

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Children and Seniors** recommends **HB 2534** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2015 Supp. 72-89d01 is hereby amended to read as follows: 72-89d01. K.S.A. 2015 Supp. 72-89d01 through 72-89d08 and section 7, and amendments thereto, shall be known and may be cited as the freedom from unsafe restraint and seclusion act.";

Also on page 1, following line 8, by inserting:

"(a) "Appointing authority" means a group of persons empowered by statute to make human resource decisions that affect the employment of officers.

(b) "Campus police officer" means a school security officer designated by the board of education of any school district pursuant to K.S.A. 72-8222, and amendments thereto.";

Also on page 1, following line 11, by inserting:

"(d) "Commissioner" means the commissioner of education.

(e) "Complaint" means a written document that a parent files with a local board as provided for in this act.";

Also on page 1, in line 14, after "restraint" by inserting ", but does not include the use of time-out"; following line 14, by inserting:

"(h) "Hearing officer" means the state board employee designated to conduct an administrative review.";

Also on page 1, following line 16, by inserting:

"(j) "Law enforcement officer" and "police officer" mean a full-time or part-time

salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of criminal or traffic law of this state or any Kansas municipality. This term includes a campus police officer.

(k) "Legitimate law enforcement purpose" means a goal within the lawful authority of an officer that is to be achieved through methods or conduct condoned by the officer's appointing authority.

(l) "Local board" means the board of education of a district or the governing body of any accredited nonpublic school.";

Also on page 1, following line 24, by inserting:

"(o) "Physical escort" means the temporary touching or holding the hand, wrist, arm, shoulder or back of a student who is acting out for the purpose of inducing the student to walk to a safe location. Physical escort shall not be considered an emergency safety intervention.";

Also on page 1, following line 32, by inserting:

"(r) "School resource officer" means a law enforcement officer or police officer employed by a local law enforcement agency who is assigned to a district through an agreement between the local law enforcement agency and the district.

(s) "School security officer" means a person who is employed by a board of education of any school district for the purpose of aiding and supplementing state and local law enforcement agencies in which the school district is located, but is not a law enforcement officer or police officer.";

On page 2, following line 3, by inserting:

"(u) "State board" means the Kansas state board of education.

(v) "Time-out" means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 2, in line 43, after "following" by inserting "types of restraint";

On page 3, in line 14, by striking all after "(g)"; by striking all in line 15 and inserting:

"Each local board shall develop and implement written policies to govern the use of emergency safety interventions in schools. At a minimum, written district policies shall conform to the standards, definitions and requirements of this act.

Such written policies shall include that:

(1) (A) School personnel training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for the use of emergency safety interventions;

(B) "

Also on page 3; in line 17, by striking all after "strategies"; by striking all in line 18; in line 19, by striking all before "Schools" and inserting ";

(C) training shall be consistent with nationally recognized training programs; and

(D)";

Also on page 3, in line 22, after "education" by inserting ";

(2) a local dispute resolution process shall be developed, which shall include the following:

(A) a procedure for a parent to file a complaint with the local board. If a parent believes that an emergency safety intervention has been used on the parent's child in violation of the act, rules and regulations or the local board's emergency safety intervention policy, the parent may file a complaint within 30 days of the date on which the parent was informed of the use of the emergency safety intervention;

(B) a procedure for complaint investigation;

(C) a procedure to implement a dispute-resolution final decision. The local board's decision shall be in writing and shall include findings of fact and any corrective action required by the school if the local board deems such action necessary. The local board's final decision shall be mailed to the

parent and the department within 30 days of the the local board's receipt of the complaint; and

(D) a procedure setting out the parent's right to request an administrative review by the state board, including information as to the deadline by which the parent must submit the request to the state board;

(3) a system for the collection and maintenance of documentation for each use of an emergency safety intervention as set forth in K.S.A. 2015 Supp. 72-89d04, and amendments thereto;

(4) a procedure for the periodic review of the use of emergency safety interventions at each school, which shall be compiled and submitted at least biannually to the superintendent or the superintendent's designee; and

(5) a schedule for when and how parents are provided with notice of the local board's written policies on the use of emergency safety interventions.

(h) Written policies developed pursuant to this act shall be accessible on each school's website and shall be included in each school's code of conduct, school safety plan or student handbook.

