situation prior to the use of the seclusion or restraint;</p> <p>5. how the restraint ended, including physical or mental injuries, to the student, staff or both, and any medical care provided;</p> <p>6. suggestions for strategies to be used in future incidents to avoid the use of seclusion and restraint;</p> <p>7. the signature of the person initiating the action and a witness of the intervention technique used;</p> <p>8. the date and time that parental notification took place;</p> <p>9. information regarding future opportunities for the student's parents to discuss with school officials the administration of the restraint or seclusion; and</p> <p>10. the names and phone numbers of the protection and advocacy system designated by the governor pursuant to federal law, the designated Kansas parent training and information center for children with disabilities and the designated Kansas statewide family network for children with serious emotional disabilities</p>	
<p>d. For extended seclusion or physical restraint, the supporting documentation must include:</p> <p>1. The outcome of the alternatives attempted and the justification for administering the extended seclusion or restraint;</p> <p>2. documentation of the time the building administrator authorized the use of the extended intervention; and</p> <p>3. documentation of the results of the IEP meeting convened to identify the need for behavioral therapy or mental health services if the use of extended seclusion and restraint exceeds two times in one month.</p>	

<p>Sec. 6. On a quarterly basis, the state department of education shall collect and compile data regarding the use of seclusion and restraint and report the data to the state advisory council for special education established pursuant to K.S.A. 72-964, and amendments thereto. This information must also be made readily available to the public. The council shall use this information to report to the state board of education with recommendation on systemic change needed reduce the use of seclusion and restraint in public education programs. The state board of education shall use these recommendations as well as the data, documentation and reports to annually recommend to the legislature strategies or policies to reduce or eliminate the use of seclusion and restraint in schools. The data and documentation shall include at least:</p>	<p>42 C.F.R. §483.370(a) (West 2005). 42 C.F.R. §483.372 (d) (West 2005). 42 C.F.R. §483.374(b) (West 2005).</p>
<p>a. the number of incidents involving the use of these interventions;</p>	
<p>b. the location and duration of each incident, identifying both specific schools and districts;</p>	<p>42 C.F.R. §483.370(b) (West 2005).</p>
<p>c. any injuries or property damage that occurred; and</p>	<p>42 C.F.R. §483.370(b) (West 2005). 42 C.F.R. §483.372(c) and (d) (West 2005).</p>
<p>d. the timeliness of parental notification and administrative review.</p>	
<p>Sec. 7. a. Before using restraint and seclusion, school staff must receive specialized individual training and demonstrate competency. This training shall include, but not be limited to:</p> <ol style="list-style-type: none"> 1. An understanding of the basis for rules governing seclusion and restraint; 2. the safe administration of seclusion and restraint practices; 3. addressing physical safety issues that may arise during the administration of emergency measures; 4. identifying the effects of physical restraint on the person 	<p>42 C.F.R. §482.13(e) and (f) (West 2005). 42 C.F.R. §483.350(a) (West 2005). 42 C.F.R. §483.358(f) (West 2005). 42 C.F.R. §483.364(a) (West 2005). 42 C.F.R. §483.376 (West 2005).</p>

<p>restrained, monitoring physical signs of distress, and obtaining medical assistance;</p> <ol style="list-style-type: none">5. simulated experience of administering and receiving physical restraint and its effects on the person restrained;6. instruction in documenting and reporting requirements; and7. the proper use of positive behavior supports and techniques and strategies designed to minimize and prevent the need for usage of restraint and seclusion.	
<p>b. only school personnel who have received this training shall administer physical restraint or use seclusion rooms with students.</p>	<p>42 C.F.R. §482.13(e) and (f) (West 2005).</p>
<p>Sec. 8. It shall be the policy of the state of Kansas that school districts are encouraged to implement positive behavior supports and other evidence-based practices to address the needs of students who receive special education and related services.</p>	
<p>a. The state board of education shall offer assistance to local boards of education with implementing plans. An effective positive behaviors support plan:</p> <ol style="list-style-type: none">1. Is developed in cooperation with administrators, teachers, and parents, and at their discretion, students;2. establishes a behavior support team to direct the implementation of the positive behaviors support plan at each school and that the team include parents of students at the school as well as school employees as team members;3. provides for an initial assessment of the status of behavior and discipline in the school;4. clearly defines short and long-term goals for improving school behavior and discipline based on objective criteria;5. establishes implementation procedures based on the goals of the plan and the status of behavior and discipline as initially assessed;	<p>42 C.F.R. §483.376 (West 2005). Remainder – N/A</p>

<p>6. includes a timeline for comprehensive training of a sufficient number of school employees, beginning with members of the school-wide behavior support team, in the use of positive behavior supports by recognized instructors in positive behaviors supports;</p> <p>7. includes the selection of a data system that allows continual and efficient monitoring and evaluation of the effectiveness of the implementation of the school-wide system of discipline.</p>	
<p>Sec. 9. The Kansas state department of education shall annually grant \$400,000 each to the protection and advocacy system designated by the governor pursuant to federal law, the designated Kansas parent training and information center for children with disabilities, and the designated Kansas statewide family network for children with serious emotional disabilities. These entities shall use the appropriation to train parents on the rights and limitations of special education law, individual and group rights consultation, legal advocacy services, assistance with individual education plan development and meetings, services and supports, and proactive measures to inform parents and participate with parents and their children to make the special education process less adversarial.</p>	<p>Only the federal government provides funding for services, supports and training of parents with students in special education. No State support of state dollars are provided.</p>
<p>Sec. 10. a. Nothing in this act shall be construed to limit the protection afforded publicly funded students under other state or federal laws.</p>	<p>N/A</p>
<p>b. If anything in this act shall be deemed unconstitutional, the unconstitutional section shall be severed from the rest of the statute without affecting the constitutionality of the act as a whole.</p>	<p>N/A</p>
<p>c. Authority to implement this statute is vested in the state board of education. Authority to implement other rules and policies that</p>	<p>N/A</p>

fall within the confines of this act is also vested in the state board of education.	
d. The Kansas state board of education is authorized to make regulations and implement them in order to ensure enforcement of this act.	N/A
Sec. 11. This act shall take effect and be in force from and after January 1, 2006 and its publication in the statute book.	

Reference Codes for Summary Comparison Chart:

NAPAS – National Association of Protection and Advocacy Systems

V.T.C.A. – Texas Education Code Tex. Educ. Code Ann. § __ (Vernon 2004).

IL ADC – Illinois Administrative Code Ill. Admin. Code titl __, § __

MD EDUC - Maryland Code, Education Md. Code Ann. [Educ.] § __

105 ILCS – Illinois Compiled Statutes Ill. Comp. Stat.

34 N.R.S. – Nevada Revised Statutes Nev. Rev. Stat.

7 M.G.L.A. – Massachusetts General Law Mass. Gen. Laws Ann.

M.S.A. – Maine Statutes, Education Code PreK-12 Me. Rev. Stat. Ann. Tit. __ § __ (West 2004).

20-A M.R.S.A. – Maine Revised Statutes Me. Rev. Stat. Ann. Tit. __ § __ (West 2004).

SB 241

State Laws & Best Practices Modeled

Section 1. This act shall be known and referred to as the Special Education Seclusion and Restraint Modernization and Parent Support Act. The purpose of this statute is:	N/A
a. To ensure that every student receiving Special Education and related services is free from the unreasonable, unsafe and unwarranted use of restraint practices.	NAPAS Restraint & Seclusion in Public Schools Subcommittee, §1(3)(b), p. 1, (2004).
b. To encourage the use of positive behavioral support methods in schools and to develop a well-trained staff in order to reduce	NAPAS Restraint & Seclusion in Public Schools Subcommittee, §1(3)(a), p. 1, (2004).

the emergence of unsafe situations in which seclusion and restraint practices may be used.	
Sec. 2. As used in this act:	
a. "Locked seclusion room" means a locked box, locked closet, locked room or any other locked structure.	MD EDUC §7-1101(h) (West 2005). 2 V.T.C.A. §37.0021(b)(2) (West 2005)
b. "Seclusion room" means a room that is unlocked and monitored but is designed to isolate a person and is at least 50 square feet, free of any condition that could be a danger to the student, well ventilated and sufficiently lighted.	23 IL ADC 1.285(a), (West 2005). Time Out Policy of Lawrence Schools, <i>Guidelins for the use of time-out from positive reinforcement</i> , n.4 (2004). 20-A M.R.S.A. § 4502 M. (1)
c. "Extended seclusion" means use of the seclusion room for a period longer than one minute for every year of the student's age.	Based on concept from Lawrence Public School Guidelines for the Use of Time-Out from Positive Reinforcement and best practices encompassed in federal reports.
d. "Timeout" means a behavior management technique that involves removing a student from sources of reinforcement following an inappropriate behavior for a limited period of time that does not involve the use of a seclusion room.	2 V.T.C.A. §37.0021(b)(3) (West 2005). Time Out Policy of Lawrence Schools, <i>Guidelines for the use of time-out from positive reinforcement</i> , n.1 (2004).
e. "Restraint" means any physical method of restricting a person's freedom of movement, physical activity or normal access to the person's body.	2 V.T.C.A. §37.0021(b)(1) (West 2005). 23 IL ADC 1.285(b), (West 2005). International Society of Psychiatric and Mental Health Nurses (1999).
f. "Mechanical restraint" means the use of any device or object, including, but not limited to: 1. Tape; 2. blankets; 3. tiedowns; and 4. body carrier; which limit a person's body movement, except that protective or stabilizing devices ordered by a physician shall not be considered to be a mechanical restraint when used in the manner in which the device is prescribed.	International Society of Psychiatric and Mental Health Nurses (1999). MD EDUC §7-1101(e) (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §2(6), p. 2, (2004).
g. "Physical restraint" means the use of bodily force to limit a	International Society of Psychiatric and Mental Health Nurses

<p>student's freedom of movement or action, except that consensual, solicited or unintentional touching shall not be construed to be physical restraints.</p>	<p>(1999). MD EDUC §7-1101(g) (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §2(1), p. 1, (2004).</p>
<p>h. "Extended restraint" means a physical restraint, the duration of which is more than five minutes, or the use of restraint more than once in a school day.</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §2(2), p. 1, (2004).</p>
<p>i. "Chemical restraint" means the administration of medication for the purpose of restraint.</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §2(5), p. 2, (2004).</p>
<p>j. "School day" means any day or partial day that students are in attendance at an accredited education program for instructional purposes.</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §2(6), p. 2, (2004).</p>
<p>k. "Human rights committee" means a committee each school district board shall establish that reviews documentation of the use of seclusion rooms and restraint which is composed of family members of students with disabilities who receive special education and related services, advocacy representatives and school district employees.</p>	<p>State Developmental Disability Institutions must have a similar Human Rights Committee to deal with similar issues regarding restrictive interventions.</p>
<p>l. "School employees" means teachers, administrators, and support staff employed by a school or special education cooperative.</p>	<p>Other laws.</p>
<p>m. "Positive behavior support" means a school-wide approach to preventing and responding to problem behavior that:</p> <ol style="list-style-type: none"> 1. Is proactive and instructional, rather than reactive and punitive; 2. operates on the following three levels: <ol style="list-style-type: none"> A. Individual, B. Group or classroom, C. And whole school, 3. includes a system of continual data collection; 	<p>Input from University of Kansas, Beach Center on Disability</p>

<p>4. utilizes data-based decision-making; and 5. applies research-validated positive behavioral interventions.</p>	
<p>Sec. 3. a. Every student who receives special education and related services has the right to be free from unnecessary seclusion or restraint.</p>	<p>NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, n.3, p. 1, (2004).</p>
<p>b. No student shall at any time be placed in a locked seclusion room.</p>	<p>105 ILCS 5/10-20.33 (West 2005). NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, p.2 (7) N.R.S. 388.5215, 8 and 388.5265 (Nevada) 20-A M.R.S.A § 4502 5 M (1) (Maine) V.R.C.A., Education Code § 37.0021 (a) (Texas)</p>
<p>c. The use of a seclusion room is permitted only if: 1. The student poses an imminent risk of substantial physical harm to self or others;</p>	<p>Texas Education Code §89-1053 (b)(1)(A)(B) NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, n.2, p. 1, (2004). Time Out Policy of Lawrence Schools, <i>Guidelins for the use of time-out from positive reinforcement</i>, n.3 (2004).</p>
<p>2. there is no medical contraindication for its use; 3. staff using seclusion has been trained to safely implement the intervention; 4. the space is unlocked and there is no physical impediment to the exit of the room; 5. school staff is in visual contact with the student at all times, not to exceed a distance of two feet from the room; 6. the duration is limited to one minute or less per year of age of the student. Durations greater than this amount shall be considered extended seclusion and are permissible only by following the requirements of this act;</p>	<p>23 IL ADC 1.285 a) 1) A thru C and 2) – 4). V.T.C.A. § 37.0021 (d) (B). Tim Out Policy of Lawrence Schools, <i>Guidelines for the use of time-out from positive reinforcement</i>, n.3, c and d. (supervision, safety and time limits)</p>

<p>7. prior written parental consent has been obtained including the specific behaviors that will result in use of a seclusion room; and</p> <p>8. use of a seclusion room is expressly included in the child's individual education plan (IEP).</p> <p>Any other use of a seclusion room is prohibited.</p>	
<p>d. Use of extended seclusion requires:</p> <p>1. Additional written documentation and justification that includes the alternatives to extended restraint that were attempted, the outcome of those efforts, and the justification for administering the extended restraint; and</p> <p>2. if the extended seclusion is used more than two times in a month, the IEP Team will be convened. This team meeting will examine changes to the behavioral intervention plan to prevent the need for future extended seclusion and potential referrals to mental health or outside professionals and agencies to help address the behaviors that led to use of extended seclusion.</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, <i>DRAFT</i>, §7(4)(d), p. 6, (2004). Specifically deals with restraint, but same basic procedure should apply to seclusion as well.</p>
<p>e. 1. The use of chemical restraints is prohibited in public education programs.</p> <p>2. The use of mechanical restraints is prohibited in public education programs.</p> <p>3. The use of physical restraint is limited to times when:</p> <p>A. The student poses an imminent risk of substantial physical harm to self or others;</p> <p>B. there is no medical contraindication for its use;</p> <p>C. the staff applying restraint have been trained to safely implement the intervention;</p> <p>D. a person administering a physical restraint shall use the least amount of force necessary to protect the student or others from physical injury or harm. It must be performed in a manner that is safe, proportionate, appropriate to the severity of the behavior,</p>	<p>105 ILCS 5/10-20.33 (West 2005). (prohibitions and training)</p> <p>23 IL ADC 1.285(c) and (e), (West 2005). (training and documentation)</p> <p>34 N.R.S. 388.527 (West 2005). (prohibitions)</p> <p>34 N.R.S. 388.5275 (West 2005). (paraphrase all)</p> <p>34 N.R.S. 388.528 (West 2005). (addresses training)</p> <p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §2(5), p. 2, (2004).</p> <p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §2(6), p. 2, (2004).</p> <p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §5, p. 3-5, (2004).</p> <p>NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding</i></p>

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<p>and the student's chronological and developmental age, size, gender, physical, medical, psychiatric condition and personal history including any history of emotional trauma, physical abuse or sexual abuse;</p> <p>E. supporting documentation is completed within 24 hours; and</p> <p>F. use of restraint is on the student's behavior intervention plan, noting specific behaviors that will warrant the use of the seclusion room and it is incorporated into the individual education plan.</p> <p>4. Physical restraint is prohibited as a means of punishment or as a response to:</p> <p>A. Insubstantial property destruction;</p> <p>B. disruption of school order;</p> <p>C. a student's refusal to comply with a school rule or staff directive; or</p> <p>D. verbal threats that do not constitute a threat of imminent, serious physical harm.</p>	<p><i>Principles</i>, n.2, p. 1, (2004).</p>
<p>Sec. 4. a. Only school personnel who have received training pursuant to this statute may administer physical restraint on students.</p>	<p>23 IL ADC 1.285(h), (West 2005). 34 N.R.S. 388.5285 (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §6(1), p. 4, (2004). NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, n.4 and 5, p. 1, (2004). Similar Federal law training requirements.</p>
<p>b. The administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint.</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §6(1), p. 4, (2004). NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, n.6, p. 1, (2004). Federal requirements on proper use.</p>

<p>c. This section does not preclude school staff from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.</p>	<p>23 IL ADC 1.285(c), (West 2005). 7 M.G.L.A. 71 §37G(b) (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §6(1), p. 4, (2004).</p>
<p>d. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in this statute.</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §6(3), p. 4, (2004).</p>
<p>e. No restraint shall be administered in such a way that a student is prevented from breathing or speaking.</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §6(5)(a), p. 5, (2004).</p>
<p>f. During the administration of the restraint, a staff member who is not involved in the restraint shall monitor the physical status of the student and teacher, including skin color and respiration.</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §6(5)(a), p. 5, (2004).</p>
<p>g. The restraint shall be immediately released upon a determination by a staff member that the student is no longer likely to cause imminent physical harm to self or others.</p>	<p>23 IL ADC 1.285(e)(2), (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §6(5)(a), p. 5, (2004).</p>
<p>h. Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and medical assistance shall be sought.</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §6(5)(b), p. 5, (2004).</p>
<p>Sec. 5. a. Circumstances under which a physical restraint or seclusion was used must be reported to the parent. Program staff shall report the use of any physical restraint or extended seclusion to the building administrator, or designee, immediately.</p>	<p>23 IL ADC 1.285(f), (West 2005). M.S.A. §121A.67 (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §7(1), p. 5, (2004). 34 N.R.A. 388.5275 (3) (West 2005)</p>
<p>b. The building administrator, or designee, shall immediately contact the student's parents to inform them of the intervention and mail written follow-up notification within 24 hours that includes a specific person to contact for more details.</p>	<p>23 IL ADC 1.285(g), (West 2005). 34 N.R.S. 388.5275(3) (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §7(3), p. 6, (2004). NAPAS Restraint and Seclusion in Public Schools Subcommittee,</p>

