

Good afternoon Senator Bartolomeo, Representative Urban and Members of the Children's Committee. My name is Jim McGaughey. In May of last year I retired after 32 years of service at the State Office of Protection and Advocacy for Persons with Disabilities, the last 20 of which I spent as that Agency's Executive Director. But, I have not retired from being an advocate. In fact, I am currently working (on a very part-time basis) at the UCONN Center for Excellence in Developmental Disabilities (UCEDD), where I am working on ways to improve policy and practice in areas like the use of restraint and seclusion in schools and children's programs. So, I am very pleased to be here today to speak in support of **Bill No. 927, An Act Concerning Seclusion and Restraint in Schools**. My remarks reflect my own views, and not necessarily those of the UCEDD, but I also know that you will be receiving testimony favorable to the Bill from several of my colleagues, and from Dr. Mary Beth Bruder, Director of the UCEDD.

This Bill would address a number of problems that have become evident with the current rules surrounding the use of restraint and seclusion in programs serving special education students in Connecticut. More specifically, it would: 1) eliminate the "IEP Exception" written into current statute which allows a student to be subjected to seclusion not only to prevent injury if a behavioral emergency develops, but also as a planned behavioral intervention if allowed in his or her Individualized Education Plan; 2) prohibit the use of prone (face-down) restraint techniques; 3) limit the duration of emergency restraint and seclusion; and 4), require training in de-escalation techniques for school personnel as part of violence prevention in-service training programs.

Elimination of the IEP Exception for Seclusion. Recent studies and reviews of professional literature confirm a growing consensus amongst educators and policy makers across the country that seclusion is not an effective strategy for reducing problem behaviors. The U.S. Department of Education summarized it this way in 2012:

As many reports have documented, the use of restraint and seclusion can, in some cases, have very serious consequences, including, most tragically, death. ***There is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques.*** (U.S. Department of Education, "Restraint and Seclusion Resource Document", May, 2012. Emphasis added.)

In fact, not only is seclusion ineffective as an educational or behavioral intervention strategy, there is growing evidence that being secluded can be traumatizing for a student, contributing to additional difficulties such as school anxiety, generalized anger and defiance, emotional wounding and damaged self-esteem. In my experience, the fact that seclusion has been written into a student's IEP reflects the view that its use as a punishment is a legitimate "last resort" behavioral consequence that has simply become common practice in many special education programs. Often, there is nothing "individualized" about its use. As the Child Advocate's recent investigation report confirms, many of the students being subjected to this practice have not had the types of evaluations that could lead to genuine insight into their behavioral and other learning needs.

It should also be noted that seclusion – which is defined as confining someone in a room and preventing that person from leaving - is not the same thing as “time out”. Time out, or more technically, “time out from positive reinforcement” involves removing access to positive reinforcement for a time-limited period, sometimes by moving the student, sometimes by just removing attention from the student. Time out does not require confinement in a room or booth where the door is locked or held closed. This Bill would limit the use of seclusion to emergency situations where there is a need to prevent imminent or immediate injury to either the student or someone else – the same standard required for the use of restraint. It would not prohibit time out as a behavioral intervention strategy.

Prohibiting the Use of Prone Restraint. Importantly, the Bill would also prohibit the use of prone (face-down) restraint techniques. While all restraint techniques involve some risk of injury, either to the person being restrained or the people doing the restraining, studies have shown that prone restraints have produced higher levels of fatalities than other approaches. Restraining someone in a face-down position restricts movement of the rib cage and diaphragm, and makes observation of the person’s respiration more difficult. People who are over-weight or who have respiratory or reflux problems are particularly at risk. So, this provision is an important clarification to our longstanding State policy which bans the use of “life threatening” restraint techniques.

Limiting Duration of Restraint and Seclusion. Imposing limits on the duration of episodes of restraint or seclusion would also help address their overuse. If these practices are to be used only in response to behavioral emergencies, it follows that their use should terminate as soon as that emergency is over. Limiting the time one can be held in seclusion or restraint also recognizes that prolonged periods of restraint and seclusion can actually aggravate behavioral dysregulation, precipitating additional crises.

Require Training. Section 2 of the Bill would require that the in-service training program already operated by each school district include, as part of its violence prevention and conflict resolution component, training on restraint, seclusion and de-escalation techniques. Training and support for instructional and administrative staff are crucial elements in any effort to reduce dependence on restraint and seclusion. However, I am not sure that including this requirement in the already crowded list of mandatory subjects that must be addressed through districts’ in-service training programs is sufficient. Special education programs that have developed a dependence on the use of restraint and seclusion as their behavioral response “bottom lines” need much more opportunity to develop awareness, secure technical support and build competencies than can be squeezed into on-going in-service training efforts. What is needed is a full-blown, State-wide project that both challenges the assumptions that underlie current practices, and makes available high levels of expertise to educators who are trying to pursue better approaches. Models of change do exist, but the most successful ones begin by addressing issues of overall climate and expectations for all members of the school community, drilling down to different strategies for individual students only after they have laid a solid foundation for all. This takes leadership and, sometimes, considerable effort. But, the results are beneficial on a number of levels – not just reductions in the use of restraint and seclusion. Investing in this kind of change ought to be a priority. Educators struggling to do the right thing need help and resources, and students need and deserve the opportunity to succeed.

The Committee on Children has been instrumental in moving our State forward on these issues. In 2007, legislation generated by this Committee specifically included all special education students within the ambit of the State law protecting against non-emergency use of restraint, and required that parents be notified whenever a student was restrained or secluded in school. In 2012, you wrote legislation that required the Department of Education to gather data and generate an annual report on seclusion and

restraint use. As a result, for the first time we have a handle on the extent to which these practices are being employed, and where to target our efforts to correct problems and improve things. The provisions of this Bill will go a long way toward securing fair treatment and educational opportunity for students with disabilities in our State. I urge you to support it.

Thank you for this opportunity to comment. If there are any questions, I will try to answer them.

As you are aware, since the passage of Public Act 99-210, it has been the general policy of this State to allow the use of restraints and seclusion only as an emergency response to prevent immediate or imminent injury to a person. When that Act was passed, an exception to this rule was made with respect to the use of seclusion for special education students: if called for in a special education student's Individualized Education Plan, a student could be subjected to seclusion as a planned behavioral intervention. with respect to the use of seclusion. The exception have been subject to