(i) (1) Campus police officers and school resource officers shall be exempt from the requirements of this act when engaged in an activity that has a legitimate law enforcement purpose.

(2) School security officers shall not be exempt from the requirements of this act";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 3, in line 27, before the first "the" by inserting "on";

On page 4, in line 30, after the first period by inserting "A school shall not be required to provide written documentation to a parent, as set forth in subsection (a)(1) regarding law enforcement use of an emergency safety intervention, or report to the department law enforcement use of an emergency safety intervention."; by striking all in lines 33 through 40;

On page 5, in line 21, by striking "(d)" and inserting "(c)"; in line 22, by striking "(d)" and inserting "(c)"; also in line 22, by striking "reported"; also in line 22, after "by" by inserting "the"; in

line 23, by striking "(d)" and inserting "(c)"; in line 24, by striking "(d)" and inserting "(c)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 6, following line 43, by inserting:

"New Sec. 7. (a) Any parent who has filed a written complaint with a local board regarding the use of an emergency safety intervention may request an administrative review by the state board of the local board's final decision.

(b) Each parent seeking administrative review shall provide the following information in the request:

(1) The name of the student and the student's contact information;

(2) the name and contact information, to the extent known, for all involved parties, including teachers, aides, administrators and district staff;

(3) a detailed statement of the basis for seeking administrative review, with all supporting facts and documentation. The documentation shall include a copy of the complaint filed with the local board and shall include the local board's final decision, if issued. The request shall be legibly written or typed and shall be signed by the parent. Relevant written instruments or documents in the possession of the parent shall be attached as exhibits or, if unavailable, referenced in the request for administrative review; and

(4) written consent to disclose any personally identifiable information from the student's education records necessary to conduct an investigation pursuant to this act.

(c) (1) Each request for administrative review shall be filed with the commissioner within 30 days from the date a final decision is issued, pursuant to the local dispute-resolution process or, if a final decision is not issued, within 60 days from the date a written complaint was filed with the local board.

(2) The hearing officer shall forward a copy of the request for administrative review to the

clerk of the local board from whom the administrative review is sought.

(d) Upon receipt of each request for administrative review, the hearing officer shall consider the local board's final decision and may initiate its own investigation of the complaint. Any investigation may include the following:

(1) A discussion with the parent, during which additional information may be gathered and specific allegations identified, verified and recorded;

(2) contact with the local board or other district staff against which the request for administrative review is filed, to allow the local board to respond to the request with facts and information supporting the local board's final decision; and

(3) an on-site investigation by department officers or employees.

(e) If the hearing officer receives information that the hearing officer determines was not previously made available to both parties during the local board's dispute-resolution process, the hearing officer may remand the issue back to the local board. The local board then has 30 days to issue a written amended final decision. Upon remand, the hearing officer's case will be closed. All rights to and responsibilities of an administrative review shall begin again when the local board's amended final decision is issued or 30 days from when the hearing officer's remand is issued, whichever occurs first.

(f) Within 60 days of the commissioner's receipt of the request for administrative review, the hearing officer shall inform the parent, the school's head administrator, the district superintendent, the local board clerk and the state board, in writing, of the results of the administrative review. This time frame may be extended for good cause upon approval by the commissioner.

(g) The results of the administrative review shall contain findings of fact, conclusions of law, and, if needed, suggested corrective action. The hearing officer shall determine whether the district is in violation of this act based solely on the information obtained by the hearing officer during the course of the investigation and the administrative review process. This determination shall include one of the

following:

(1) The local board appropriately resolved the complaint pursuant to its dispute-resolution process;

(2) the local board should reevaluate the complaint pursuant to its dispute-resolution process with suggested findings of fact; and

(3) the hearing officer's suggested corrective action is necessary to ensure that local board policies meet the requirements of law.

(h) Nothing in this section shall require exhaustion of other remedies before using the procedures or seeking remedies that are otherwise available.";

On page 7, in line 3, before "72-89d07" by inserting "72-89d05 and"; also in line 3, after "72-89d07" by inserting "and section 7"; in line 5, after "Supp." by inserting "72-89d01,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "Supp." by inserting "72-89d01,"; and the bill be passed as amended.

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Chairperson