	<p><i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, n.12, p. 3, (2004).</p>
<p>c. A form documenting the use of seclusion room or physical restraint must be completed and sent to the building administrator, the parents, and the human rights committee within 24 hours of each incident. The documentation shall include:</p> <ol style="list-style-type: none"> 1. The names and job titles of the staff who administered the restraint, any witnesses, and the name of the administrator or designee who was informed following the seclusion or restraint, and time contacted; 2. the date of the seclusion or restraint, the time of initiation, ending time, duration and location of the intervention; 3. a description of the antecedents that immediately preceded the use of seclusion or restraint and the specific behavior being addressed; 4. the alternative methods used to de-escalate the situation prior to the use of the seclusion or restraint; 5. how the restraint ended, including physical or mental injuries, to the student, staff or both, and any medical care provided; 6. suggestions for strategies to be used in future incidents to avoid the use of seclusion and restraint; 7. the signature of the person initiating the action and a witness of the intervention technique used; 8. the date and time that parental notification took place; 9. information regarding future opportunities for the student's parents to discuss with school officials the administration of the restraint or seclusion; and 10. the names and phone numbers of the protection and advocacy system designated by the governor pursuant to federal law, the designated Kansas parent training and information center for children with disabilities and the designated Kansas statewide 	<p>23 IL ADC 1.285(f), (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §7(2) and (4), p. 5-6, (2004). NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, n.8, p. 2, (2004). Federal reports and requirements on documentation.</p>

family network for children with serious emotional disabilities	
<p>d. For extended seclusion or physical restraint, the supporting documentation must include:</p> <ol style="list-style-type: none"> 1. The outcome of the alternatives attempted and the justification for administering the extended seclusion or restraint; 2. documentation of the time the building administrator authorized the use of the extended intervention; and 3. documentation of the results of the IEP meeting convened to identify the need for behavioral therapy or mental health services if the use of extended seclusion and restraint exceeds two times in one month. 	<p>23 IL ADC 1.285(f), (West 2005). (adapted) NAPAS Restraint & Seclusion in Public Schools Subcommittee, §7(4)(d), p. 6, (2004).</p>
<p>Sec. 6. On a quarterly basis, the state department of education shall collect and compile data regarding the use of seclusion and restraint and report the data to the state advisory council for special education established pursuant to K.S.A. 72-964, and amendments thereto. This information must also be made readily available to the public. The council shall use this information to report to the state board of education with recommendation on systemic change needed reduce the use of seclusion and restraint in public education programs. The state board of education shall use these recommendations as well as the data, documentation and reports to annually recommend to the legislature strategies or policies to reduce or eliminate the use of seclusion and restraint in schools. The data and documentation shall include at least:</p>	<p>NAPAS Restraint & Seclusion in Public Schools Subcommittee, §7(5), p. 6, (2004). Other Kansas law that requires reporting and accountability.</p>
<p>a. the number of incidents involving the use of these interventions;</p>	
<p>b. the location and duration of each incident, identifying both specific schools and districts;</p>	
<p>c. any injuries or property damage that occurred; and</p>	
<p>d. the timeliness of parental notification and administrative</p>	

review.	
<p>Sec. 7. a. Before using restraint and seclusion, school staff must receive specialized individual training and demonstrate competency. This training shall include, but not be limited to:</p> <ol style="list-style-type: none"> 1. An understanding of the basis for rules governing seclusion and restraint; 2. the safe administration of seclusion and restraint practices; 3. addressing physical safety issues that may arise during the administration of emergency measures; 4. identifying the effects of physical restraint on the person restrained, monitoring physical signs of distress, and obtaining medical assistance; 5. simulated experience of administering and receiving physical restraint and its effects on the person restrained; 6. instruction in documenting and reporting requirements; and 7. the proper use of positive behavior supports and techniques and strategies designed to minimize and prevent the need for usage of restraint and seclusion. 	<p>23 IL ADC 1.285(f) and (h), (West 2005). 34 N.R.S. 388.5285(West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §4 and 7, p. 2-3 and 5-7, (2004). NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, n.4 and 9, p. 1-2, (2004).</p>
<p>b. only school personnel who have received this training shall administer physical restraint or use seclusion rooms with students.</p>	<p>23 IL ADC 1.285(h), (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §6(1), p. 4, (2004).</p>
<p>Sec. 8. It shall be the policy of the state of Kansas that school districts are encouraged to implement positive behavior supports and other evidence-based practices to address the needs of students who receive special education and related services.</p>	<p>M.S.A. §121A.67 (West 2005). NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, n.9, p. 2, (2004). Texas Behavior Support Initiative developed as a result of SB 1196</p>
<p>a. The state board of education shall offer assistance to local boards of education with implementing plans. An effective positive behaviors support plan:</p>	

<ol style="list-style-type: none">1. Is developed in cooperation with administrators, teachers, and parents, and at their discretion, students;2. establishes a behavior support team to direct the implementation of the positive behaviors support plan at each school and that the team include parents of students at the school as well as school employees as team members;3. provides for an initial assessment of the status of behavior and discipline in the school;4. clearly defines short and long-term goals for improving school behavior and discipline based on objective criteria;5. establishes implementation procedures based on the goals of the plan and the status of behavior and discipline as initially assessed;6. includes a timeline for comprehensive training of a sufficient number of school employees, beginning with members of the school-wide behavior support team, in the use of positive behavior supports by recognized instructors in positive behaviors supports;7. includes the selection of a data system that allows continual and efficient monitoring and evaluation of the effectiveness of the implementation of the school-wide system of discipline.	
<p>Sec. 9. The Kansas state department of education shall annually grant \$400,000 each to the protection and advocacy system designated by the governor pursuant to federal law, the designated Kansas parent training and information center for children with disabilities, and the designated Kansas statewide family network for children with serious emotional disabilities. These entities shall use the appropriation to train parents on the rights and limitations of special education law, individual and group rights consultation, legal advocacy services, assistance with individual</p>	<p>NAPAS Restraint and Seclusion in Public Schools Subcommittee, <i>NAPAS Use of Restraint and Seclusion in Public Schools Guiding Principles</i>, n.11 and 12, p. 3, (2004). President's New Freedom Report concept of "parent and consumer-driven services" ... President's report calls for "Supporting technical assistance ... and consumer/peer-delivered training and involvement should be implemented to effectively improve and implement policies and guidelines." This proposal provides parent and consumer training and technical assistance.</p>

education plan development and meetings, services and supports, and proactive measures to inform parents and participate with parents and their children to make the special education process less adversarial.	
Sec. 10. a. Nothing in this act shall be construed to limit the protection afforded publicly funded students under other state or federal laws.	NAPAS Restraint & Seclusion in Public Schools Subcommittee, §1(4), p. 1, (2004).
b. If anything in this act shall be deemed unconstitutional, the unconstitutional section shall be severed from the rest of the statute without affecting the constitutionality of the act as a whole.	
c. Authority to implement this statute is vested in the state board of education. Authority to implement other rules and policies that fall within the confines of this act is also vested in the state board of education.	105 ILCS 5/2-3.130, (West 2005). 7 M.G.L.A. 71 §37G(b) (West 2005). NAPAS Restraint & Seclusion in Public Schools Subcommittee, §1(1), p. 1, (2004).
d. The Kansas state board of education is authorized to make regulations and implement them in order to ensure enforcement of this act.	105 ILCS 5/2-3.130, (West 2005).
Sec. 11. This act shall take effect and be in force from and after January 1, 2006 and its publication in the statute book.	

October 18, 2004

Representative Kathe Decker
Chair
Legislative Educational Planning Committee
Statehouse
Topeka, KS 66612

Dear Chairperson Decker:

I am writing as a parent and advocate for my son Jacob. He is a beautiful 11yr. old boy who has autism (see attached Photo). I have learned that it is important to provide our legislators with "real world" testimony to illustrate how their work impacts the life of their constituents. I commend this committee for delving into the issue of special education and exploring the issues that have a profound effect on this often "hidden" population. As a member of the "Partners" program offered nationally through the Disability Council I feel compelled to offer you "my story" as it touches on many of the issues presented in the policy paper presented last month during the L.E.A.P. hearing.

I was present during last months' testimony and I have read the minutes of the prior meetings. I hope this committee understands that it is difficult for parents to bring such emotionally charged issues to your attention. We not only must speak publicly about our most intimate struggles but we also must face the possibility of intimidation and retaliation by the very system we are trying to positively change. I hope we are able to present these issues to the upcoming legislative session with the aim of constructive improvements in the lives of the disability community and our communities as a whole. I was especially touched by my fellow partner Diane Briscos' testimony about her experience as a foster parent.

I remember last year during my sons' conference noticing the "box" that had been built in his classroom. I asked the teacher what the box was used for and if it was being used with my son. I was told it was a "time-out" room and that my son was not being sent inside. It was months later when I heard more about the use of "seclusion rooms" during a partners training session on the use of positive behavioral supports. I remember our discussion about their use and wondering if my son would ever be in a position where he would be subjected to the box.

Some pertinent history of my son may help you understand. Jacob is nonverbal and has experienced some extreme behavioral challenges. At one point he knocked his teacher unconscious unintentionally as she attempted to restrain him at school. The following week, he cut open his wrist after striking a window at home and was then admitted to Kansas University Child Psychiatry Unit as we were unable to assure his safety. Finally, after reviewing all available Kansas resources our I.E.P. team recommended admission to a Heartspring a private school specializing in autism in Wichita, KS. After eight long months away from his family, they regained control of his behaviors and we were able to

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transition him back into our home and local schools. I credit Heartspring with saving my sons' life and teaching me the value of positive behavioral supports.

I have never questioned our decision as a team to send Jacob to an environment that assured his safety and turned his behaviors around. Unfortunately, there was a public debate in our local newspaper on the merits of our I.E.P. team decision where my son was labeled a "Tax Burden." (Attachment 1) If members of the public had witnessed my son before and after Heartspring and had seen five adults safely restraining my son on the floor for over 30 minutes to protect him-they may not have seen this as a waste of school district or taxpayer money. I have heard people in our community infer that we are "wasting" money on special education that should be spent elsewhere. I believe that the State should be responsible for determining coverage for "catastrophic" expenses and they should be removed from the politics and public judgments of local decision makers.

Another issue on which you have heard testimony, via augmentative communication, was assistive technology. It is difficult, if not impossible, for a parent to navigate between private insurance, Medicaid and the school district to access the devices that may profoundly affect their ability to integrate into the community. I have struggled for years trying to find a way for a nonverbal child to communicate his basic desires and now I must continue to struggle to find a way to purchase and implement the device.

Finally, I would like to address the reasons I believe the Legislature should act on these important and sometimes controversial issues. By defining "best practices" on issues from I.E.P.'s to positive behavioral supports to augmentative communication devices you would take the local politics and inconsistencies out of the equation. You would also provide uniform access to information and equality in distribution of finite resources. We have the opportunity to have a positive impact in the lives of the population that is often overlooked or hidden. We could change the current atmosphere of struggle and confrontation into a cooperative and positive delivery system to effectively improve the lives of the citizens of our State.

Thank you again for having the fortitude and insight to devote your attention to these issues. Remember, the disability community will rally behind your efforts and appreciate your attention to these important matters. They will also remember your efforts when we unite to vote. Please take this information into the 2005 Legislative session and improve this vital population's opportunity to live and contribute to our State.

Respectfully,

James Bart
Parent of Jacob Bart



bart family



quail run



jakes school



jakes classroom



jakes portable



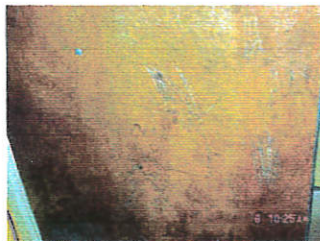
seclusion room



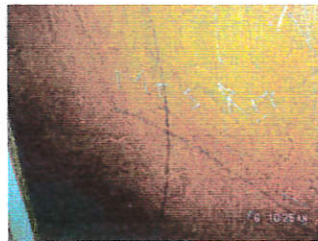
lock on door



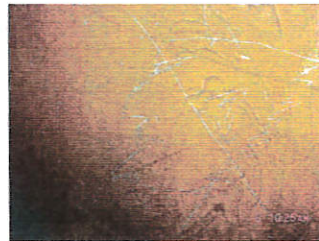
jakes work area



inside of door



misery?



mean man?



jake cleans



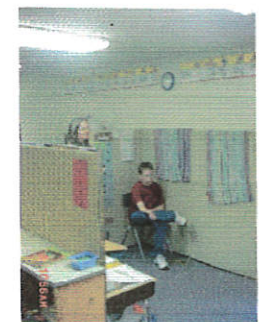
jakes work area



6th grade art



jake in classroom



jake on break

Senate Education Committee
Senator Jean Schodorf, Chairperson
March 3, 2005

Testimony in regard to SB 241

Madam Chairperson and members of the committee, let me begin by thanking you all for allowing me this opportunity to speak to you, and provide you with my written testimony today.

My name is Lilly Shipman and I am the very proud mother of four wonderful children, however, the focus of my testimony will be on my oldest child, my son, Kenneth.

Kenneth is 12 years old. At the age of 4 he was diagnosed with severe autism, and later followed the diagnosis of tourettes syndrome. He is non-verbal, and recent testing has shown him to be at the same level of an 18-24 month old child.

Six years ago, my family moved here to Kansas, to Wichita, for the sole purpose of obtaining an appropriate education for Kenneth. Born and raised in NYC, our family packed our belongings and moved to Wichita, blindly, leaving all our loved ones behind, and knowing no one here in Kansas. This was after learning of the special day school in USD 259, Levy Special Education Center. Levy promised a positive environment for Kenneth to learn, to grow, and to thrive in. All we wanted, and continue to want, for our son is for him to be treated with dignity and respect within the community and his school setting, as he is treated at home, and for him to progress to the fullest extent he possibly can.

Well, the last six years have proven to be a fight every step of the way for me to protect my son from cruel, disrespectful, and downright mean so called "professionals" in his school. I could give you dozens of horror stories spanning all the years Kenneth has attended Levy, but then there would be no time for anyone else to speak today! Therefore, I will try to limit myself to the current school year.

Ladies & Gentlemen, my son has become the victim of a school system in which at this time has no law, regulations, or safeguards in place, regarding seclusion and restraints. There are no guidelines to stop the professionals that claim that an OVERCONTROLLING, BOOT IN THE FACE environment is the healthiest for the slow, the weak, and the delayed.

My son has attended 112 days this school year. In this time frame he has been secluded in a "time-out room" 334 times for an outrageous total of 2,498 minutes.

During these "time-outs", he has been physically restrained more than 100 times. At least half of these times have resulted in him sustaining severe bruising to his eyes, nose, cheeks, jaw, neck, back, arms, legs and feet. On one occasion his shirt was literally ripped right off of him. Another time left him with actual strangulation marks around his neck. Another incident caused such severe bruising and injury to his face that he could not even chew for almost

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Attachment 3

24 hours. Yet another time a large, heavy, table was flipped and allowed to land on Kenneth's foot, causing bruising and severe swelling that lasted for days.

More frequently, are the times when Kenneth is placed in a "box", depriving him of all sensory needs, or sat at a table and forced to place his head down, again depriving him of his sensory needs. All of these incidents have been justified by the so-called "professional" employed by the district to handle "behavior modification" in his school. This staff member has several positions in the school. They call him security, and they call him a para-educator...but only when they are not calling him a janitor!! Oh, and don't for a minute let yourself believe that the school is using this type of treatment only to protect Kenneth, or someone else from being in imminent danger or harm. No, no. He is PUNISHED FOR BEING HIMSELF. He is punished this way for exhibiting common symptoms of his disorders, such as arm flapping, and high pitch sounds called "tics", or reaching out to someone for help by touching them in the absence of speech due to his autism.

Now, the school is trying to force a new Behavior Intervention Plan which will allow them to restrain and seclude him for even more reasons such as crying, and "non-compliance". Their definition of non-compliance simply means any time he does not immediately respond and do whatever it is they want him to do. Playing BINGO has become an issue they want to be able to punish my son for if he does not participate cooperatively. Please remember...his cognitive level is no more than a two year olds. If they are able to get this proposed BIP in place, my son will spend most of his school days in seclusion, and being restrained and physically harmed. The numbers I gave you earlier will surely be at the very least, tripled. My son will be hurt for simply trying to communicate the only way he knows how. He will be shamed and traumatized even more than he already has been. He is belittled, and bullied by staff, much like the outcast on a school playground is bullied by his peers.

When Kenneth is shoved into the "time-out box" at school, he is undoubtedly scared. As a matter of fact I'd even argue that he is as much as petrified. These boxes are essentially unfinished wooden closet type areas no more than 3 feet square. There is no padding or carpeting, seating, no uncovered window. They are approximately 7 feet in height. I would have brought you pictures today, but when I tried to get those pictures yesterday, I was not even allowed to enter the room. As a matter of fact I was physically thrown across the hallway by the same janitor/guard that has repeatedly hurt my son. Please realize that for him to go so far as to physically attack me to keep me from taking photos is a clear indication that something is desperately wrong. I was told that the building principal has warned security that NO ONE is EVER allowed to photograph this room or these boxes. I beg of you all,

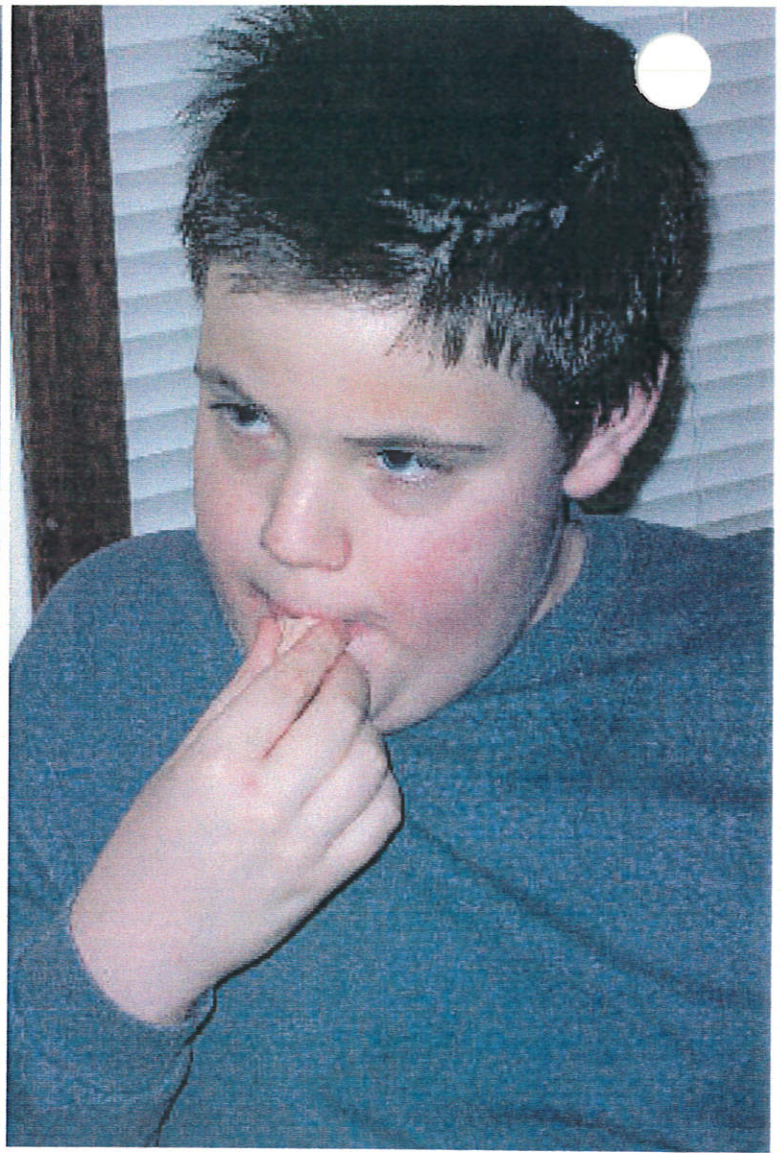
please, make a trip to Wichita, and view this horrific sight for yourselves. See what our children face on a daily basis. See what we as parents are tortured by in our nightmares, and our daydreams. Imagine yourself having to let your child be in the hands of these MONSTERS 8 hours a day. And please remember, it's not like sending a verbal child to school who can come home and tell you what has happened to them. Most of these children, including my son, can only show their fear and anguish by their actions, and you can only see their pain in their eyes, feel their fear when you try to hug them like you always have, and they flinch.

