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PERSONS WITH DISABILITIES
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**Testimony of the Office of Protection and Advocacy
for Persons with Disabilities
before
The Select Committee on Children**

Presented by: James D. McGaughey
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Good morning and thank you for this opportunity to comment on several of the bills on your agenda today.

Our Office generally supports the concepts embodied in Proposed Bills **SB 169 AN ACT CONCERNING THE ASSESSMENT AND DELIVERY OF MENTAL HEALTH SERVICES AND INTERVENTIONS FOR CHILDREN**, and **SB 650 AN ACT CREATING A PARENTS' SUPPORT HOT LINE FOR PARENTS OF CHILDREN EXHIBITING BEHAVIORAL HEALTH ISSUES**.

SB 169 would require local and regional boards of education, and health care providers to assess every child for possible behavioral health issues in order to ensure that appropriate mental health services and interventions are provided to children who need them. Our Office's support for this proposal grows from our experience representing students with special education needs – many of whom are ultimately identified as having what special education law terms "Emotional Disturbance" – a catch-all category for students with various types of behavioral and emotional health issues which are significant enough to interfere with their education. I say "ultimately" because in many cases the identification is made only after a parent or advocate insists, often following a long history of disciplinary infractions or frequent tardiness and absences – problems which should have triggered an earlier inquiry into the possibility the student was experiencing some form of emotional distress. Should have, but didn't. In fact, instead of identifying and addressing the mental health problem at the root of many objectionable behaviors, what too often happens is an escalating series of disciplinary responses, referrals to juvenile probation or even arrests, all of which results in an ever more alienated student – one who becomes angry and convinced that he or she must be a bad person, or at least that he or she cannot handle being in school.

I do not know of any school-based studies that measure the extent to which students with emotional or behavioral problems are not being properly identified by their schools. But we do know that even for those who are identified as eligible for special education and related services, the drop-out and failure-to-graduate rates for students with ED labels are extremely high. And, we also know that the single most commonly shared characteristic amongst persons sentenced to prison is a failed educational experience. In fact, the

prevalence of Emotional Disturbance amongst children being referred to Juvenile Court has prompted the juvenile justice system to refuse to process many of the summons issued in schools by school resource officers for disciplinary infractions, and instead to invest in contracts with legal services organizations to provide special education advocacy for those students. So, there is plenty of evidence to indicate that our failure to recognize students' mental health support needs is costing them (and the rest of us) dearly.

Anything that prompts school systems to become more aware of the needs of students with behavioral and emotional health problems, and encourages those school systems to take responsibility for ensuring those needs get addressed, is a positive step. However, while we certainly support this concept, experience tells us that schools will need to get much better at making those assessments, and at offering relevant supports to students and their families. They will need resources and technical assistance in order to successfully implement this initiative.

Our support for the parent hotline envisioned in SB 650 is likewise based in our experience as advocates for children (and parents raising children) with mental health treatment needs. Even for parents who are otherwise quite well able to deal with life's complexities, raising a child who is manifesting signs of mental illness is often overwhelming. Not only do such parents have to navigate through a maze of mental health providers and programs, cope with lengthy waits for appointments, learn the ins and outs of insurance coverage, come to some kind of understanding about the different approaches to and levels of treatment and intervention, and figure out how to get their child to school (or even just out of his or her room), they often also must endure long, sleepless nights worrying – worrying about what they should be doing but don't know how to do; what would be best for their child and for other family members; how and when or even if things will ever get better. InfoLINE does a great job referring people to programs and resources, the DCF and DMHAS websites list links to various resources, and there are parent support groups and educational programs available through organizations such as NAMI-CT. But, especially when things are first falling apart, there is no single, well publicized, readily accessible place to turn for wise advice and support. I am not sure where such a hotline would be located or how it would be funded, but I can definitely see how it would be useful.

