

Office of Revisor of Statutes
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MEMORANDUM

To: House Committee on Children and Families
From: Renae Jefferies, Assistant Revisor
Date: January 24, 2012
Subject: HB 2444

HB 2444 enacts the freedom from unsafe restraint and seclusion act.

Section 2 of the bill sets out the definitions of the act.

Section 3, page 2, sets out the rules to protect a child with a disability from being subject to unreasonable, unsafe or unwarranted use of physical restraint or seclusion rooms. A child with a disability shall not be physically restrained or put in a seclusion room for purposes of discipline or punishment or for convenience of the staff. Physical restraint or seclusion should only be used if the child's behavior presents an imminent risk of harm to such child or others.

The child shall not be physically restrained or put in a seclusion room except by an employee who has been appropriately trained in such techniques. The employee shall be able to observe and hear the disabled child at all times while the child with a disability is in a seclusion room. The seclusion room shall be proportional and with similar characteristic as other rooms students frequent and shall have a locking door that automatically disengages when the employee viewing the child walks away.

Section 4, pages 2 to 3, provides that the employee using physical restraint or seclusion room on the disabled child or the employee who witnessed its use shall document such use by the

day after the ~~Sue of the~~ physical restraint or seclusion room. A copy shall be provided to the parent of the disabled child.

Each public school shall report its use of physical restraint or of a seclusion room to the Kansas Department of Education. The Department of Education shall compile the data received from all the public schools and provide the results to the public, the governor and the legislative committee's on education by January 20, 2013.

Section 5, page 3, provides that the state board of education promulgate rules and regulations to implement this act.

The act takes effect upon publication in the statute book.

1 whom is authorized to receive such documentation, the school shall notify
2 the same individual or individuals as if it was an individualized education
3 plan matter.

4 (b) Each public school shall submit information and data on the use
5 of seclusion and restraint as required by the Kansas state department of
6 education. At a minimum, the department shall collect sufficient
7 information and data to ensure the patrons, policymakers and the public
8 can gain a clear picture of the depth and breadth of the use of seclusion
9 and restraint in Kansas schools. The purpose of the information and data
10 collected is to provide detailed information so that policymakers can
11 identify trends and opportunities in order to help reduce the use of
12 seclusion and restraint in public schools.

13 (c) The Kansas state department of education shall compile the
14 reports from the schools and provide the results to the public, the governor
15 and the committee's on education in the senate and the house of
16 representatives by January 20, 2013, and annually thereafter. In issuing
17 these reports, the Kansas state department of education will ensure that as
18 much information and data as possible is provided on the use of seclusion
19 and restraint in order to allow patrons, policymakers and the public to be
20 able to compare the data on the use and incidences between school
21 districts and individual schools. In compiling the aggregate data,
22 individual student confidentiality shall be reasonably protected.

23 Sec. 5. The state board of education shall promulgate rules and
24 regulations as necessary to implement the provisions of this act.

25 Sec. 6. This act shall take effect and be in force from and after its
26 publication in the statute book.

Technical Balloon Amendment. I
By Renae Jefferies, Assistant
Revisor of Statutes
January 24, 2012

2014

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Steven J. Anderson, CPA, MBA, Director



Division of the Budget

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Sam Brownback, Governor

January 31, 2012

The Honorable Mike Kiegerl, Chairperson
House Committee on Children and Families
Statehouse, Room 173-W
Topeka, Kansas 66612

Dear Representative Kiegerl:

SUBJECT: Fiscal Note for HB 2444 by House Committee on Children and Families

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2444 is respectfully submitted to your committee.

HB 2444 would establish the Freedom from Unsafe Restraint and Seclusion Act. The bill would provide that no child with a disability could be subjected to unreasonable, unsafe, or unwarranted use of physical restraint or seclusion rooms. A child could never be physically restrained or placed in a seclusion room for purposes of discipline or punishment, or for the convenience of staff. A child with a disability could not be subjected to any form of mechanical restraint. The bill would provide instances where a child with a disability could be placed in a seclusion room or be physically restrained.

School districts would be required to document the use of a seclusion room or physical restraints to be completed no later than the school day following the day of use. A copy of the documentation would be provided to the parent when completed. When questions arise concerning who is authorized to receive documentation, the school would notify the same individuals as required with an individualized education plan.

Each district would be required to submit information and data on the use of seclusion and restraint to the Kansas Department of Education (KSDE). This information would provide sufficient data to ensure the patrons, policymakers and the public can gain a clear picture of the use of seclusion and restraint in Kansas public schools. KSDE would be required to compile the reports and provide the results to the public, the Governor, and the House and Senate Education Committees by January 20, 2013 and every year after. KSDE would be required to develop rules and regulations necessary to implement the provisions of this act.

According to KSDE, enactment of HB 2444 would have no fiscal effect.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Anderson", written over a white background.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Dale Dennis, Education