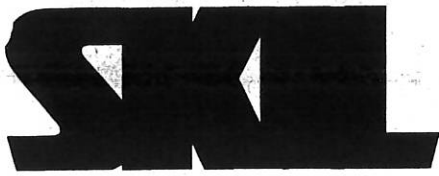
Ladies and Gentlemen, Kansas needs to follow the lead of other states like Texas, Illinois, Maryland and Nevada to mention a few, that recognized the importance of establishing commonsense guidelines that ensure the safety of our special needs students by requiring appropriate mandatory training for all school personnel and ensuring that any use of seclusion or restraint is done safely and not used for punishment or discipline, but rather only to PROTECT, not to cause harm. We need to be assured that our students are being protected by laws that require Kansas schools be accountable for the frequency and the conditions under which seclusion and restraint is used. We need to implement guidelines by enacting legislation and developing state wide regulations. We need to do this for Kenneth and every other at-risk child in Kansas.

Historically, the armed services had screened out people with psychiatric histories because they knew that the rigors of aversive situations and conditioning presented a danger to these individuals. But, if you are a cognitively disabled child in Kansas schools, you will not be screened out from these being used on you! I sure will admit that my son has learned several things through his experiences with restraint and seclusion. He learned to be afraid of his teachers and other school staff. He learned he is not worthy of respect due to his imperfections. He learned to flinch whenever ANYONE nears to touch him. And mostly he learned to be violent and aggressive. VIOLENCE BEGETS VIOLENCE, and seclusion and restraint are the embodiment of violence in a treatment philosophy.

In closing, I am BEGGING you, for my son, and for every other imperfect child in this state, PLEASE take a stand, STOP the abuse. PLEASE, let me no longer have to worry whether or not Kenneth will come home from school when I put him on the bus in the morning. Far too many children have been killed while being restrained. Please don't let my child be the next statistic. Please help him.

Thank you,
Lilly Shipman





Southeast Kansas Independent Living Resource Center

**Testimony to
Senate Education Committee
On SB 241**

March 3, 2005

Mrs. Chairperson, Members of the Committee, thank you for the opportunity to testify before you today on SB 241. My name is Shari Coatney and I am the Executive Director of Southeast Kansas Independent Living Resource Center, but more important I am a mother. I have 5 wonderful children and that is why I am testifying today.

This bill hits very near to my heart. My oldest son is autistic and has had many experiences being put into restraints and being put in a seclusion room. Most of the time both at the same time. There were times that his whole day was spent in restraints away from everyone else. This is not a positive situation for anyone involved. The emotional stress of this on both my son and the school staff can not be considered okay by any standards.

I understand that many times plans need to be developed to protect the child or others in the classroom. The fact that no guidelines are set and these practices are not monitored stands to reason we are putting kids at risk. With my personal situation, both my son and the staff were at risk when my son was coming home with bruises on his back and no explanation.

The good news is that he finally got away from that classroom and school. He moved to a classroom setting where they did a lot of positive reinforcement. He was able to end his high school years with lots of positive outcomes and no restraints. I really feel fortunate that he found a teacher with these skills and training.

I hope that you support and pass SB 241 so other children will have the opportunity for positive classroom experiences. If you are able to help avoid the emotional and physical strain that families go through when children are placed in these unregulated situations, you will be doing a great service for Kansans.

Thank you for your wisdom in this consideration. If you have any questions, I will be glad to answer the best I can.

*Senate Education Committee
3-3-05
Attachment 4*

March 2, 2005

To Whom It May Concern:

After his first restraint experience in fifth grade (2000), my son Travis Ingalsbe felt he could no longer be in a room full of people and to this day he will not enter a room filled with too many people. This includes fun things, such as a pool hall, his brother's boxing class, and he will only go in the gym after midnight when there is few to no people there. Travis also quit sleeping in any kind of bedroom or small room. He can only sleep in the living room with the front door open and the screen door locked. Right after this first restrain occurred, I (his mother) had to sleep on the floor next to the couch so he could sleep. Over the course of several months, I was gradually able to move farther away, first from the floor to another couch and then eventually to my own bedroom as long as I waited until after he was asleep and kept my bedroom door open so he could see me from the couch.

We went through Mental Health Services until Travis had done so well that they said he no longer needed their services.

Through the years, the school convinced us that Travis would do best at a school called Project Alternative because of his Conduct Disorder. At this school, Travis broke his left wrist and fractured his right wrist and got a goose egg bump on the back of his head from being restrained and being put in time-out rooms; these three injuries occurred over the course of three different incidences. Travis also learned many bad things from the other students he came into contact with there. He went from being a kid with mental health problems to a really bad kid with mental health problems. I had to get him out of that environment because I was afraid I was going to lose him altogether, mentally and physically.

I've been teaching him at home and on the computer on A+ program two hours a day at the middle school after hours with a teacher. Getting him out of Project Alternative was the best thing I have ever done for him. Now he has a girlfriend, a job, and friends. However, the system (i.e. Jeff Price, Ron Harley, Lowell Alexander) want him back at Project Alternative. They tried to take us to due process to force him back, but I asked for a mediator before they could due process him. That has only slowed them down; they are still pushing very hard.

Travis has been to three different mental health places and all three have diagnosed him with Bipolar Disorder. Jeff Price says he does not believe the diagnosis and Ron Harley wants Travis to go to a mental health center where he knows the doctor so he can trust the diagnosis. We figured we had nothing to hide; our only goal was to see that Travis is never restrained or put in a time-out room again, so we went to this other doctor. This was a big mistake! Dr. William started right in on Travis, reading him the riot act. He got Travis so upset I was afraid he was going to act out. Dr. William could see how upset Travis was and let him leave after spending only ten to fifteen minutes with him, and then started in on me and his father, asking us about our parenting skills. This made no sense; we were there only for Travis's diagnosis for school. He then asked if we had ever been turned in to SRS or if we thought Travis might be taken away from us. We answered no to both questions. He asked me if I felt I was in any danger from Travis. I told him, no, that my son loves me. Dr. William told me he thought I was in

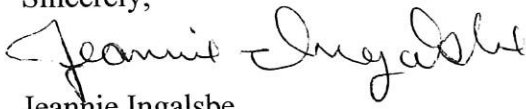
Senate Education Committee
3-3-05
Attachment 5

March 2, 2005

danger. I tried to explain Travis's history and condition. He responded by informing me of his qualifications and years of experience and then told us there was no reason to continue and that we could leave. Since this happened, I have been waiting for SRS or the police to come and take Travis away where they can restrain or lock him up as they please. I now feel that I have an idea of how Travis must feel, living in fear every day. My fear is for him, but his fear is much worse. He fears for himself now every day and has for six years.

The schools must have strict regulations regarding restraint and seclusion. They must have someone to answer to. Parents should be notified BEFORE their child is restrained or secluded and permission must be given by the parent before these things can occur. I hope legislators will take my son's experience into consideration as they consider The Seclusion and Restraint Modernization Act.

Sincerely,

A handwritten signature in cursive script that reads "Jeannie Ingalsbe". The signature is written in black ink and is positioned above the printed name.

Jeannie Ingalsbe



Testimony to the Senate Education Committee
SB 241; regarding special education seclusion and restraint modernization
March 3, 2005

Chairperson Schodorf and committee members, I am Kerrie Bacon, Legislative Liaison for the Kansas Commission on Disability Concerns (KCDC). We are charged with providing information to the Governor, the Legislature, and to State agencies about issues of concern to Kansans with disabilities (K.S.A. 74-6706).

The use of seclusion and restraint in the education system of Kansas needs to have clear guidelines. Children deserve to be treated with respect, especially in their own schools. Having a clear understanding of what action to take when a situation at school escalates will help foster respect between student and school staff.

It is important this bill includes:

1. Clear guidelines for the use of seclusion.
2. Clear guidelines for the use of restraint.
3. A process in place for the school staff to communicate with parents/guardians about what happened.
4. Training and demonstrated competency for school staff on the use of seclusion and restraint.
5. Reporting to the Special Education Advisory Council (SEAC) regarding statewide use of seclusion and restraint.

The commission is supportive of this bill and encourages you to recommend it favorably for passage to the full Senate.

Thank you for your time.

Kansas Commission on Disability Concerns
1430 S.W. Topeka Boulevard, Topeka, Kansas 66612-1819
Voice: (785) 296-1722 Fax: (785) 296-0466
Toll-Free Voice: 1-800-295-5232 Toll-Free TTY 1-877-340-5874
TTY: (785) 296-5044

*Senate Education Committee
3-3-05
Attachment 6*

To: Kansas State Senate Education Committee
Sen. Schodorf, Chairperson

My name is Leigh Ann Carroll. I am a resident of Lenexa, Kansas and the parent of a 9-year-old boy named Aaron. Aaron has a diagnosis of Asperger Syndrome and anxiety disorder. Asperger Syndrome is a neurological disorder on the autism spectrum. This disorder affects the way my son communicates with others and makes it difficult for him to understand social rules. It also affects his sensory system by causing him to be easily "overloaded" when subjected to loud noises, bright lights, unwanted touching and chaotic activity. Aaron's anxiety is equally disabling and manifests itself through irrational fears of such things as thunderstorms, fire and any sort of natural disaster. Aaron is also a highly intelligent individual and has a gifted designation.

Aaron has been subjected to frequent, improper restraints in the Kansas public school system, including being grabbed, hit, having fingers pulled back and being forced to lay prone under gym mats for long periods of time. These physical restraints have caused bodily harm to Aaron including bruising, scrapes, swollen fingers and difficulty in breathing. This is also humiliating to Aaron and has made him feel that he is "bad". When I reported Aaron's injuries to school officials, orally, nothing was done to alleviate these practices. In fact, I was told that Aaron "enjoyed" being held under gym mats. After sending a written complaint to school officials, they responded by having their attorney call me and try to intimidate me.

Due to these practices, we felt we had no choice but to remove Aaron from the public school system and home school him. He is a bright child who enjoys learning again and is thriving. But, that doesn't change the fact that he is entitled to a Free and Appropriate Public Education under IDEA. At some point, my husband and I would like to have him return to the public school system where he can be with peers and receive much needed social skills therapy. It would make it much safer for Aaron, if there were regulations governing the use of restraints on special education students. While we have always tried to make sure that Aaron's behavioral intervention plan includes positive intervention strategies and that restraint be only used as a last resort and in a proper manner, we find that this is rarely followed by school staff. More accountability, parental input and notification are key in regulating this issue. Also, better training requirements and the use of alternative intervention strategies are important to making this a success. In addition, a parental education and support system regarding special education law would be very helpful to parents dealing with issues such as these.

I urge you to carefully consider passing SB 241 as it will help make Kansas schools accountable for the frequency and conditions of the seclusion and restraint of special education students. These students with disabilities deserve to be treated with dignity and respect. Thank you.

Leigh Ann Carroll
8206 Mullen Rd.
Lenexa, Kansas 66215

*Senate Education Committee
3-3-05
Attachment 7*



Families Together, Inc.

Parent Training & Information Centers for Kansas

Senate Education Committee

Senator Jean Schodorf, Chairperson

March 3, 2005

Testimony in regard to SB 241

Home Page:
<http://www.families-togetherinc.org>

Wichita Parent &
Administrative Center
3033 W. 2nd, Suite 106
Wichita, KS 67203
Voice/TDD (316) 945-7747
1-888-815-6364
Fax (316) 945-7795
wichita@families-togetherinc.org

Topeka Parent Center
501 Jackson, Suite 400
Topeka, KS 66603
Voice/TDD (785) 233-4777
1-800-264-6343
Fax (785) 233-4787
topeka@families-togetherinc.org

Garden City Parent Center
1518 Taylor Plaza
Garden City, KS 67846
Voice/TDD (620) 276-6364
1-888-820-6364
Español (620) 276-2380
Fax (620) 276-3488
gardencity@families-togetherinc.org

Kansas City Parent Center
1333 Meadowlark Ln., Suite 103
Kansas City, KS 66102
Voice/TDD (913) 287-1970
1-877-499-5369
Fax (913) 287-1972
kansascity@families-togetherinc.org

Statewide Spanish Parent Line
1-800-499-9443

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today. I am the Executive Director of Families Together, Inc. Our organization is the designated Parent Training and Information Center for Kansas by the US Department of Education. We support families in Kansas who include a child with a disability by providing training and information about special education and related services.

In the process of assisting parents, we have begun to hear more and more reports of children being restrained or secluded in rooms away from their peers. This practice might be effective, if used with caution, but in Kansas there are no guidelines to regulate the use of either seclusion or restraint. We support this bill to give students in schools some of the same protections as residents in hospitals, nursing homes, state institutions, and residential group homes. These other settings generally have more stringent guidelines than are being proposed in this bill. Families Together, Inc. believes that proper use, documentation, and implementation of best practices in positive behavior supports will appropriately serve children, schools, and families.

The most common request from families to the Families Together, Inc. staff members is for a person to attend a school meeting. Our staff has been reduced due to cuts to our contracts with Kansas agencies the past few years. Families feel intimidated by the process and outnumbered by the professionals at the table. With additional money to hire staff to help families, parents would be empowered to come to IEP meetings as fully participating team members. Their expertise and perspective is invaluable to the team. With additional staff hours, Families Together, Inc. would be able to help families to become effective partners with their child's school, not adversaries. Families would have the information they need to make informed decisions about Behavior Intervention Plans and Positive Behavior Supports which may be appropriate for their child.

Thank you for your time. If you have questions about our organization or any of the topics in this legislation, please do not hesitate to contact me.

Connie Zienkewicz
Executive Director
316-945-7747
connie@families-togetherinc.org

Assisting Parents and Their Sons and Daughters with Disabilities
Senate Education Committee
3-3-05
Attachment 8

The Honorable Senator Jean Schodorf
Capitol Office
Room: 503-N
Topeka, KS

Cari Betts
2410 Eastridge
Goddard, KS 67052

Dear Senator Schodorf:

I am writing you in regards to senate bill #241. In my opinion there should be regulations made for the use of restraints and seclusion rooms when it comes to children with special needs. If regulations are not made it would be too easy for school aids and/or officials to abuse many situations. I have heard horror stories from parents about use of these, if regular education children were treated this way, people would be screaming in the streets.

Also I encourage support of the Parent Training Information center Families Together, without the help of which I wouldn't have known about the many services and laws that pertain to my son with Autism. PLEASE GIVE THIS BILL CAREFUL CONSIDERATION-STUDENTS WITH DISABILITIES CANNOT SPEAK FOR THEMSELVES.

Sincerely,

Cari Betts



I want to urge you to vote in favor of Senate Bill 241.

I am a grandmother of a 13 year old with autism. I have been very involved in every area of his life since he was born. He was in an Early Childhood Special Education class and has been in Special Education ever since. Since both of his parents work, I have been the one to provide transportation to and from school over the years. Once he was no longer in Early Childhood, it seemed as if school was off limits for family. Having a child with special needs was totally new to all of us.

There were occasional conferences and IEP meetings, but they were very brief, and we, as a family didn't realize how uninformed we were. The teacher would say how Michael was doing, mostly focusing on his behavior and the papers would be signed and the meeting would end.

I'm sure we received the booklet on Parental Rights, but it seemed overwhelming and daily life with a job and a special needs child didn't leave much time for studying.

After Early Childhood, the school years became tense and unpleasant. I remember getting a phone call from the teacher telling me to come get Michael because he was having a behavior problem. When I arrived, Michael was confined to a wooden chair across the room, far from the rest of the class, with the chair turned away from everyone. When I entered the room, he started to cry and the teacher began to tell me how he became uncooperative and even pulled the glasses off one of the paras. Michael was pretty much non-verbal at the time and is considered functionally non-verbal now. The teacher told me not to let him play so he would know that he was in trouble. After telling me about Michael's behavior several times, she started to say, "I'll see you tomorrow," but stopped and said, "No, I'm mad. I'll see you Monday." She didn't want him to come back to school the next day. This was my first up close look at what was going on in Michael's classroom. I didn't know what to expect from Special Education. It seemed that they didn't want family involved, but I was especially surprised at what seemed like such unprofessional behavior by the teacher. I relayed the story to Michael's parents, but we didn't know what to do except to keep Michael home the next day and try to talk to him about having a good day at school when he went back.

Eventually, he transferred to the other Special Education teacher, who said that she would not be calling us to come get him for behaviors. She said that dealing with behaviors was part of her job. However, we were still kept at arm's length and continued to be told of his behaviors in a way that left us frustrated.

This continued through fourth grade. In fifth grade, Michael had a new teacher that was new to the autism program. He would talk to me at the end of the school day and welcomed any suggestions I might have to help him do his best with Michael. These behaviors were not the norm at home, but were going on daily at school. I continued to tell the teacher that I would be happy to come and see what was going on and see if I could be of help. He finally got permission for me to come and lend a hand.

I say all this to make the point that we did not know about being advocates for Michael. We did our best to do what was asked and to try to make Michael conform to their wishes. After I was in his classroom for an extended period of time, I got a much better view of what Michael's school days were like. I was able to interpret what he was trying to tell them in his words and by his behavior. It wasn't long until the teacher and the paras knew the best way to communicate with Michael and to deal with him throughout the day in ways that would bring about success.

When I came to middle school and the negative experience resurfaced. Michael was back with the same teacher he had in his early school days. By now, I was involved in Michael's school life. By this, I mean that I took a more active role and wanted to know more about the details of what goes on at school.

It was a very difficult year and I had heard of Families Together. They have been supportive and have helped us to know more about what should and what should not be happening at school.

It is my understanding that the passage of this bill will be a beneficial step to making the educational process better for children with special needs.