With respect to ***SB 760 AN ACT CONCERNING THE PHYSICAL RESTRAINT OF STUDENTS BY TEACHERS AND SCHOOL PERSONNEL***, I would point out that last year this Committee issued a favorable report on what ultimately became Public Act 12-88, An Act Concerning the Reporting of Children Placed in Seclusion. That legislation requires the State Department of Education to issue annual reports summarizing the frequency with which students in Connecticut schools are being subjected to seclusion and restraints. In fact, I believe the first such report is due to this Committee tomorrow. Because individual school systems have not been accustomed to recording data in a uniform way, I expect that this first report will not be as informative as those that will come in subsequent years. But it is a critically important first step.

The use of restraint and seclusion in public schools has become the subject of considerable controversy and debate in recent years. Reports issued by national advocacy groups have shown that attempts to place students into seclusion rooms often lead to the use of restraints, a practice which has caused numerous serious injuries and even deaths. The

Government Accountability Office (GAO) cited examples of student injury and death in a recent report to Congress. That report also identified widely varying rules and practices amongst the states. Advocates and at least some lawmakers have called for bans on the non-emergency use of restraint and the planned use of seclusion as part of an educational program. In fact, several states have completely abolished these practices, and recently issued guidelines from the U.S. Department of Education clearly discourage schools from relying on them. Yet, there has also been push-back: Last year the politically powerful American Association of School Administrators issued its own report justifying the continued use of seclusion and restraint in schools. I know this Committee also received testimony last year from school representatives who expressed a similar view.

The intensity of the debate surrounding this issue reflects the fact that schools systems are operating under tremendous stress. Schools are being pressed to improve test scores and graduation rates; to contain costs; to increase instructional time (while still achieving greater economy in operations and abiding by collective bargaining agreements); to comply with prescriptive curriculum mandates; to report problems and suspected problems to investigative agencies; to incorporate evidence-based curricula; to acquire, use and teach about ever-evolving technology; to measure the performance of students, teachers and administrators, to demonstrate accountability; to feed, transport and provide security for students and staff; to promote fitness and health; to respond to evolving demographic trends and reach out to families from dynamically changing communities; to resolve disputes and teach others about the skills necessary for doing so. And, they are also being required to navigate through a variety of structural changes – attempts at reform that are driven as much by fundamentally different perspectives about the role and purpose of public education as by embarrassment over shameful achievement gaps and dismal student outcomes. It seems to me that at least some of the push-back we are seeing about restraint and seclusion in schools is based on the perception that efforts to limit their use constitute just one more externally driven reform agenda that adds to an already lengthy list of head-spinning demands for change.

Advocates see these issues as involving more than that. The issue for us is one of fundamental human rights: Whether or not you have a developmental or emotional disability, school should not be a place where adults can put their hands on you and force you into small rooms and then hold the door shut while you scream and cry uncontrollably and bang on the walls. While I can certainly appreciate that individual teaching staff may have legitimate, conscientious objections to participating in such activities, I would be much happier to support a proposal that recognizes that planned use of seclusion has no legitimate place in educational programs, and that physical restraint is only justified as a last resort emergency intervention to prevent imminent risk of serious injury.

Lastly, I would also like to offer support for ***SB 652 AN ACT CONCERNING REFERRALS FROM THE DEPARTMENT OF CHILDREN AND FAMILIES TO THE BIRTH TO THREE PROGRAM***. This bill would establish a pilot program, to be operated in two DCF districts, whereby young children who have been abused or neglected and who are receiving DCF services would be automatically referred to the Birth to Three program for a determination of their eligibility for Birth to Three services. There is a good deal of academic literature documenting the sad fact that children with disabilities are more likely to be victims of

abuse and neglect than children who do not have disabilities. The automatic referrals called for in the bill are based on the assumption that many young children who have been abused or neglected have either unrecognized disabilities, or have known disabilities that are not being adequately addressed. Birth to Three services can assist parents or other caregivers struggling to understand and meet the needs of a very young child with developmental disabilities. The program also fosters high expectations for what that child can achieve, and impart competencies amongst parents or other caregivers. While Birth to Three services are not a panacea, and it is predictable that a certain percentage of children referred will not meet eligibility requirements, the high correlation between abuse and disability coupled with the potential benefits of Birth to Three services constitute a cogent argument for exploring, on a pilot basis, the feasibility of automatically making these referrals.

Thank you for your attention. If there are any questions, I will try to answer them.