



**STATE OF CONNECTICUT**  
OFFICE OF PROTECTION AND ADVOCACY FOR  
PERSONS WITH DISABILITIES  
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Testimony of the Office of Protection and Advocacy for Persons with Disabilities  
Select Committee on Children  
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Presented by: James D. McGaughey  
Executive Director

Good afternoon and thank you for this opportunity to comment on **Proposed Bill No. 977, AN ACT CONCERNING THE RESTRICTION ON UNREASONABLE RESTRAINTS AND SECLUSION OF STUDENTS.**

This bill proposes to address a major gap in protections for children who may be subjected to restraint and seclusion - namely the unregulated use of these potentially deadly methodologies in public schools.

As you may recall, the tragic deaths of two Connecticut youngsters in 1998, one in a psychiatric hospital, the other in an out-of-state residential program prompted a groundbreaking investigative series on "Deadly Restraints" in the *Hartford Courant*. That series - which included the first ever attempt to compile nation-wide data on restraint-related deaths and injuries - produced both a good deal of soul-searching in the mental health system and federal legislation intended to limit the use of restraints and seclusion and ensure oversight and accountability in hospitals and residential programs receiving federal funds. Connecticut did not wait for the federal legislation, and in fact went further than the federal government, adopting Public Act 99-210 which imposes strict limits on the circumstances under which restraints and seclusion may be used, outright prohibits certain restraint methodologies, requires continuous observation of anyone placed into restraints, requires training, and requires programs serving people with disabilities to implement various safeguards such as maintaining detailed documentation and reporting incidents and injuries to oversight agencies. It also requires those oversight agencies to report serious injuries to our Office and, for children, to the Office of the Child Advocate.

The message is spreading throughout the various mental health and disability service systems around the country. Today, in both adult and children's programs there is much more awareness of the potential risks and inherently traumatizing effects of using these practices. Some programs have virtually eliminated seclusion and restraint; others have significantly reduced their use. So the legislative and regulatory efforts are having a positive effect. However, there is a major gap in the safety net because none of the legislation - federal or State - reaches to public schools. Increasingly, however, students with the types of disabilities that place them at risk of being subjected to restraint and seclusion are being educated in local public schools. These disabilities include autism spectrum disorders, intellectual disabilities and various psychiatric disabilities. While we generally applaud the movement to include these students in regular

school environments, we do not want to see them, or any others, placed at risk of harm because school staff lack training and no one is watching to ensure that programming practices meet contemporary standards for safety and humane treatment.

In response to a number of complaints from parents who contacted our Office, we hosted an informational hearing on this issue last December. We heard from representatives from the State Departments of Education and Children and Families, from educational experts on behavioral programming, and, perhaps most importantly from parents, guardians and siblings of students who had been restrained and secluded in their schools. Several themes emerged:

- Although the State Department of Education has issued guidelines for educating students with emotional and behavioral problems, and has made training in positive behavior management techniques available to local school districts, there are no mandatory programming standards limiting or governing the use of restraint and seclusion.
- No one knows how often students are being restrained or subjected to seclusion in public schools in Connecticut, or what practices or techniques are being employed in particular districts. Anecdotally, we know that practices vary considerably between districts. But, there are no requirements for reporting and no state oversight mechanisms that track or routinely inquire about the frequency or local policies on restraint and seclusion.
- There appear to be no requirements that parents or guardians be notified when their child is placed in seclusion or restraints, nor is there a requirement that districts obtain parental consent for proposed use of restraints or seclusion. In fact, several of the parents who testified indicated that they did not know their children were being routinely confined in a seclusion booth (a converted supply closet), and, when they asked why they had not been told, their school system had informed them that there was no requirement that they be notified.
- There are no effective investigation and remediation mechanisms to which parents can turn for answers when they question the appropriateness of restraint and seclusion practices. The State Department of Education administers a complaint resolution process, but focuses on compliance with the provisions of state and federal statutes and regulations. Because there are no laws or regulations governing use of restraints or seclusion in public schools, they can only make indirect inquiries about whether a special education student is being denied a Free Appropriate Public Education or about whether an Individual Education Plan was appropriately developed and adhered to. Nor do their investigations typically involve site visits or attempts to sort out conflicting witness statements. DCF can investigate allegations of abuse and neglect, but despite the fact that that agency's own clinical experts recognize the detrimental effects of routinely using restraint and seclusion as a programmatic practice, when that agency investigates allegations against educators and other professionals they feel they cannot apply higher standards than they would use to determine whether parents and families had used excessive punishment on a child.

- There is considerable confusion over what constitutes “time out” and what might more properly be termed “seclusion”. Some schools have apparently converted or constructed closet-sized seclusion rooms but call them “time-out rooms” or “safe rooms”. Others refer to time out as simply taking a brief walk or brief removal from the immediate environment. Some districts may be going down the wrong road on this simply because they have developed home-grown programs or have hired consultants or staff that adheres to very out-of-date programming practices. Expert consultants who testified at our informational hearing indicated that some districts were very open to their recommendations about positive behavioral supports, but that some were dismissive and closed-minded.
- In at least one case, a child with autism appears to have been very inappropriately confined for several hours in a seclusion room because staff did not know what else to do. The child had experienced a “melt-down”, and spent the entire time crying and pounding against the door. In another school, a child who had been severely traumatized and ultimately removed from his original family home, where he was literally locked in a closet for days on end, was routinely confined in a seclusion booth in his school. This went on for months before his guardian, his grandmother, learned of it. The school called her after the boy had tried to run away from school. Evidently, the school administrators thought that his running away was worthy of a telephone call to the guardian, but that routinely holding the child in a confined space was not.

With these things in mind, I urge you to vigorously pursue this proposal. There are a number of specific steps that could and should be taken to establish legal protections for students. These include the extension of the prohibitions and safeguarding provisions of PA 99-210 to public school environments; requiring effective notification to parents and guardians; requiring schools to track and report frequency data and injuries; requiring staff training; and, directing the State Department of Education to issue regulations, to monitor reports and to intervene in situations where restraints or seclusion are being used inappropriately. It would also be helpful to explicitly grant parents a right to directly seek judicial relief in the event that a school violates the law and persists in the inappropriate use of restraint and seclusion. If our Office could be of assistance to the committee in fleshing out this proposal, we would be happy to help.

Thank you for bringing this proposal forward and for your attention to this important matter. If there are any questions about my testimony, I will try to answer them.