Thank you,

Pat Gonzalez
Pat Gonzalez

2338 S Walnut
Wichita, Kansas 67213

316-263-8831 home

316-210-8831 cell

Senate Education Committee
Senator Jean Schodorf, Chairperson

March 3, 2005

Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

My name is Katherine Donovan; I am a resident of rural Butler County. My home address is 5952 NW 20th, El Dorado, KS. 67042. My phone number is (620) 752-3208.

I am married and the parent of two children with disabilities, due to personal experiences I write my letter in support of SB 241.

I am against the use of restraints use in the classroom. My youngest son, Cody has autism. Last year he attended the Early Childhood Classroom located in Towanda, Kansas through the Butler County Special Education Cooperative. The incident involving my son was when it was time to potty, my son refusing to cooperate and was put into a restraint hold by his teacher because he would not pull his pants down. My son whom has sensory dysfunction responded to being restrained by biting the teacher. With my son biting the teacher, he was then facing suspension. My son was four years old when this incident happened. In my son's case the use of restraint made the situation worse because of his disability.

I also am in support of funding Parent Training Centers in Kansas so that they may educate parents of children with disabilities on their right and responsibilities in regards to special education. Our children with disabilities do not come with manuals and there is much information for parents to learn. As a parent I know my child's best, and for me to be a contributing member of my child's IEP team, I must be educated in many areas, including communication skills and Special Education Law.

The information I have received from Families Together and other PTI Centers helps my husband and I become better parents and strengthens our marriage.

My name is Katherine Donovan; I am a resident of rural Butler County. My home address is 5952 NW 20th, El Dorado, KS. 67042. My phone number is (620) 752-3208.

I am married and the parent of two children with disabilities, due to personal experiences I write my letter in support of SB 241.

I am against the use of restraints use in the classroom. My youngest son, Cody has autism. Last year he attended the Early Childhood Classroom located in Towanda, Kansas through the Butler County Special Education Cooperative. The incident involving my son was when it was time to potty, my son refusing to cooperate and was put into a restraint hold by his teacher because he would not pull his pants down. My son whom has sensory dysfunction responded to being restrained by biting the teacher. With my son biting the teacher, he was then facing suspension. My son was four years old when this incident happened. In my son's case the use of restraint made the situation worse because of his disability.

I also am in support of funding Parent Training Centers in Kansas so that they may educate parents of children with disabilities on their right and responsibilities in regards to special education. Our children with disabilities do not come with manuals and there is much information for parents to learn. As a parent I know my child's best, and for me to be a contributing member of my child's IEP team, I must be educated in many areas, including communication skills and Special Education Law.

The information I have received from Families Together and other PTI Centers helps my husband and I become better parents and strengthens our marriage.

March 1st, 2005

Senate Education Committee
Senator Jean Schodeof-Chairperson

This is a testimony in regards to SB 241

Madam Chair Members of the Committee. Thank You for this opportunity for providing written testimony today. I believe parents feel really great knowing they will have access to IDEA and supports that are necessary. Also, that our rights are protected. They give you support that you need and their on your side. That goes along ways these days.

They also make sure all of us parents and exc, get our needs meet. Thank You for giving the time to read this testimony. I wouldn't of gotten thru some hard times without their support and needs. Because, knowing your rights is what counts and they help you with those type of situations.

Thank You Once Again,
Teresa Patterson

Teresa Patterson

March 2, 2005

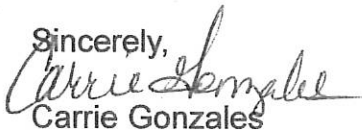
I am the mother of a thirteen year old son with autism. I want to ask you to vote in favor of Senate Bill 241.

It has taken several years of difficult experiences at school to realize that things should not be the way they are. I would like more funding to enable families to take advantage of training sessions that would help us be better advocates for our children.

I know that my son has been treated in ways that are not proper and there needs to be more guidelines that need to be followed concerning restraints and other methods of behavior modification.

It too bad that we don't learn about bills such as this and other things that had we been informed, we might have been able to let our voices be heard. We are counting on you to do what is right for our children with special needs.

Sincerely,



Carrie Gonzales

4550 S Gold

Wichita, Kansas 67217

Senate Education Committee
Senator Jean Schodorf, Chairperson

March 3, 2005

Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today. I have a child that is in a Derby Elementary Special Education program. My family and I fully support senate bill 241. This bill would provide additional funding to independent support agency's such as, Families Together; intern this agency could provide support to families in need.

My family and I have attended several Parent Networking Conferences offered through Families Together, we received a wealth of information we other wise would have not received had we not had this opportunity. They have helped me and my families become more informed about the special education system, and we have become better advocates for child.

The special education process is so overwhelming to parents, we feel powerless and intimidated. We as parents need to have access to experts that understand students and parental rights under IDEA. By having these supports we can ensure our children's right's are honored and protected.

Today I am asking you to please support and bill SB 241 to ensure parents have access to experts that can help parents to become informed and knowledgeable of the special education process, to become better advocated for our children. To support evidenced based practice of positive behavioral supports in the Kansas schools. We need to make the special education system more accountable and less confusing and adversarial to the

parents. There are over 65,000 Kansas students and their parents in dire need for SB 241
to have the support of this committee.

Sincerely,
Afeion Morris

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Senate Education Committee
Senator Jean Schodorf, Chairperson

March 3, 2005

Testimony - SB 241

Madam Chair and Members of the Committee:

I am writing this letter to offer you my perspective regarding the seclusion/restraint.

I think the need to establish regulations or safeguards for the use of seclusion/restraint are far past due for school children in Kansas. Schools need to be accountable for the conditions and frequency for which seclusion and/or restraint is used. I believe there is a problem with inconsistency and inaccuracy with the school personnel recognizing the child's problematic issues.

There are numerous scenarios that can take place for a child with learning needs, behavior needs, emotional and social needs. Most of these expressions are communication by behavior instead of purposeful constructive communication. I believe that what makes this most problematic is the complicated combination of needs a child may have in the learning environment. Some needs or problems can evolve from the school environment, some needs could be related to the child's life experiences, some children may have a complicated diagnosis that must be recognized and understood, or there could possibly be a combination of the above. Addressing the child's needs through seclusion and restraint is probably a far more negative and destructive approach and result than more positive interventions could afford. The seclusion/restraint experience can be a very risky and degrading experience for children at many developmental stages.

There should be strong consideration given to the child's needs and recognizance to individual needs of the child when developing guidelines for the use of seclusion/restraint. I cannot emphasize this enough. I want to suggest you review information by national professional organizations, particularly, the field of mental health, social work, pediatrics, and related professions. There are resources developed by many notable sources. Information from the National Child Traumatic Stress Network which is supported by the U.S. Dept. of Health & Human Services is attached. (www.nctsn.org).

The impact of personal life experiences are underestimated for children. When we think of trauma, what often comes to mind are the more catastrophic occurrences that we may recognize. For a child, there are many levels of trauma in personal life experiences and these are important to understand and recognize when making consideration about how to identify the appropriate interventions in a child's behavior. Kansas children deserve the element of best practices in their school experience.

Respectfully submitted,



Susan Arnold
Topeka, KS

School Expert to Senate: Traumatic Stress Common in Schools *Mental Health Services Help Schools and Children Meet Educational Goals*

LOS ANGELES, CA (April 28, 2004) "School personnel are intimately aware of the social, psychological and academic toll that mental health disorders, traumatic experiences and mental illness can take on our children and adolescents," Marleen Wong told members of the US Senate HELP subcommittee on Mental Health and Substance Abuse Services on April 28.

Wong, director of crisis counseling and intervention services for the Los Angeles Unified School District (LAUSD) and director of the school crisis and intervention unit of the National Center for Child Traumatic Stress, based out of UCLA and Duke Universities, has responded to riots, fires, earthquakes, shootings and other traumatic events at schools in LA and around the country.

"Some disorders, such as psychological trauma and depression, are very amenable to identification and treatment within a school setting. These are also the disorders that are being identified as leading causes of disability among the general population of children in the United States," Wong said. "Schools routinely screen for vision and for hearing, two conditions which we would all agree are crucial to learning. Just as crucial may be school screening for trauma and depression, where fear, disturbing thoughts, feelings and images become barriers to school attendance and classroom participation."

In Los Angeles, Wong and colleagues screened thousands of children in LAUSD and found that 90% of students in some neighborhoods had been exposed to multiple incidents of violence as witnesses and victims and that 27% of them had clinical levels of post-traumatic stress disorder (PTSD) and 16% of them had clinical levels of depression.

Nationally, one in four youth experience a significant traumatic event by age 16. Many children experience multiple traumas, and repeated traumas. Any child exposed to a traumatic event is at risk of developing post-traumatic stress. Common sources of child trauma include abuse and neglect, serious accidental injury, disasters, violence in neighborhoods, schools and homes, and life-threatening and chronic illnesses. A 1995 study by the RAND Corporation found that only 8 percent of children who need mental health services receive them, and 85 percent of children who receive mental health services receive them in schools.

LAUSD school treatment teams approach mental health problems as developmental challenges and tasks, providing education, case management and support to parents; making consultation available to teachers; and providing treatment to children so that they can succeed in school. Wong and colleagues conducted a 10-session intervention as part of a randomized clinical trial, with a positive outcome. The majority of children receiving treatment significantly decreased their symptoms and experienced a significant increase in grade point average. The results were published in the August 2003 *Journal of the American Medical Association*.

(Continued)

Mental Health and Schools *(Cont.)*

"In my role as director of the School Crisis and Intervention Unit of the National Child Traumatic Stress Network (NCTSN), I can attest to the increasing acceptance of school-based mental health services by families and school communities," Wong said. "These services are critical to meeting our nation's mission of promoting academic excellence, good citizenship and the well-being of our children."

Noting that language addressing child trauma has been included in the Senate version of the Individuals with Disabilities Education Improvement Act, Wong stated, "It is a major step forward for the Senate to recognize that the development of vulnerable young children can be thrown off course because of traumatic experiences, and that, with timely intervention, a child's life can be supported back onto a normal developmental path."

With funding from the Substance Abuse and Mental Health Services Administration, child traumatic stress research and treatment centers from around the country formed the National Child Traumatic Stress Network (NCTSN) in 2001. This Congressional initiative recognizes the profound, destructive and widespread impact of trauma on American children's lives. The Network's mission is to raise the standard of care and improve access to services for traumatized children, their families and communities throughout the United States.

The 54-site Network is coordinated by the National Center for Child Traumatic Stress, based out of the UCLA Neuropsychiatric Institute and the Duke University Medical Center.

Members of the media may contact Patrick Cody at 202-965-0580 or Robert Franks, PhD, director of the National Resource Center for Child Traumatic Stress, at 919-812-1852. Further information about the NCTSN can be found at www.NCTSN.org.

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**Senate Education Committee
Senator Jean Schodorf, Chairperson**

March 3, 2005

Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

I Tabatha Hovey would just like to express to you that Families Together have been the biggest help to me with my son's education. I would not have been able to get the help he needed without them. I have worked with Darla my son's advocate for the last 3 years and prior to hearing about the service that Families Together had to offer I was dealing with not being educated enough to be an Advocate for my son and he was in desperate need of an IEP. I had been brushed off, ignored and miss lead from the School District for many years and my son needed this help and was not receiving it. After Age 15 he finally got the help however, all the years the he lost has cost him in his education. After meeting Darla and working with Families Together, Darla came to all the meetings with me and was able to get me educated on Children with Special needs and their rights and my son was then able to get the help he needed. I think that every parent should have a good knowledge of their children's rights when it comes to an education and with out the help of Families Together and Advocates like Darla my son would still be without an IEP. Having Families Together attends these meetings with us has been so helpful and much appreciated and with out them we would still be hopeless. Lets stop the suffering our children have experienced due to school funding and let the advocates get the funding they deserve they are the ones working to keep the education children needed and are initialed to going. With out them kids like mine would probably be unnoticed.

Sincerely

Tabatha Hovey
Parent of a child with Special Needs

Senate Education Committee

Senator Jean Schodorf, Chairperson

March 3, 2005

Dear Senator:

I know this is long, but PLEASE read and PLEASE vote yes for SB 241.

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today. As a parent with a special needs child I strongly urge you to vote for SB 241.

Prior to enrollment in Kindergarten, during Kindergarten round up, I made every attempt to inform the teacher, nurse, and Principal that my son had been diagnosed with ADHD and although medicated, his energy level and ability to focus were significantly impaired. I was informed that a diagnosis by our own psychologist didn't mean anything. I was lead to believe that only school personnel could identify a need for evaluation or accommodation.

My 9 year old boy could have avoided many painful and degrading situations if I had known or understood the process for obtaining accommodations. I trusted my local school personnel and the information they gave me. It was 1st grade before I even heard the terms SIT or IEP. He has recently been diagnosed with ADHD, mild-to-moderate Asperger Syndrome, and probable unspecified mood disorder.

First grade: After many months of my son being sent to the "KINDERGARTEN" room as punishment, being sat at the back of the room facing a closet, being punished multiple times for problems associated with ADHD, oh and finally being forced to urinate in his pants twice in one day, I finally started trying to find someone at the District level who could help us. I was also told by a family member, who is a Kansas Educator, that I could request an evaluation in writing and the school had to respond to me. The school psychologist at the time told me that the correct procedure was to request that my child be put in the SIT Process first and if that didn't work, then he could be Identified for an evaluation. Well, 1st grade continued to be a very rough year. He was sent to other classrooms as punishment, and spending time with the principal. I was finally able to convince the principal that sending a 1st grader back to kindergarten was humiliating so he was sent to other classes.

2nd grade went much better, we had some difficulty in the beginning of the year and towards the end of the year, but the teacher seemed much more experienced and even though she had not been notified that he was on a SIT Plan things went okay. I noticed early on a trend indicating that Bailey had more difficulty if he was bored or having to write a lot. I started bringing this issue up at SIT meetings, which were few and far between unless I requested them. Finally in May it was recommended that Bailey be evaluated for the Gifted program.

In third Grade, the teacher had not been informed that Bailey was on a SIT plan or given the behavior plan and multiple problems ensued. When I asked about the gifted evaluation, I was told that there were forms I had to complete in order to request it, and

never given them. I finally handwrote a request and was given the forms. According to the school psychologist, who admits that he told her he did not like her asking him so many questions, he fell about 1% below the gifted criteria. After the evaluation we were told that he would get neither an IEP nor qualify for Section 504.

This year the teacher was still uninformed as to Bailey's situation and several mishaps and outbursts occurred. The school insisted that they would no longer be able to educate Bailey at their location. This year, my child has been secluded from his regular classroom for most of the year. Now my son spends 1/2 a day in a resource room and 1/2 a day in a therapeutic classroom. In order to do this they had to give him an IEP and lo and behold, they didn't even have to do another evaluation. When I agreed to the placement was without the knowledge that he should have received additional supports in his own classroom before that action took place.. Many children who suffer from more severe forms of these "disorders" (for lack of a better word) are in their own classrooms, with paras or other supports. My 9 year old child (who at his worst last year fell only 1% below the state criteria for the gifted) is not learning at his own level, if at all.

Once again we are being told that Bailey's recent diagnoses do not matter, the recommendations from a medical team are not important, if the educational team does not see a need no accommodations will be made. Even though I am a part of that team, the decisions were made without my agreement. Keep in mind this is the same team that has never seen a need, until my son got violent on a regular basis. And does not seem to be trying to get my son back to class.

The current process required by law doesn't just overwhelm and intimidate me, I have a very difficult time understanding it! I am sure that after 5 years I still don't.

The therapeutic classroom has a timeout room, a bare carpeted room with a mesh ceiling and a wooden bar across the door. They do give us guidelines as to when they will use it, but it is not just when someone might get hurt. If the student does not comply to a certain extent, after some earlier consequences or if they do something considered aggressive, such as kicking a chair or table leg, then they are placed in timeout.

Please give our children some protections, help me and other parents whose children might need additional services. Vote Yes for SB 241.

Thank you very much for your time and consideration

Tamara J. Tipton

785-841-3033

Senate Education Committee
Senator Jean Schodorf, Chairperson

March 3, 2005

Testimony in regard to SB 241

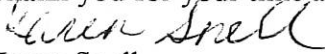
Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

As a parent of a child with a disability, I strongly support additional funding for the "designated Kansas parent training and information center for children with disabilities"(Families Together, Inc.) as stated in SB 241.

For the past thirteen years, Families Together has been my resource for information regarding our rights in the special education process. In the early years, especially, I was overwhelmed by the law, the professionals, the language and acronyms, and all other matters pertaining to raising a child with a disability and accessing services. I required a lot of assistance in navigating this unknown territory. I attended (and continue to attend) workshops, conferences and other trainings that Families Together offers. I can't imagine what services or educational benefits my son may have missed out on through the years without the guidance and support of this organization.

Because the law changes, and new initiatives are implemented, I feel it is so important to keep informed in order to be an effective advocate for my son. The knowledge and information that I have gained from Families Together has allowed me to be regarded as a respected member of my son's education team. Because we were able to function as a team, without "power struggles" or other games that I hear other parents speak of, we have been able to achieve positive outcomes for our son.

Thank you for your time and consideration.


Karen Snell
1429 SW Burnett Rd.
Topeka, KS 66604
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Senate Education Committee
Senator Jean Schodorf, Chairperson

March 3, 2005

Testimony in regard to SB 241

I support Senate Bill 0241 which provides a law that guides school districts in the use of seclusion and restraint for children with disabilities.

As a parent of a child who received special education her entire school years in Shawnee County, I feel very strongly about several aspects of this bill.

- Currently Kansas has no law or regulations or safeguards for use of seclusion/restraint. It is left to the discretion of individual school districts (and sometimes building principals) to choose whether they develop guidelines.
- SB 241 establishes that seclusion and restraint can be used to protect students from imminent physical harm of self or others.
- SB 241 establishes that seclusion or restraint is not the first course of action to be taken by school personnel, and that seclusion and restraint is not to be used for discipline / punishment.
- SB 241 requires that school staff using seclusion/restraint to:
 - Be specifically trained regarding safe implementation of seclusion or restraint
 - Use alternative strategies that minimize the need for seclusion or restraint
 - Be reminded that students with disabilities must always be treated with dignity and respect
- Kansas should follow the lead of other states (examples include Texas, Illinois, Maryland, Nevada, etc.) that recognized the importance of establishing commonsense guidelines that:
 - ensure that any use of seclusion or restraint is done safely
 - require training for school personnel
 - are implemented by enacting legislation and/or developing state wide regulations
 - establish sensible boundaries for use of seclusion or restraint
- Kansas schools need to be accountable for the frequency and conditions under which seclusion and/or restraint is used.
- Parents must be actively involved and provide written informed consent prior to use of seclusion and restraints.

