



Testimony of the Disability Law Center of Alaska
House Education Committee
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Good morning Chairman Gattis and members of the House Education Committee,

My name is Ron Cowan, and I'd like to thank you for the opportunity to comment on this proposed legislation on behalf of the Disability Law Center of Alaska, the State's designated Protection & Advocacy system for people who experience a disability. I am the primary abuse and neglect investigator for our agency, and have previously served as the State's Long-Term Care Ombudsman and as a regulator.

As many of you already know, the use of restraint and seclusion in schools has become a much talked about issue over the past 10 or more years. The main reasons for this are the number of injuries and even deaths that have been linked to the use of restraint and seclusion in schools. So too, some studies and investigations have revealed the inappropriate or misuse of restraint and seclusion in schools. Legislation to address these concerns has been introduced in Congress and many states have adopted or are developing statutes and regulations to provide rules and conditions for the use of restraints and seclusion.

In our own State, we have received complaints about students as young as 3 years old being held in physical restraints by school staff or being picked up and carried to rooms they can't leave because the door is locked or someone holds the door handle or puts their foot or body against the door. In some schools, utility closets have been used that have no windows or means to monitor the student for safety. In other schools make-shift seclusion cubicles or large box-like devices have been built out of plywood. In yet other schools, padded mats like those used in physical education classes have been stood up and held by staff as they surround a student so that he or she is unable to leave. Frequently, these interventions might not be viewed by school staff as "seclusion" because a staff member is present. As a result, even though the student was subjected to the same potential risks for injury and trauma as if he or she had been in seclusion alone, the parents would not necessarily be notified. In these cases, the parents would not be alerted to observe for possible trauma, nor was there a requirement for school staff to conduct additional assessments of the behaviors, review interventions, or develop positive behavioral supports with the participation of the parents, that might preclude future unsafe behavior. Given the language and safeguards of HB210, the above scenario is less likely to occur and it would create consistent policies and practices throughout the State.

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The current language of HB210 provides numerous protections to those students who may be subjected to the use of restraint or seclusion, a large percentage of whom experience a disability. These required safeguards include notice to parents; written reports; the use of restraint and seclusion only in emergent circumstances where other interventions are not successful; termination of the restraint or seclusion as soon as the unsafe behavior has subsided; staff training of an approved program; continuous monitoring of a student in seclusion; review and analysis of plans and assessments following the use of restraint and seclusion; and finally, annual reporting to the State.

Restraint and seclusion are not evidence-based educational, therapeutic or behavioral program interventions. The use of restraint and seclusion is indicative of the failure of other therapeutic interventions, not success and therefore should only be used in rare circumstances. Under the best of circumstances, restraint and seclusion are used only when a student is displaying behaviors that are unsafe for the student or others, or where those behaviors are deemed to be imminent, and where other interventions are not or have not been successful in ameliorating the behavior that is unsafe. The restraint and seclusion is terminated as soon as the unsafe behavior has stopped. The circumstances surrounding the unsafe behavior, the unsafe behavior itself, and the interventions attempted or considered are re-evaluated, with changes in the student's plan or additional staff training occurring as necessary.

Under the worst of circumstances, restraint and seclusion are used when less aggressive, less restrictive interventions may have been successful in preventing or mitigating the unsafe behavior or when they are used for convenience, punishment or to bring about compliance. As stated earlier, the use of restraint and seclusion may result in injury or death; they may also result in creating a traumatic experience, often to a child whose behavior stems from other traumatic experiences or a disability.

HB210 provides needed added protections to students, while ensuring parents are consistently made aware of circumstances that may be taking away students' opportunities for learning, placing their child at risk, and giving parents the opportunity to work with school staff to develop interventions that enhance rather than restrict student learning.