For all of these reasons I would appreciate your support of this bill.

Kathy Johnson
Thank you for your consideration.

Kathy Johnson,
Shawnee County Infant Toddler Coordinator

Senate Education Committee
Senator Jean Schodorf, Chairperson
March 3, 2005
Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

I urge you to support SB 241.

I have worked for persons (of all ages) with disabilities in Kansas for the past 17 years. During this time, I have had the opportunity to coordinate Home and Community Based Services with Special Education services in South Central Kansas. In most cases, the student and his/her family benefits from the collaboration and consistency of both service systems. Home and Community Based Services are mandated to follow least-restrictive behavior management methods with safeguards in place to protect the rights of persons in services.

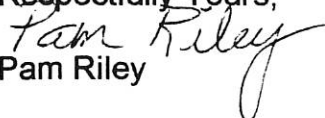
Unfortunately, there are Special Education classrooms where punitive measures such as time out boxes and unnecessary physical restraints are used. I am also aware of intentional withholding of information to parents. No child should be subject to humiliation and bruising in his/her classroom from the use of outdated behavior management techniques. No parent should ever fear for their child's safety in the classroom due to the use of unreasonable and unwarranted actions of untrained staff.

There is a need to modernize the Special Education classroom.

- Replace time out with a graduated system of positive behavioral supports.
- Replace unsafe, physically restraining techniques with methods that require less restrictive interventions to be tried first.
- Require accountability from administrators to collect behavioral data to be used by the team of parents and professionals to develop a individualized behavior support plan.
- Provide, through enactment of SB 241, a safe learning environment for all children with developmental disabilities.

Again, I urge you to support SB 241. Allow Kansas students with developmental disabilities to enter adulthood in their communities, equipped with positive educational experiences.

Respectfully Yours,


Pam Riley

(Business)

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**Senate Education Committee
Senator Jean Schodorf, Chairperson**

March 3, 2005

Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

My name is Lisa Herren. My family, which includes a daughter with a disability, lives in Wichita. We have been involved with Families Together both as consumers and as board members for 12 years. As you know, Families Together provides parent training and support for families with children with disabilities.

Our daughter Lauren has definitely enriched our lives. She has had a great impact on many who have served her in the school system over the last eight years. However, navigating the special education process has been difficult and intimidating, even though I am college educated and my husband is an attorney. Many of the school administration and staff have been very helpful and supportive. However, we have also had experiences where we disagreed with the proposals or plans of school personnel.

In these times we have often called on Families Together for assistance. When both the schools and the parents are educated in the legal and practical realities of a situation, common ground and compromise is possible. Without such an understanding, suspicion and confrontation often are the only tools parents feel they can rely upon.

According to a KSDE 2002 report and a University of Kansas Beach Center study, even school personnel agree the processes involved in educating a child with disabilities are overwhelming and intimidating. Complete self-education regarding how to navigate the system is an especially difficult task for a parent who is also caring for the physical and medical needs of a special needs child.

We respectfully ask that you provide additional funding for parent services, supports, and training regarding special education rights in the state of Kansas.



Lisa Herren
Wichita, Kansas

Senate Education Committee
Senator Jean Schodorf, Chairperson

March 3, 2005

Testimony in regard to SB 241



Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today. My name is Leia Holley; I am the parent of two amazing "gifted" boys. For more than 10 years now my husband, Jamie, and I have journeyed through the 'maze of disability services'. With our twelve year old son, Sean, we continuously navigate the ever changing medical, insurance and special education services. Sean has epilepsy and autism and was, according to medical professionals, "to be institutionalized by his teens". During his 2nd grade year our son, JP, now an 8th grader, was told he would "most likely never read on grade level."

Our world spiraled out of control with each new "label". Our boys were no longer general education students. They were students who didn't fit! Our family struggled to understand the implications of the doctors and educators words while we searched for someone, anyone who could help navigate this 'new education maze'. We were looking for someone who could "make the school educate our boys." What we found was an organization, Families Together, who educated, empowered and enabled our family. By helping us to better understand their, and our rights, and disabilities we became effective members of our boys' educational teams.

On many occasions, I have contacted Families Together struggling to understand the ever changing "interpretations" of the Individuals with Disabilities Education Act. Instead of 'going legal' and hiring an attorney, Families Together, helped me not only to understand my, and my sons' rights, but also how to communicate as an effective member of their teams.

Our sons are no longer students who "don't fit". They are general education students at Clark Middle School in Bonner Springs who just happen to need specially designed instruction. Sean is a 6th grader. He is in choir, loves to read, enjoys school, has friends, swims each morning, rides horse, is an office aide, types, uses a computer better than his teachers and still has autism. JP is an 8th grader preparing for high school. He loves to read, plays ice hockey, has been in the band, volunteers to help fix the visual aide equipment, teaches his teachers and peers how to utilize the video broadcasting equipment and receives gifted education services. JP has overcome his learning disability in reading and is now reading on the 10th grade level.

Thanks to the information, support and resources provided by Families Together our sons have surpassed all the labels and limitations. **Please support SB 241 and help Families Together reach the growing number of families whose children learn differently.** Because we are informed effective members of our boys' teams they are contributing members of their schools and communities, thanks to the parent education we received through Families Together.

Thank you for the opportunity to provide this testimony, and I would be happy to answer any questions.

Leia Holley
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leiaholley@kc.rr.com



8-21

Senate Education Committee
Senator Jean Schodorf, Chairperson
Senator Ruth Teichman

March 1, 2005

Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

We are Neil and Elaine VonFeldt; we are parents of children with disabilities and also foster parents of children with disabilities. Our experience with the world of special education, seclusion and restraints in the school system go back many years when our son was in grade school. He is now 25 years old. We would like to talk to you today regarding some recent experiences with our foster children. We have an 8-year-old boy in our home; he came from a severely abusive and neglectful home. He has now been with us successfully for almost two years. He goes to an Alternative Learning Classroom in Larned school district. He can be aggressive when cornered or presented with something unfamiliar to him. Neil was called to the school one day to pick him up, as he was not making good choices. Upon arrival he found 4 people on top of this child holding him down on the floor face first. This child is not big enough for 4 people to fit on. Neil asked them to get off and he took over in a professional manner as we are taught to do and it only took him and only him to control this child face up. I have walked into the classroom to find one of my children in the "safe room" locked from the outside and 2 people blocking the door. This does not seem like a "safe" environment to me. Please remember that a lot of our kids come from abusive backgrounds where they have been locked in small rooms and left for long periods of time. In my child's mind there was not much difference between a mother, whom he trusted, abusing him and taking all control from him and these teachers/paras, whom he has been told he should also trust, forcing his head into the floor and taking all control from him. I have had children withdraw by falling asleep in the "time out" room in the Great Bend school district only to be left there for hours, sleeping on the floor in this small dark room. It was easier to deal with the child while he was sleeping so the school left him there instead of teaching him. We could go on with stories but I think this will give you a good picture of what our children live with while in school 8 hours a day. They can call it a "safe room" or a "time out" room but it represents fear, control, dark, and intimidation for our children. Please help us by making a policy that would help schools be more positive and consistent with our children. We believe we are one of the lucky few because we have been fortunate enough to find training and afford it on our own and seek knowledge when it comes to special education laws and new parenting techniques. Many parents are not afforded this opportunity and are often just as intimidated by the school professionals as their children are. Please help all parents by supporting SB 241 and making sure that funding is available to help support and train parents of students with disabilities and to allow them to hold the system more accountable and make it less confusing and less adversarial. Parents need to feel less overwhelmed and armed with the knowledge that they have a voice, but to see this succeed we need more services and trained trainers who are not afraid and are knowledgeable of the school laws and system. Perhaps then the school will allow the parents to train them on the best possible ways to reach our children so that everyone may know success. Thank you for your time and consideration in this matter. If you would have any questions please feel free to contact us.

Neil & Elaine VonFeldt
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Pawnee Rock, Ks. 67567
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8-22

Senate Education Committee
Senator Jean Schodorf, Chairperson

March 3, 2005

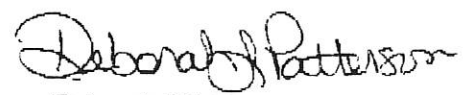
Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today. I am a parent of an 18 year son and I support the SB 241 in regards to providing more training to the school system. I have found that only some of the school officials are trained and can deal with my son if he were to have a crisis. I have had support from Families Together with training in my son class room explaining to the children about his disability and also attending his IEP's .

Families Together also supported my son in the 6th grade when he was unable to handle the confusion the hallway and had an outburst; my son was expelled and placed in a class for children to re-entry into the school system. Families Together assisted in making the accommodations for my son. It made the whole hallway nightmare issues go away and I was able to get my son back into the mainstream school system.

So as I said before I support the funding Families Together and the introduction of SB 241.

Sincerely,



Deborah J Patteron

**State Education Committee
Senator Jean Schordorf, Chairperson**

March 3, 2005

Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

As a parent of children who have a disability, I am asking for the Senate to please support SB 241. Since Kansas has no law or regulations or safeguards for use of seclusion/restraint, each school district deals with this issue by their own guidelines. There is no consistency, no specific training, no requirements that seclusion or restraint is done safely, that there are alternative strategies developed to be used before seclusion and or restraint, and no guarantee that students with disabilities are always treated with dignity and respect. There must be a law to establish these guidelines to protect our students and to ensure they receive the most from their education that is possible.

I am also asking for support of SB 241 to increase funding to the Parent Training Center in Kansas. As a parent of 3 children with disabilities, I have found much support, resources, and continuing education from Families Together. I truly believe my children would not be as successful as they are, if it had not been for Families Together. I would not have known where to turn, understood what my rights were, or where to even start. I believe all parents of children with special needs should have access to experts in student and parent rights under IDEA. Families Together does a wonderful job doing this.

Please support SB 241.

Sincerely,



Teresa Beaudry

**Senate Education Committee
Senator Jean Schodorf, Chairperson**

March 3, 2005

Testimony in regard to SB 241

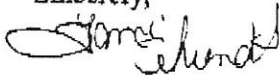
Madam chair and members of the committee, thank you for the opportunity to provide written testimony today.

My name is Tami Schwindt and I am a parent of a youth with a disability. I am writing in support of SB 241. Currently Kansas has no law, regulations or safeguards for use of seclusion/restraint. Kansas should recognize the importance of establishing commonsense guidelines that ensure that schools are accountable for the frequency and conditions under which seclusion and/or restraint is used.

I am also asking for the support of SB 241 to increase funding to the Kansas Parent Training and Information Center. Families Together has played an important role in the success of my child's education. The training I received helped me participate fully in my sons IEP and understand my rights under IDEA. As a knowledgeable member of the IEP team I was able to provide the information and support my son needed for a successful future.

Thank you for supporting SB 241.

Sincerely,



Tami Schwindt

SENATE EDUCATION COMMITTEE
SENATOR JEAN SCHODORF, CHAIRPERSON

March 3, 2005

Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

I am both a parent of a child with an exceptionality and an education advocate appointed by the state of Kansas, for children whose parental rights have been severed, so I have first hand experience as to how SB241, affects the lives of our youth with disabilities. I know that sometimes it is necessary for the benefit of a child and his peers to be restrained/secluded for a short period of time. What I object to is the long-term use of such placement, which unfortunately happens. I have been a part of many positive teams that are truly interested in the child's needs, both physically as well as academically, and have found that with brainstorming there are many other strategies that work and can be used to deter restraint/seclusion with youth. This is such a cruel punishment for someone who already is ridiculed, teased and unaccepted amongst his/her peers.

I ask of you to please join other states such as (example; Texas, Illinois, Maryland, Nevada, etc.) in recognizing the need to treat individuals with dignity and respect. I know first hand that restraint and seclusion for long-term placement benefit know one. Not the student, nor the family and most definitely not society. I am fortunate to receive support and give that same support to other parents and children in need, thanks to Families Together, Inc. This is an agency dedicated to assisting families with a child with disabilities and I applaud them for their dedication.

Let us remember to keep families involved in our children's lives by retaining their rights and encouraging them to build positive school partnerships.

Thank you madam chair and members of the committee for allowing to me to be a part of this important discussion.

Respectfully,



Isabel Aguilera
Garden City, KS

8-24

**Senate Education Committee
Senator Jean Schodorf, Chairperson**

March 3, 2005

Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

My son has severe Mental Retardation and attends school district 457. My son has behavior problems that sometimes cause him to become aggressive. He is non-verbal which also, adds to his distress. Julian is 17 years old. We have experienced many problems with him in the school setting. One of them was when a small paper closet storage was emptied out and became his time-out space. My son was placed in this incubator on a daily base for long periods of time. It did not help the situation it only made matters worse. Julian started rebelling against going to school in the morning. It became a major task to get him there although some would say it was his norm, we as his parents became aware of his aggression being more prevalent. We talked to the school professionals about this placement but were told that was their only choice and they were in compliance with IDEA. We heard through some acquaintances about Families Together, Inc. and that they had a bilingual parent assistant that could support us and together maybe we could achieve an outcome that would work for our son.

After we met with the IEP team which included Families Together personal, we were able to move our son out of the closet and in to the classroom to an area that was specifically designed for Julian. He was no longer locked in this little cage like an animal, he was treated with respect and together we came up with some ideas that benefited him and his academical needs. No our son will never be like your son, without a disability, but that doesn't mean he is less of a human being. We are thankful for IDEA, because it is meant to protect our students' rights but most of all we are thankful for Families Together for reaching out to Hispanic families in need. They have been a Godsend to us.

Thank you madam chair and members of the committee for taking your valuable time to read my story.

Maria Muñeton

Respectfully,
Mr. & Mrs. Pablo Muñeton
Garden City, KS

**Senate Education Committee
Senator Jean Schodorf, Chairperson
March 3, 2005
Testimony in regard to SB 241**

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today. My son has Pervasive Develop Disorder and at times has had severe behavior out burse, due to the lack of verbal communication. Because of his behavior we couldn't even work on his academic.

As a parent you try to encourage your child to do their best and that there is nothing they can do if they put their heart and mind to it. Having a child with a disability you feel the same way. They may need some accommodation to support them and it may take them longer to reach their dream. If given the chance they to can accomplish what ever they dream.

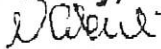
Through out the school years we went through several different struggles. In elementary years we struggled with school restraining my son, because he wasn't able to communicate his needs. He would spend most of his day in a small closet, and when he couldn't handle that they would call me to pick him up. Only to pick up a child who was drenched with sweat, bruised from being restrained, and physically and emotionally drained. Most of his schooling was done at home. The emotional strain affected our entire family; we struggled with the thought of increasing medication, strict discipline, or isolate our family from the society (because he wasn't accepted). During this time we saw very little improvement if any of my sons academics. We made the decision to put our five year son on Antidepressant drugs; this was extremely hard, finding the right medication was even harder. It took ten years before we would find the miracle drug.

As my son got older we no longer needed the use of restrains. Due to his pass history of being aggressive, regular education teachers refused to have him in their classroom. We had seen no aggressive behavior for years. Yet some would say he wouldn't benefit and others felt he would lag too far behind in

their classroom. So part of his dreams to learn Spanish, take a specific art class, computer science class or play basket ball, died. We are still looking at other ways to reach his dream. Some teachers were open to let him in their class and others wouldn't let any one with any kind of disability in, for fear of the unknown.

What I have learned through all of this is that we wouldn't have to use the restrains if we got to the root of the problem (lack of verbal communication). We found that using pictures and hands on activities to teach him he excelled in all his subjects. Mixing special education with regular education students didn't cause him to lag behind if the teacher graded him on his ability. Because of his regular education peers he worked harder and when he needed extra help his peers supported him. His peers never felt that he took away from them, matter fact they never saw him a person with a disability, but a person that needed a little more support.

Sincerely,



Valerie Snodgrass



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE
ATTORNEY GENERAL

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March 3, 2005
Testimony In Support of SB 241

Kevin A. Graham
Assistant Attorney General

Chairperson Schodorf and Members of the Senate Education Committee:

Thank you for allowing me to appear today on behalf of Kansas Attorney General Phill Kline in support of SB 241. Attorney General Kline worked with the Disability Rights Center of Kansas (DRC) and the disability community to introduce SB 241, the Seclusion and Restraint Modernization Act. The proper – and improper - use of seclusion rooms and restraints in our schools is a valid public safety issue. SB 241 proposes restrictions on the use of seclusion rooms and physical restraint holds to help protect the over 65,000 students with disabilities served in Kansas special education programs.

One reason why General Kline is interested in this topic is because of the focus and leadership that seclusion and restraint has received at the federal level, including the attention it has gotten from President George W. Bush. The President has made a concerted effort to promote positive policies for persons with disabilities through the President's New Freedom Commission Initiative. Part of the President's New Freedom Initiative involves trying to restrict seclusion and restraint and making disability services "consumer and family-driven." The President's New Freedom report states:

"Seclusion and restraint will be used only as safety interventions of last resort, not as treatment interventions ... The Use of Seclusion and Restraint Creates Risks ... These risks include serious injury or death, re-traumatizing people who have a history of trauma, loss of dignity, and other psychological harm. Consequently, it is inappropriate to use seclusion and restraint for the purposes of discipline, coercion, or staff convenience ... In light of the potentially serious consequences, seclusion and restraint should be used only when an imminent risk of danger to the individual or others exists and no other safe, effective intervention is possible ... The Commission endorses reducing the use of seclusion and restraint and, when such interventions are used, appropriately trained personnel should administer them as safely and humanely as possible. It is also important to apply preventive measures (e.g., de-escalation techniques) that will minimize the need to use seclusion and restraint."

1 Senate Education Committee
3-3-05
Attachment 9

SB 241 uses those goals of President Bush's New Freedom Initiative Report and applies them to public schools. Collectively, schools are the largest provider of services to children and youth in Kansas. Yet, there are no consistent state standards to limit the use of seclusion rooms and restraint in our schools.

As General Kline put it at a recent public event, "Persons in state institutions have more protection from seclusion and restraint than do our school children. State policy needs to hold schools accountable for the use of seclusion rooms and restraint."

On behalf of Attorney General Kline, I encourage your support of SB 241 request that the committee recommend the bill favorably for passage. Thank you again for the opportunity to appear before you today.

Respectfully submitted,

OFFICE OF THE ATTORNEY GENERAL
PHILL KLINE



Kevin A. Graham
Assistant Attorney General

Kansas Association of Special Education Administrators

March 3, 2005

The Honorable Jean Schordorf, Chairperson
Senate Education Committee
Hearing on SB 241 Special Education Seclusion and Restraint

Presenter: Robert Coleman, Special Education Director for Wichita Public schools, on behalf of the Kansas Association of Special Education Administrators.

The writers of Senate Bill 241, through the use of anecdotal evidence, would have you believe that serious "abuse" is being inflicted on significant numbers of disabled students in our schools. This simply is not true.

- Students are exhibiting behaviors in schools that do clearly present a significant danger to the student, staff and other students. Schools are struggling along with parents to find effective methods to deal with these behaviors.
- Although, regrettably, some disabled students have sustained injuries based on the need for staff to intervene. The injuries, even when parents have filed complaints against the school and SRS or police investigated, have not been determined to be caused by "abuse".
- To the contrary, faced with this significant challenge, schools have been proactive in efforts to meet the needs of these students by training staff in effective methods of managing behavior, including positive behavioral supports, anger management, developing structured environments, as well as training staff on how to effectively and safely use physical restraints and seclusion.

The bill would suggest that no effective recourse exists for parents or students when they believe inappropriate behavioral interventions are being used. This is not true. Parents can:

- Request an IEP meeting to review the student's Behavior Intervention Plan and work with the team to make appropriate changes.
- Access advocacy groups such as Families Together, the Mental Health Association and The Center for Disability Rights, to seek assistance in advocating for their child.
- Access their rights granted under IDEA to challenge the use of any such practice up to and including mediation, due process hearings and legal resolution through the courts.
- File a formal complaint with the State Department of Education and ask that the school district be investigated in relation to compliance with State regulations for special education.
- Report alleged abuse to SRS. SRS would then be charged with investigating the incident and initiating charges if deemed appropriate.
- File charges with police department for alleged acts of abuse and or neglect by school staff.

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The bill would add a significant burden to already overstretched school resources.

- The time needed for logging and monitoring the data required by the bill would require staff to take valuable time away from working with students and or require additional staff to do the work.
- Maintenance of these records for periods of time would require additional computer equipment and/or file storage as well as staff time.
- Additional staff and resources would be required to monitor and implement the requirements of the bill including reconstruction of seclusion areas, one on one para professionals, the development of data systems to track and store required information, and additional staff inservice.
- The intent of the bill appears to be an attempt to create information that would make it easier for attorneys to file actions against school districts rather than a serious attempt to improve services for the disabled. This goes against the intent specified in the reauthorized IDEA to attempt to work cooperatively together to resolve problems at the school level rather than using litigation.

The bill would likely create additional harmful effects for staff and students.

- Based on similar laws passed in other states, schools would likely call law enforcement to deal with student behaviors that are currently handled by school staff.
- IEP teams may determine that a greater number of disabled students would need to be served in a hospital or private placement rather than a school setting because the school would not believe they have the needed resources to deal with the student's behaviors or potential liability for dealing with the behaviors. This could significantly increase the amount of catastrophic aid the State would need to provide school districts.
- Students could be placed in more restrictive settings based on the ability of the school district to access trained staff and needed resources.
- It would limit the ability of individual staff members to make good professional choices that meet the individual needs of a student and would tend to make a one size fits all type of behavior plan.
- The bill would severely limit the IEP team's, which includes the parent, ability to individualize methods that can effectively deal with a student's behavior.
- Although it is recognized that the intent of this bill is to focus on our more severely disabled population, it would also include the mildly disabled and, thus would limit school staff in being able to effectively deal with student behaviors that are not a manifestation of the student's disability; ex. gang activities, or bullying. This clearly goes against what the reauthorization of IDEA has intended.
- The bill provides a big brother monitoring system that likely would cause school staff to be less likely to intervene with significant behavioral issues, thus increasing the likelihood of harm to the disabled student, other students and staff.

For these reasons the Kansas Association of Special Education Administrators would ask that you not support SB 241.

March 3, 2005

Madam Chair and Members of the Committee:

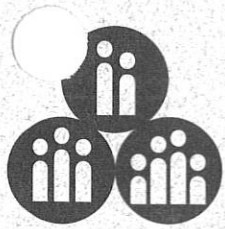
My name is Bobbie Rine. I am from Liberal and am the mother of 4 children. 3 of my 4 children have learning or emotional disabilities. I have also spent the last 6 years providing support and information to other parents of children with disabilities all across the state. Today, I would like to tell you why it is so important to approve the state funding of parent advocacy organizations that is proposed in Section 9 of Senate Bill 241.

Shawn is my oldest son. He is 19 years old and is bipolar. When Shawn was in school, I knew nothing about special education. I had no idea there was a way for the school to make accommodations to help Shawn be able to do well in spite of his disability. The highs and lows that Shawn experienced because of his bipolar disorder caused him to have an extremely difficult time motivating himself to go to school and do his work. He was constantly skipping school, not completing his work, and, eventually, getting in fights at school. No one at the school ever suggested that Shawn might be eligible for special education services. It was only when Shawn was 15 and the school referred us to the mental health center that I began to learn about how special education could help my children. At the mental health center, I learned about Keys for Networking, a parent advocacy organization. When I began talking to Keys for Networking about Shawn's problems at school, I learned that he might be eligible for a Section 504 plan. I requested an evaluation and Shawn was given a 504 plan. However, by this time, it was too late and Shawn dropped out of school and got his GED. It is very hard to think that if someone at the school had only taken the time to tell me about special education, that Shawn might have been able to get help to be able to stay in school. However, I am grateful that our experiences with

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Shawn showed me how to get special education services for my other son, Phillip, when I realized that he was having problems at school.

Over the years, I have received an enormous of training from parent advocacy organizations, particularly Keys. I have learned enough about the special education system to be able to support and train other parents. However, it is important for everyone to realize that parents never stop needing the support and information that these organizations provide. Even now, with all I have learned about advocating for my children's educational needs, I still rely on Keys for Networking to give me information about changes to educational laws, to stand by and advise me when the system becomes adversarial, and to support me in the day-to-day struggles that come with raising children with special needs. Also, being involved with Keys has opened up opportunities for me to connect with other parents who have had similar experiences, to be involved in state-wide planning activities like the Governor's Mental Health Services Planning Council, and to use what I have learned to help other parents learn to help their children.



Keys for Networking, Inc.

Testimony in support of SB 241
Seclusion and Restraint Modernization and Parent Support Act
March 3, 2005

Chairman Schodorf and Members of the Committee:

I am Jane Adams. I am the Director of Keys for Networking, Inc. Keys is the state organization, which represents primarily the interests of families whose children have serious emotional, behavioral problems.

I am here as a proponent of Senate Bill 241 because

- a) SB 241 puts in place policies and protocols around seclusion and restraint in the public schools.
- b) SB 241 requests training in positive behavior supports for teachers so they have the skills, confidence and expertise to hold the attention of students with severe attention, emotional and behavior problems.
- c) SB 241 requests state funding to deliver parent training, information, and support to families whose children have disabilities.

Keys for Networking asks for seclusion and restraint policies to protect children from harm and to protect teachers so that they have the skills to do so when asked to lay hands on children. In all but the educational arena, extensive guidelines and protections both for staff and students are in place: juvenile corrections, mental health facilities, group homes, etc. Currently there are no school policies and no reporting of even how extensive the problem is. What we have to offer instead is anecdotal evidence from families who request help from KAPS, Families Together, Mental Health Association and Keys.

Keys for Networking supports staff training in positive behavior supports because the techniques are research based, endorsed by literature and practitioners who know and use behavior management strategies to engage students who experience severe learning and attention difficulties. This bill asks for a timeline for comprehensive training of significant numbers of school staff—the bill does not specify the numbers.

Keys for Networking requests funding to train parents on the rights and limitations of the December 2004 reauthorization of the Individuals with Disabilities Act (IDEA), which is the special education law. Many of the procedures and rules have changed for schools and for parents. The law takes effect July 1. With KAPS and Families Together, we request funding to offer statewide the training and outreach to get this information out to the parents of 65,000 Kansas children with disabilities. With information to help them understand the diagnoses, participate in comprehensive evaluations, design instructional plans, monitor benchmarks, etc., parents can

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participate meaningfully preparing their children for the 2006 school year. The special education rules change dramatically in 2006.

We know from massive bodies of research, in particular from a document, The New Wave of Evidence (Henderson and Mapp) 2002) that parent involvement is a most important variable in the academic success equation. Some studies say that parent influence is the most important variable. Parents can partner with schools when both of the partners (schools and parents) have the information and training to do so; and when necessary, the 1-1 support to use the information and training provided to them.

Thank you for the opportunity to offer this testimony.

March 3, 2005

Madam Chair and member of the Committee:

I would like to thank you for allowing me the opportunity to speak to you today about the need for state regulation and monitoring of seclusion and restraint in public schools. My name is Candy Hale. I am originally from Emporia. I just moved to Topeka this past August. I have a seven year old son named Cory. He has been diagnosed with mild autism in the high functioning range, ADHD and possible bipolar disorder.

Restraint became an issue with my child as early as preschool. I remember walking into his preschool class one day only to find a female staff member sitting on the floor with her arms and legs wrapped around my five year old son. He was screaming hysterically and was drenched in sweat. I was told this had been going on for about 45 minutes. Not once had I ever been told that restraint was used at this school, nor was my consent ever given to use such an aggressive intervention with my child.

Cory now attends Stout Elementary in Topeka and is in the first grade. We have once again encountered the problem of excessive restraint. Due to my previous negative experience at his preschool, I expressed to the school my strong desire to avoid restraint except under extreme circumstances. I stated that if they were unable to verbally control Cory they were to call me and I would come down immediately and intervene. I want to emphasize that nowhere in Cory's IEP is restraint ever mentioned as an acceptable intervention. I never signed any kind of consent that allows restraint. I also explained to the school staff that Cory has sensory problems and therefore restraint is not effective with him. In fact, restraint makes the situation worse for Cory.

Not once did I ever receive a phone call asking me to speak to Cory on the phone. Instead of receiving phone calls to talk to my son, I started receiving incident reports. I would only receive a call to come get Cory after restraint had taken place and they were unable to de-escalate the situation. I once received two incident reports for October 8th 2004. One report stated that he was restrained for 35 minutes and the other stated that he was restrained for 52 minutes. My son was restrained for an hour and twenty-seven minutes during the course of a six hour school day.

I recently worked at Clarence M. Kelley Detention Services. This is an all-male Level 5 facility for Juvenile Offenders. It is also a place where restraint is sometimes necessary for the safety of the residents.

The restraint and seclusion policies and procedures there are regulated by the Kansas Department of Health and Environment. Restraint policy states that a resident is not to be restrained for more than 30 minutes. These are teenage juvenile offenders and they are not to be restrained for more than 30 minutes.

It's important to me that everyone understand that I have a lot of respect for the staff at Stout Elementary. I think there are some wonderful and compassionate educators at that school. I do not believe they hold blame when it comes to the excessive restraint of my child. They simply have been given no guidelines to follow in the use of restraint, and in return there is no consistency in how these types of situations are handled.

I believe that excessive use of restraint teaches children that the best way to react to aggression is to become even more aggressive to gain control and overpower another. Restraint punishes a child, it does not teach children how to manage their behaviors. If there were guidelines set, perhaps educators would be more likely to explore the reasons behind particular behaviors as opposed to concerning themselves only with having immediate control over the situation.

As parents of special needs children, we trust the people of the educational system to treat our children with dignity and respect, the same dignity and respect that you would want your children to be treated with. Please, support this bill to regulate the use of seclusion and restraint. Thank you for your time.

Candy Hale
1407 SW Tyler
Topeka, KS 66612
785-383-4348

March 3, 2005

Madam Chair and Members of the Education Committee:

I am writing to you in support of parent advocacy organizations and how integral they are to the educational success of children with disabilities. My son is now a sophomore in high school and has been receiving special education services since the third grade. For many years we struggled in our endeavor for Kevin to be provided with the services necessary for him to receive a quality education. We trusted that the educational professionals would recognize what was needed for him to be successful and willingly provide the services to accomplish this. Unfortunately, this was not the case and he experienced many years of frustration and heartache in the learning process.

Since utilizing the services of Keys for Networking and Families Together, we have been able to effectively communicate with the schools and better advocate for Kevin's educational needs. Without their help in forming a quality Individualized Education Program and learning of the services that could be provided, Kevin would not be at the educational level he is today.

Although he is still behind his peers in some areas, he has far surpassed what some educators thought he could attain four or five years ago. Now he is confident, as are most of his educators, that he can attain his goal of attending college.

Unfortunately, not all educators are willing to accept the responsibility they have in understanding the IDEA laws and their part in providing quality academic services. Until this is accomplished, it is vital that parent advocacy organizations, such as Keys for Networking and Families Together, receive state financial support to allow them to continue services to families. With their help, students and families can receive assistance throughout the educational process, which will enable students to become productive, taxpaying members of society.

Thank you for your attention.

Ardith Holmes
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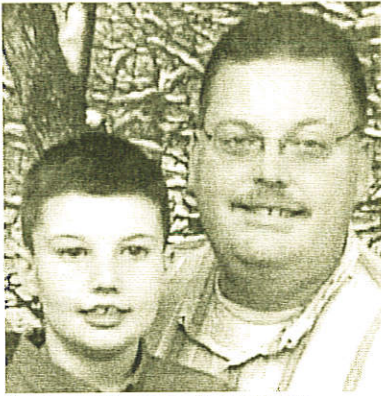
To Whom It May Concern:

My name is James Baker and my son is Deandre Baker. Deandre is in the fourth grade in Wichita Ks. Until last week Deandre was a student at Colvin Elementary. Deandre has bipolar disorder and has rages from time to time. During one incident at school he and another child were being verbal with each other and Deandre tried to run after him. A paraprofessional from the school grabbed him and in his rage she was struck in the face. Deandre was suspended from school and the child study team had a meeting. It was agreed that this incident was a manifestation of his disorder and he needed a more restrictive environment. I asked that he be in special Ed for the entire day. The school did not want this and wanted him to be removed to a special day school. My case manager, and parent support worker and I did not feel this was appropriate. We asked to have him with an attendant care worker and in a self contained classroom. The principal appeared to be very agitated by this request stating she would not supply the aid. My CM stated she would arrange this. The principal asked the special education coordinator to call the head of special Ed to request my son be removed. Mr. Bob Coleman did respond and stated there was not enough reason to have him moved. The principal made a statement to the fact that if he did one more thing he would be moved from that school. On the 17th of February the school principal stated to the CM that my son was to have no contact with any other students or staff. He was to be escorted 100% of the time. He was to use a specific bathroom and to have lunch brought to him in class. She then suggested he should go around the school and enter and exit through the back door. On the 22nd of February my son walked to school and was refused entry. He was told that since he did not have an attendant care worker he could not go to class, and he was sent home. He was allowed to come back at noon when an attendant care worker arrived.

I feel that my son was treated very unjustly. I felt that the comments by the school were **cruel and uncalled for**. This is a beautiful ten-year-old boy with a loving smile and a need to please. He only recently received his bipolar diagnosis and has not been on his medications long enough for them to be therapeutic. He loves to read and likes going to school. I am a single parent and I try to do all I can for my son. I myself am new to the diagnosis and only want my son to be well. I am learning what I can to keep my son safe and am receiving a lot of help from my "team", my case manager, my support worker, my sons therapist, our in home therapist, and the attendant care workers. I am taking parenting classes to help learn how to parent a child with bipolar. I wish the schools would learn more about how to teach kids with mental illness. I feel that if they don't learn what the school wants, or acts just so, that they are "thrown away", moved on to be someone else's problem. How can a child learn in this environment?

Sincerely

James Baker



October 2004, used with permission

Wayne & Paul Headrick
32 South 23rd Street
Kansas City, Kansas 66102
913-342-7565
waynejr2000@yahoo.com

March 3, 2005

Ladies and Gentlemen of the Senate Education Committee:

Thank you for allowing me to bring testimony in support of Section 9 of Senate Bill 241. I am a registered voter in Senate District 6 in Kansas City and participate in every election. I wish to testify in support for state funding of parent advocacy organizations, such as Keys for Networking and Families Together.

In March 2004, I attended the Positive Approaches to Severe Behavior Challenges Seminar sponsored by the Manhattan-Ogden School District #383. Dr. Tom Willis of the Institute of Applied Behavior Analysis was the speaker. Each day of the 3-day seminar addressed one of the following topics:

1. Functional Behavioral Assessment
2. Positive Behavioral Supports
3. Emergency Management in a Nonaversive Framework

Keys for Networking found the funds for me to be able to attend the seminar.

Functional Behavioral Assessments are done by the school district to identify problem behavior, identify what triggers such behavior, and what is the "pay-back" to the child for the behavior. Too often the results of the assessment appear like this:

The problem behavior:	acting out
The trigger:	not getting what the child wants
The "pay-back":	to get attention or to control the situation

I learned that "acting out" is not a sufficient description of the behavior. It is much better to identify the behavior as "getting out of his chair", or "screaming at the teacher", or "throwing his papers".

I learned that "not getting what he wants" is not sufficient description of the trigger. It may be "he doesn't want to work alone", or "he finds math especially difficult", or "math occurs just before medication time so his system may be low on medication", or "he's been doing academics for over an hour and he needs a break".

The “pay-back” portion of the training was especially helpful. Dr. Willis explained that we all do things for attention or to control our environment so these descriptors fail to adequately explain the behavior. “Getting attention” is commonly found in these assessments, and we learned that if this were the motivation, the troublesome behavior would stop when attention is given. Too often the children who benefit from parent advocacy do not respond simply to increased attention. Controlling our environment is something we all do so we must identify what is being controlled, what does the child need, and how does the troublesome behavior succeed in meeting the child’s needs.

For the purpose of this testimony I will not take the time to describe what I learned on the 2nd and 3rd days of the seminar. Each day was incredibly helpful in better understanding my son’s behaviors and what can be done about it. This training is not available elsewhere. School district personnel are not adequately trained in this assessment. Simple answers provide simple assessments that provide over-simplified descriptions of extremely difficult and complex behavior problems. Only with adequate quality training can we as parents actively participate in our children’s education. Not only must we understand what needs to be done, we must make sure others involved in the process are not taking the easy approach to a complex problem.

It is necessary for me to address what might be the outcome if such training is not made available. Put bluntly, society WILL DEAL with my son. Without adequate training in parent advocacy, society will deal with my son through psychiatric institutions and/or prisons. His social deficits do not respond to standard approaches to behavior modification.

With proper training through adequate funding I can advocate for services that will, we hope, bring him to the point where he can be a productive and responsible member of society.

Thank you,

Wayne Headrick

Mindy Galloway

P. O. Box 22

Albert KS 67511

(620) 923-4637 - Home Phone

(620) 923-5644 - Cell Phone

March 3, 2005

To the Honorable Members of the Senate Education Committee:

I greatly appreciate the opportunity to share my daughter's experience with seclusion and restraint at school. We have three daughters we adopted through the foster care system. I have been an educational advocate for over fourteen years for my daughters as well as other children in the community. The last three years have been extremely difficult and frustrating as I dealt with the teacher and paraprofessionals at my daughter Amanda's school.

Amanda was placed in the Emotionally Disturbed classroom at Eisenhower Elementary in Great Bend, Kansas during second grade. We are in the Otis-Bison School District but that district contracts with Great Bend to provide special education services. Amanda had no aggressive behaviors when placed at Eisenhower three years ago. Amanda does certainly have issues, but at that time they were mostly limited to communication issues. Amanda became selectively mute at school and exhibited autistic tendencies.

The "ED" classroom is located in a room with no windows. There are two time-out rooms, a bathroom and a teacher's office surrounding this classroom. Much of the time, the ED students spent recess, if they earned one, and lunch in the classroom and not with the other students. These students would go to the lunchroom, get their trays and return to their classroom to eat. Amanda spent little time mainstreamed in the regular education classroom, usually just music and P.E.. The ED classroom houses children from Kindergarten through sixth grade. Much of the time, Amanda was the only female student in the class and had little opportunity to socialize with peers.

I have had concerns with this classroom from the beginning. I have actually even turned in complaints regarding the classroom to the local SRS office. The first time I contacted SRS, Amanda came home with a large red mark on her shoulder, which later became a big bruise. Amanda stated that the para drug her to the time-out room because she refused to do her work. I called the school and was told that they had to put Amanda in time-out because she wouldn't do her work. Amanda's case manager from the local Mental Health Center and I took Amanda to SRS where they took pictures of her

shoulder and documented the incident. At that time, SRS commented that they have had concerns regarding this classroom and that this was certainly not the first complaint. I also contacted Jill Vsetecka, the special education director and told her of the incident and that I had contacted SRS. She told me that she has great difficulty finding paras and they are just a warm body to be in the classroom.

Amanda spent the majority of her three years at Eisenhower in the time-out room. She found that if she refused to do her work she would be sent to the time-out room where she could sleep the majority of the day. Both her case manager and I asked the teacher to please keep Amanda awake and in the classroom and out of the time-out room. At one point, a para told Amanda that if she didn't do her work, she would contact SRS and have removed from our home. I called the classroom to inquire about the incident. The teacher was again not available but I talked directly to the para who made the statement. She told me that she had told Amanda that she would have her taken away if she didn't start doing her work. This para also made the statement, "She needs her butt beat. You can do that but we can't." I reported this to the teacher when she returned.

The teacher in the ED room is very sickly and is often not at school. When the teacher is gone, the paras run the classroom. The first week of school this year Amanda had no teacher the entire week. I contacted the Special Ed Director to inquire as to why there was no teacher and was told, "I'm not going to hire a substitute for one child." Amanda was the only student in the classroom at the time. I contacted the Department of Education and was told that technically the school could get by with just having paras in the classroom for up to four days. This is a rule that needs to change. The paras are not teachers and only have minimal training.

Amanda came home with fingerprints on her upper arms. She told me that Janet, one of her paras, grabbed her because she wouldn't do her work. I called the school and talked with the principal. She stated that she would check into it and get back with me. The teacher called the next day and I was told, "This didn't happen at school, it must have happened at home."

At one point, Amanda came home with marks around her neck. I contacted SRS, her case manager and Keys for Networking. Amanda's case manager from the local mental health center spent as much time as possible in the classroom to monitor the situation. We also had attendant care come to the classroom to assist.

During the summer program at Eisenhower, my oldest daughter, Shawna, and Amanda ate lunch together. Amanda didn't want her food so Shawna was eating what Amanda didn't want. Janet, the para from Eisenhower, grabbed Shawna's hand and shook the food she was holding back onto Amanda's tray and told Shawna she was not allowed to eat Amanda's food. Shawna, who is mentally retarded and has emotional issues, asked her to let go of her arm. Janet refused and Shawna tried to shove her away. Then all the paras (the teacher was not in the room) grabbed Shawna, Shawna shoved them all and ended up getting arrested. This para had no business grabbing Shawna in the first place. This incident escalated far more than necessary. I then called the Special Ed

Director and complained and asked for a copy of the para's qualifications to use restraint techniques on my child. She said she would send them to me but I have never received anything. I ended up pulling both children out of the summer school program over this incident.

The case manager and I contacted the school psychologist several times to address issues regarding Amanda. I explained that I did not believe Amanda was learning anything and that this ED classroom was not working for Amanda and certainly was not the least restrictive environment. I requested other services than ED such as mainstreaming in the regular class with assistance or a different class. Great Bend only has one ED classroom so a different class was not an option. In regards to mainstreaming Amanda with assistance, the school psychologist stated, "We can do that next year but the teachers in the regular fifth grade would not be good for Amanda." We requested an Educable Mentally Handicapped (EMH) classroom, but the psychologist was against that because Amanda didn't fit into the right little box. The psychologist agreed to try the Learning Disabilities classroom but didn't feel she fit in that room. It was getting difficult to motivate Amanda to go to school. I complained that Amanda's situation was certainly not the least restrictive environment.

On the first Friday in December 3, 2004, Amanda was arrested at school at the age of 11. Amanda had refused to do her work and was chewing on her watch. The para grabbed Amanda's arm because she thought Amanda was going to swallow the watch. Amanda bit the para and was physically put in the time-out room. While in the time-out room, Amanda screamed she wanted to go home and then yelled that she was going to get a gun and shoot the para. She was arrested, handcuffed and taken away. I don't condone what Amanda did, but the school is also responsible. If the teacher had actually been there or if the paras had had a clue about how to handle special needs children, the situation could have been de-escalated instead of escalating to this point.

Amanda was admitted to Larned State Hospital that day. If we had not agreed to hospitalize Amanda, she would have been put in a emergency shelter facility and not allowed to return home. Amanda's social worker at Larned State Hospital recommended that Amanda NEVER go back to that ED classroom. I participated in the study with KU School of Social Work regarding the need for hospitalization of children at Larned. Everybody that had anything to do with Amanda was invited to participate. The ED classroom teacher and the school psychologist **refused** to participate.

I spoke with the school psychologist about the incident and the options upon Amanda's discharge from Larned. He stated, "I was proud of her for having enough spunk to fight back." He stated that since she was in an ED classroom that she would not be expelled for school and that basically nothing would happen regarding her arrest. We expect behaviors from these kids. Then WHY did she have to be arrested and removed from our home? The psychologist didn't agree that the ED classroom wasn't working for Amanda as he thought she was doing much better. I told him that returning her to Eisenhower wasn't an option and he agreed that trying Otis-Bison would be a good option.

Amanda attended the regular fifth grade at Otis-Bison Elementary upon her discharge from Larned State Hospital. She was unable to maintain in that classroom setting. Amanda had limited social skills and was only functioning at around the second grade level in most areas. The fifth graders at Otis-Bison are very advanced and the work was way above Amanda's abilities. Amanda ran from school several times during her last day there. The special ed director was called and she instructed them to send Amanda home and have me send her back to the ED classroom at Eisenhower. I contacted Ms. Vsetecka, the Special Education Director, and told her that returning Amanda to the ED classroom was not an option. She said that it was the only option. We had a discussion regarding the classroom. I again told her of the many of the concerns regarding this classroom and especially the paras. She then agreed to send Amanda to the Educable Mentally Handicapped (EMH) classroom at Lincoln School in Great Bend to which I readily accepted. Evidently Amanda can now fit in the right box.

Amanda has been in the EMH classroom for a month and a half and is doing great. She has only had two minor behavior events and that was during the first week. Amanda has learned more in the last month and half than she did during the entire three years she spent at Eisenhower. I believe this is overwhelming proof that not only does the improper use of seclusion and restraint not help, it can severely damage a child and certainly inhibit their learning. This EMH teacher and each EMH teacher I have dealt with understand special needs children and these teachers deserve our utmost respect. It is very evident to me that it was not Amanda that changed but the environment in which she is being taught.

I am gravely concerned that paras with little training are running the classroom in this situation and have no idea how to de-escalate situations. I believe that restraint should not be used to punish a child for not doing their work nor for letting a child sleep. The only time a restraint should be used is if the child is a danger to himself or to others and then the restraint should be done by ONLY a qualified teacher and not paras, especially with no supervision. A teacher who truly cares can find other ways to motivate a child to learn other than by using physical force. A child is certainly more apt to be motivated with a teacher they respect and who respects them than with a system that utilizes physical force and power to control a child.

I also contacted the Department of Education regarding the use of force and was told they could not do anything about this situation because it was a personnel issue, but if I had it specifically written in Amanda's IEP that she will not be grabbed, etc. that then they could enforce it. When I approached the Director of Special Services to get these changes in Amanda's IEP, I was told that they don't write such things in IEP's.

I believe that the use of seclusion and restraints, including time-out rooms, isolation, physical force and procedures such as MANDT, should be closely monitored and done either by a qualified teacher or under the DIRECT supervision of a qualified teacher. If a child truly needs a restraint and the teacher is not in the room, then get her there or get someone in authority such as the principal to be in attendance. I believe that restraints

should ONLY be used when a child is a danger to himself or to others. I also believe that anytime a restraint is used documentation needs to be provided to the parent and also sent for review by an unbiased person or board. Schools should not be able to use physical force without being accountable to someone.

I appreciate you taking the time to read my concerns. I am a strong advocate for my children but even so this has been a long, difficult ordeal. Please consider not only my children, but all the children who do not have a parent to advocate for them regarding school issues.

I am sorry that I was not able to attend and speak to each of you personally. I am currently a nursing student at Barton County Community College and have clinical rotation this Thursday at Salina Regional. I would be glad to speak to anyone regarding this issue or any school issue or children's mental health issue. Thank you for making a difference in the lives of children.

Sincerely,

Mindy Galloway

Senate Education Committee
Senator Jean Schodorf, Chairperson
Senator Ruth Teichman

March 1, 2005

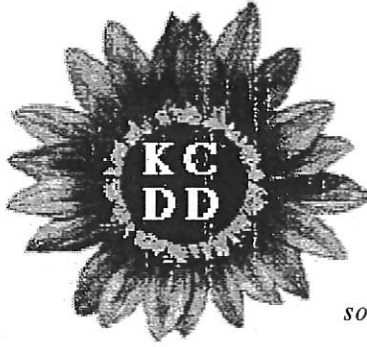
Testimony in regard to SB 241

Madam Chair and members of the committee, thank you for the opportunity to provide written testimony today.

We are Neil and Elaine VonFeldt; we are parents of children with disabilities and also foster parents of children with disabilities. Our experience with the world of special education, seclusion and restraints in the school system go back many years when our son was in grade school. He is now 25 years old. We would like to talk to you today regarding some recent experiences with our foster children. We have an 8-year-old boy in our home; he came from a severely abusive and neglectful home. He has now been with us successfully for almost two years. He goes to an Alternative Learning Classroom in Larned school district. He can be aggressive when cornered or presented with something unfamiliar to him. Neil was called to the school one day to pick him up, as he was not making good choices. Upon arrival he found 4 people on top of this child holding him down on the floor face first. This child is not big enough for 4 people to fit on. Neil asked them to get off and he took over in a professional manner as we are taught to do and it only took him and only him to control this child face up. I have walked into the classroom to find one of my children in the "safe room" locked from the outside and 2 people blocking the door. This does not seem like a "safe" environment to me. Please remember that a lot of our kids come from abusive backgrounds where they have been locked in small rooms and left for long periods of time. In my child's mind there was not much difference between a mother, whom he trusted, abusing him and taking all control from him and these teachers/paras, whom he has been told he should also trust, forcing his head into the floor and taking all control from him. I have had children withdraw by falling asleep in the "time out" room in the Great Bend school district only to be left there for hours, sleeping on the floor in this small dark room. It was easier to deal with the child while he was sleeping so the school left him there instead of teaching him. We could go on with stories but I think this will give you a good picture of what our children live with while in school 8 hours a day. They can call it a "safe room" or a "time out" room but it represents fear, control, dark, and intimidation for our children. Please help us by making a policy that would help schools be more positive and consistent with our children. We believe we are one of the lucky few because we have been fortunate enough to find training and afford it on our own and seek knowledge when it comes to special education laws and new parenting techniques. Many parents are not afforded this opportunity and are often just as intimidated by the school professionals as their children

are. Please help all parents by supporting SB 241 and making sure that funding is available to help support and train parents of students with disabilities and to allow them to hold the system more accountable and make it less confusing and less adversarial. Parents need to feel less overwhelmed and armed with the knowledge that they have a voice, but to see this succeed we need more services and trained trainers who are not afraid and are knowledgeable of the school laws and system. Perhaps then the school will allow the parents to train them on the best possible ways to reach our children so that everyone may know success. Thank you for your time and consideration in this matter. If you would have any questions please feel free to contact us.

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Kansas Council on Developmental Disabilities

BILL GRAVES, Governor
TOM ROSE, Chairperson
JANE RHYS, Ph. D., Executive Director

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"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"

SENATE EDUCATION COMMITTEE

March 3, 2005

Room 514-S

Madame Chairperson, Members of the Committee, my name is Jane Rhys and I represent the Kansas Council on Developmental Disabilities. I am providing written testimony about Senate Bill 241, an act enacting the special education seclusion and restraint modernization and parental support act.

The Kansas Council is federally mandated and federally funded under the Developmental Disabilities Assistance and Bill of Rights Act of 2000. We receive no state funds. The Council is composed of individuals appointed by the Governor, including representatives of the major agencies who provide services for individuals with developmental disabilities. At least 60% of the membership consists of individuals who are persons with developmental disabilities or their immediate relatives. Our mission is to advocate for individuals with developmental disabilities to receive adequate supports to make choices about where they live, work, and learn.

I have been speaking and presenting on this topic since the early 1980's when I was a specialist in Behavior Disorders at the Kansas State Department of Education (KSDE). Because of the many questions I received from school districts, I researched the topics of seclusion and restraint, talked to many experts including some of the individuals cited by Rocky Nichols, and developed a presentation that I delivered in many areas of Kansas. In my role at KSDE, I visited many Kansas schools from Abilene and Atchison to Wichita and Wakeeney. In most schools the teachers and principals are hard working and dedicated. They really try to do what is best for the students in their schools. However, I cannot stress enough the need for training and guidelines. We now require at least four years, sometimes five for a teacher to become certified. We have extensive laws regarding suspension and expulsion of students in public schools and we have extensive laws on seclusion and restraint for those

*Senate Education Committee
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Attachment 13*

placed in our state institutions. Yet there are no requirements in our laws or regulations regarding the use of time out rooms, seclusion, or physical restraint in our public schools.

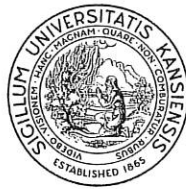
We have no protections for either our students or our teachers. We leave them to do the best they can and sometimes, without the knowledge of or training in what actually is best, they do things that harm students. There is no accountability because there are no guidelines or laws that schools must follow. Nothing requires teachers to document the effectiveness if they choose to use seclusion and restraint. Thus, a student can be put in seclusion for hours, even days, without any documentation as to its efficacy. As a former teacher of students who have an emotional disturbance, and as a former specialist in that area, I learned that we must use methods that produce positive outcomes. Seclusion and the use of time out rooms can improve a student's behavior when used appropriately, as documented by research. Restraint is sometimes necessary because of the student's behavior. However, seclusion and restraint must be used only when we can document that their use actually reduces a student's inappropriate behavior.

Is Senate Bill 241 perfect? No. Are there areas in which it could be improved? Yes. Do we even need such a law? Absolutely! Seclusion and restraint are serious methods, tools that can, when used appropriately, dramatically improve a student's ability to learn. However, when used inappropriately, the least consequence is a child that is "left behind" by being denied an education. The worst consequence is a child that can be seriously harmed emotionally and/or physically.

I urge you to give careful consideration to this bill and to passage of a law that protects both our children and our teachers.

Thank you for the opportunity of providing this written testimony. I would be happy to provide any additional information or to get expert opinions from those most knowledgeable in this area.

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The University of Kansas

Schiefelbusch Institute for Life Span Studies
Parsons Research Center

March 1, 2005

Senate Education Committee
Senator Schodorf, Chairperson

I encourage you to support SB 241. I have been involved in the field of special education for almost 40 years and have seen first-hand the need to have safeguards for the use of seclusion and restraint. The problem of seclusion and restraint is not just a Kansas problem; schools all over the country have been working to correct this problem in a number of ways. I completed an Internet search using Google and found 37,600 records related to "seclusion and restraint in public schools." Obviously I did not have time to read them all, but I encourage you to spend an hour and you will realize that SB 241 is very much in line with "best practices" for public schools.

In a very short time I discovered:

A headline of the *American Statesman Staff*, Austin, Texas, read that a 14-year old boy died after being restrained in a classroom by his teachers. According to a preliminary autopsy the child succumbed to an intense amount of pressure to his chest (Rodriguez, 2002). Unfortunately, newspapers across the nation carry similar stories. The exact number of deaths caused by physical restraints remains in dispute.

The *Hartford Courant*, a Connecticut newspaper, reported 142 restraint-related deaths occurred in the United States over a 10-year period, 33% of which were caused by asphyxia (Weiss, 1998). A more recent investigation by the Government Accounting Office in 1998 stated that an accurate estimate was impossible since only 15 states have established reporting procedures for such incidents. Based on information available, the GAO estimated that there were 24 restraint related deaths in the U.S. among children and adults (USGAO, 1999).

More recently the Child Welfare League of America (CWLA) estimated that between 8 and 10 children in the U.S. die each year due to restraints, while numerous others suffer injuries ranging from bites, damaged joints, broken bones and friction burns (CWLA, 2002). There is no precise way to measure the number or extent of the injuries to children and injuries also to staff as a result of the use of restraint.

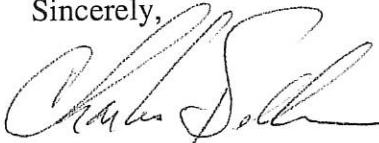
Michigan citizens are concerned about the use of seclusion and restraint in Michigan public schools. Acting on this concern, Michigan Superintendent of Public Instruction Tom Watkins convened a statewide referent group in May 2004. The diverse referent group includes parents, advocates, educators, policy makers, and service providers.

In most medical, psychiatric, and law enforcement applications, strict guidelines govern the use of physical restraint. Often these standards include accreditation requirements from governing bodies such as the Joint Commission on Accreditation of Healthcare Organizations or other agencies such as the National Association of Psychiatric Treatment Centers for Children (Cribari, 1996) and the American Academy of Pediatrics (1997). These requirements have resulted in widespread training and certification for staff in these programs. Unfortunately, there has been no such accreditation requirement for schools or many other childcare agencies.

The passage of the Children's Health Act of 2000 established national standards regarding the use of physical restraint with children in psychiatric facilities. Unfortunately, this legislation did not affect schools.

I personally know of only one death in Kansas that was the result of use of seclusion and/or restraint. Enough said - please pass SB 241. For more information, feel free to contact me.

Sincerely,



Dr. Charles R. Spellman
Senior Scientist



Written Testimony for Consideration by Kansas Senate Education Committee

March 1, 2005

Chairperson Schodorf and respected members of the Committee:

The Kansas University Center on Developmental Disabilities (KUCDD) expresses its strong support for Senate Bill No. 241, the Special Education Seclusion and Restraint Modernization and Parent Support Act. The KUCDD is one of 61 federally supported University Centers of Excellence in Developmental Disabilities funded by the U.S. Department of Health and Human Services through the Developmental Disabilities Act to “provide leadership in, advise Federal, State, and community policymakers about, and promote opportunities for individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life” (Section D of the DD Act). The University Centers of Excellence are interdisciplinary education, research, and public service units of university or public or not-for-profit entities associated with universities that engage in core functions of pre-service training, community services, research, and dissemination of information pertaining to developmental disabilities. We are part of the HHS funded Developmental Disability Network in Kansas, which includes the KUCDD, the Kansas Council on Developmental Disabilities (KCDD), and the Disability Rights Center of Kansas. I am executive director of the KUCDD and am also an Associate Professor of Special Education at the University of Kansas and Associate Director of the Beach Center on Disability, also at the University of Kansas.

The fundamental intent of Senate Bill No. 241 is to protect the basic civil rights of students with disabilities to receive a free, appropriate public education and to be free from the unreasonable, unsafe, and unwarranted use of seclusion and restraint. It is important to note that these regulations are consistent with best practice with regard to the use of seclusion and restraints within the adult disability service system in virtually every state in the nation and within the special education system in many states. The prohibition of the use of locked seclusion and the regulated use of some restraints within the adult disability and mental health systems is necessary, as noted in a September 2000 report from the National Association for Protection and Advocacy Systems (the national association for the Disability Rights Center of Kansas), because: “Inappropriate restraint and seclusion and other forms of abuse and neglect within the nation's institutions for people with disabilities are an unfortunate by-product of a system that suffers the effects of sometimes inadequate resources, under-trained and unqualified staff, low industry wages and lack of caring and consistent oversight. A compilation of nationwide data from the annual reports of P&As (from fiscal year 1999) shows that a significant proportion of complaints

for people with mental illness addressed by P&As involved inappropriate restraint and seclusion.”

The use of locked seclusion and unregulated physical and mechanical restraints is inherently dangerous and should be either explicitly prohibited or restricted to use by people who are trained to do so and used in emergency circumstances only. As a public school special education teacher in Texas and Oklahoma, as a direct support staff person on a neuropsychiatric ward for juveniles with mental illness and conduct disorders in Oklahoma, and as a behavioral psychologist in an institution for people with mental retardation in Texas, I have had personal experience with the potential dangers inherent in the use of restraints and have performed my professional responsibilities under regulations that were more stringent than those proposed in Senate Bill No. 241. There are several reasons locked seclusion and physical or mechanical restraints are dangerous. First, there is the possibility that injury will occur accidentally in the context of the situation leading to the restraint. As a psychologist working with people with severe aggressive and self-injurious behaviors, I was trained to use and have employed physical restraints using methods designed to minimize injury to either the person receiving the restraint or the person being restrained in a manner, methods consistent with that in SB 241. I know from those experiences that even under the best conditions it is easy for someone to be injured. There is no such thing as a ‘safe’ form of physical restraint. Physical restraint should be used only in response to a crisis in which a student is at risk for bodily harm or injury or in which the student is an immediate threat to injure someone else. Restraint, whether it is physical or chemical, is not an intervention or treatment. It is a response to a crisis situation and should be implemented as such, with clear distinctions as to when it is to be used and who is to use it, and clear documentation of its use to ensure accountability and program evaluation.

Second, it is important to note that the use of locked seclusion and physical restraint can be dangerous because of the emotions engendered by the situation leading up to the seclusion or restraint. In most cases, locked seclusion or physical restraint occurs when a person is angry. It is also my experience that the situations in which seclusion and restraint occur also heightens the emotions and feelings of the person intervening. Even when one is trained to use restraints in a manner that attempts to protect both the person being restrained and the person employing the restraint, involvement in a situation that includes physical restraint or escorting someone to a locked seclusion area almost inevitably creates feelings of anger or fear in the person intervening. If that person is not held to very high standards with regard to training and professional expectations, that situation can quickly degrade to a personal struggle between the intervener and the person being restrained or escorted and, in situations that are common enough to warrant concern, retaliation. The anger of the situation can also influence how the person being restrained or secluded responds. In my personal experience working on a neuropsychiatric ward for juveniles with mental illness and conduct disorders (again, a situation in which locked seclusion rooms were used under very tight regulations and, in fact, were situated immediately next to and in view of a nurses station at which 24 hour medical staff were on duty), there were incidences in which youth who were locked into the seclusion room set fire to a trash can in the room, creating an obvious safety hazard to that youth and others on the ward, or injured themselves with objects they had secured on their persons or simply by hitting themselves. Objects like matches, pencils, keys and so forth were too frequently missed in the struggle associated with the effort to escort the youth to the seclusion room.

Third, accidents happen with regard to the use of restraints even when they are used in seemingly innocuous situations. In a school district in which I taught in Texas, an elementary age student with severe motor impairments due to cerebral palsy was routinely strapped onto a toilet to assist him in staying upright. While he was usually monitored by a paraeducator, on one occasion the adult in charge of monitoring him had to leave to deal with another issue, and upon her return found that this child had slipped down and the straps ended up tight around his neck. He was freed by the adult and, fortunately, did not experience additional injury, but obviously could have easily suffered serious injury or death.

The threat of physical injury and bodily harm as a result of seclusion or restraint is an important reason to regulate their use. It is not, however, the only reason to do so. First, in addition to the potential of bodily harm and injury, being restrained or secluded is humiliating and degrading. That humiliation only results in more anger and, potentially, more aggressive behavior. Second, I have indicated that I believe that this bill not only protects students from injury, but is necessary to ensure a free, appropriate education, as required by the Individuals with Disabilities Education Act. I say that because, as I have noted, locked seclusion and restraints are not, in and of themselves, treatments that lead to positive change and are not appropriate interventions to problem behaviors. They are responses to emergency situations. A locked seclusion room is not necessary to implement a 'timeout' intervention strategy nor is one needed to provide a place for a student to 'cool off' or to collect his or her thoughts. There is nothing about a physical restraint that is educative or contributes to students learning how to deal with problem situation. Like most punishments, these interventions have evolved as much for the ease of the system. The implementation of Positive Behavior Interventions and Supports as identified in SB241 involve empirically-validated strategies to address problem behaviors in school settings. These interventions have been shown to reduce student problem behavior, referrals for discipline, tardiness and absences, and other indicators of positive changes. These are proven, effective methods that can achieve what seclusion and restraint do not.

In conclusion, the KUCDD joins other disability advocacy organizations in support of Senate Bill No. 241 because, in essence, it is what is best for students with disabilities in the state of Kansas, for their parents, and for educators who want to provide high quality, empirically-based services for children and youth with disabilities in Kansas.

Respectfully submitted,



Michael L. Wehmeyer, Ph.D.
Director, Kansas University Center on Developmental Disabilities

To: Kansas Senate Education Committee
Senator Schodorf, Chairperson

I am a resident of Shawnee, Kansas and the parent of a 9-year-old child who has been diagnosed with Bi-Polar disorder and ADHD combined. Other diagnoses in the past have included Oppositional Defiance Disorder, Depression, and anxiety. At times these disorders have an affect on the behavior, social skills and emotions, causing mood swings, anxiety, depression, irritability, and impulsiveness. He has difficulty following directions, with transitions, and following rules at times.

In the four years he has attended Kansas public school system since kindergarten, he has been subjected to frequent improper restraints and seclusions. Although these techniques have never been effective, they have only escalated the child's behavior at almost every occurrence, and became more of a struggle, which caused bodily harm including bruising, scratches, and abrasions. Restraining has also affected him emotionally, making him feel threatened and wanting to defend himself. He has been suspended for his actions of hurting staff members while being restrained by them on several occasions. I have witness improper restraint techniques on many occasions, on one occasion I demanded they get off of him. He is a small child, and presently only 60lbs.

Although it is my understanding that all time out booths have been removed from my school district, at times in the past he has remained in a secluded wooden booth for periods up to 2 ½ hours, where he felt scared and stated it was difficult for him to breath, while a staff member watched thru a peephole the size of the one on a front door. One time after arriving and being told he was playing games with us and hiding on the other side where she could not see him, only to open the door and find him asleep from being exhausted from the long time he had spent in it fighting to get out. Children with disabilities deserve to be treated with dignity and respect.

When I reported injuries and concerns to school officials, orally, in the past years not much has been done to correct the problems. Recently after several occurrences, where my child was coming home with bruises on his body, I began to take photos of them. The next time they restrained him he told them not to hurt him because his mom was taking pictures. I received a call from school officials wanting to meet, when I told them I was not available that day within 2 hours the Director of Special Education showed up at my place of employment to discuss my concerns. After she conducted an investigation, most of the allegations were denied; some staff even speculated that the bruises could have been caused by me, or my son. It also stated the school was handling issues that should have been handled by the police, and she encouraged them to call them in the future. I have also been told during a discussion with the associated superintendent that if a child needs to be restrained I should expect some marks or bruises. I have been told since I do not want him restraint the police will be called. I have made it very clear that if proper techniques were used, and only when it is use to protect students from imminent physical harm of self and others, that all staff members are trained in safe implementation of restraint, and all alternative strategies are used that minimize the need of restraint, it would be easier to support it, but that is just never happening. In response I

was told I would just need to trust them. In a recent IEP meeting when his teacher described how his behavior had been wonderful for several weeks, with no restraints, a sarcastic comment was added by the school administrator how he missed rolling around on the floor with him.

Due to these practices I have feared for the safety of my child while at school. It would be safer for him if there were regulations governing the use of restraints and seclusion on special education students. Although restraint is the last resort on his behavior intervention plan, I find that is not often followed by school staff. There should be more requirements and training for staff members using restraints. After completing a 3 hour course and not much experience working with special education children is that adequate training? A janitor at my Childs school has also been involved in physically restraining him causing bruising. How much experience would you think he had dealing with emotionally disturbed children? None, but was given that responsibility when no other staff members were available at the time in the building.

This is difficult for me to share some of my experiences with you, as I am sure it is difficult for you to realize that this is really happening in our public schools. I hope that you will carefully consider passing SB241 and help make Kansas schools accountable for the frequency, conditions, and safety of the seclusion and restraint of Special Education Students. Thank you.

Susan Oltremari
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Shawnee, KS 66203
(913) 962-6640

Senate Educational Committee

March 03, 2005



Madam Chairperson, Members of the Committee, my name is Dianne Briscoe, my family provides foster care for children with disabilities in Lincoln, Ks

We had the unique opportunity to care for "Trevor", a ten year old boy with autism and mental retardation. During his stay with us, Trevor became a loving and functional part of our family and community. In November, Trevor was welcomed into our home and our community, but was denied the right to attend school at USD #298. A formal complaint was filed with the Kansas Department of Education. He was finally allowed to attend on January 7, 2004 but not at Lincoln Elementary School; Trevor's school was an empty office building on Main Street. He attended each day, but not with other children. He only had a teacher and a para to share his day. He played on a cement slab instead of the playground.

Due to Trevor's disabilities and placement into an environment without his peers, he had many challenges to overcome. Although his behavior at home improved, his behaviors at

school did not. Many times throughout his day he was removed from his work room and placed inside a box for timeout.

When I saw this box it looked like an average coat closet many of you have in your home. It appeared to us to be approximately 4'X4' and 6' tall. It was made of wood, with a full size door with hinges and a small window located near the top to view the child trapped inside. This box had a light and fan located in the ceiling. This box was located in an empty room.

On 04-08-04 I called Kansas Department of Education and talked to Sid Cooley, he said he would call Keith Williams, Special Education Director for Lincoln services. Sid called me back the same day and told me he had spoken with Mr. Williams about the box. Mr. Williams told Sid, "The box is 5'x5' with a light and fan and a door with no lock." On 04-08-04 I called the Fire Marshall's office in Topeka and was informed that there are no fire safety codes for boxes that confine children.

On 04-09-04 I called Kansas Department of Education attorney Mark Ward. He explained to me there are no regulations outlining the use of time-out in confined areas, cubicles, or boxes within public schools of Kansas.

Trevor was placed inside this box against his will due to non compliant behaviors, behaviors that should have been addressed through positive behavioral supports. His

teacher would not provide documentation of how many times and for how long they trapped him in this box each day.

At this point, I contacted Kansas Advocacy and Protective Services and I was advised by attorney Kirk Lowry to request a meeting with the school district and the IEP team and request the box be removed from the setting Trevor was in. On 04-12-04 I attended the meeting with the school officials, including the superintendent, school attorney and members of Trevor's' foster care support team. My request to have the box removed was denied. I also requested a daily account of time spent in the time out box. Mr. Chapman, special education teacher, said " He would do what he could to explain the day, what goes on at home is your concern, what goes on at school is ours. " I then turned around and looked at the school's attorney, she offered no response.

Kansas Law **K.A.R. 28-4-132. Child Care Practices**, under discipline, section 2c states "binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle" is a prohibited method of punishment. Why, are public schools in Kansas exempt from this law?

That afternoon my foster care worker contacted SRS and reported the school districts actions. Within a week, SRS met with foster care agency and due to the other physical abuse complaints reported on the school, the foster care agency decided that it was in

Trevor's best interest to remove him from his foster home and family and place him in a school district that does not use boxes to punish children with disabilities. They were concerned that if they "took on" the district it would result in further punishment to Trevor. Our family was devastated; he was removed from our home with only 48 hours notice. I sat on my front room floor on April 23rd and tried to explain to this 10 year old boy that he had to leave our family. He said to me – "You don't love me anymore?" "Are you mad at me?"

Our family has had a frustrating time dealing with the removal of Trevor. Our 17 year old daughter wrote a letter to the editor of our local paper. She felt it was important to inform the community that punishment in our school (USD #273 & USD#298) includes placing a child inside a box and closing the door.

On 09-30-04 The Lincoln Sentinel-Republican in covering the story of my testimony to the Legislative Educational Committee, Terry Strattman, USD 298 Superintendent, was quoted as saying "To my knowledge there was not one iota of truth in her story."

Our family continues to foster children; we currently have two boys Steve and Johnny (names are changed). Johnny is a 4 years old with behavioral issues. Each day I drop him off at school and I worry, is this the day they will put him inside the box.

I know our children of Kansas deserve better from our public schools, our special education departments, and our state funding. I hope after hearing Trevor's' story you will help trained foster parents be a part of a child's educational program. I also pray you will be the answer for the children that are still inside the box and for children like Johnny that might be put in that same box Trevor was in.

Thank you for taking the time to hear (read) my testimony today.

If I can answer any questions for you please contact me at home 785-524-4048.

Dianne Briscoe

March 3, 2005

My name is Neysa Horyna Ummel. I am a wife and a mother. I used to be Director of Senior Services for TARC (A local Topeka Agency that provides services for people who have developmental disabilities and supports for their families) up until 1997, prior to my becoming a full time "Career Mom".

My perspective is unique in that I was able to hear and see the stories of people who grew up being subjected to seclusion and restraints instead of Positive Behavior Management. I am proud that I worked at TARC during a time in which the agency standard of MANDT, (The training to PHYSICALLY RESTRAIN a person) was being replaced with programs and ideas that revolved around what I now call PEOPLE FIRST ideas or what can be considered Positive Behavior Management Programs.

It doesn't take a lot of knowledge to know that children learn what they are taught, not only what they are taught at home but what they learn at school. Do we want to teach are children to over power and to use force? I know first hand that the key to preventing a lot of situations is to be proactive. (To be proactive takes time and money but it saves society a huge cost later) If a situation has escalated, and I realize that this will happen, there are still choices to be made. IDEA (Individuals with Disabilities Education Act) speaks of Least Restrictive Environment.....we need to think of least amount of physical force and seclusion needed as well. In order to accomplish this the education system needs the financial support and training. We need to build not only a knowledge base but a bridge between both the teachers, the parents at home and the educators at school. To assure that it happens parents need to be knowledgeable of what IDEA is all about, so parents also need support in the way of training and advocating.

I SPEAK FIRST HAND, when I say that I was more than intimidated by the way the some of the things unfold in the realm of Special Education. My child is one of the lucky ones. I come from a family of public educators with my eldest sister who is a school counselor. I am fortunate that I am able to "stay at home" so I can advocate for my children. IDEA is not only for the child who has a disability, it benefits society as a whole. My family has survived unjustified actions, some of which are in the form of violations that were founded and are on record at the Kansas Dept of Special Education. Prior to entry into Kindegarten, My son was tested without consent. (I will point out that I was unable to access a violation on this count, instead it was viewed as a simple oversight....dispite the fact that it was discussed at length with the entire IEP team and the consent form had very bold and very understandable writing on it and it completely clear that no IQ testing was to be done, we discussed this issue for at least 20 minutes. WE had decided this because in my child's case, the specialists had deemed that there was no IQ test that could be addapted, that we would be simply measuring his dissability instead. The test that was administed had verbal components(despite the fact that my son had extremely little capability to express himself verbally). Based upon the score that he received on the test that was not only inappropriate but also not consented to, it was decided by the school staff that he should be placed in a segregated classroom ALL DAY LONG in his kindergarten year. I know what segregating children from typical peers can do. I would like to point out that my family did not take this offer from the school. We were kindly accepted into a private school which placed my child into a typical kindergarten classroom. He is now back in public school where his older sister attends.....and that is where he should have been in the first place. It was a huge drain on my family not only financially but emotionally, so therefore I believe that funding also needs to be provided to the parent, to successfully advocate for their children and to make the process easy to understand. It was tough for me, I have a college degree, a back ground in disabilities, a strong support system, and was able to devote a full time effort(please take in mind that a lot of mothers need to work outside the home)....but it was and still at times is more difficult than I would have ever imagined.

Having a dissability come into dirrect contact with your life makes you stronger, more intellegent, more aware and more understanding but not without great personal effort. I look forward to meeting any of you, if you would like to do so.

Thank you for your consideration.

Mrs. Neysa Horyna Ummel
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Topeka, KS 66614
home tele: 785.478.4473

13-16