

Testimony before the
Kansas House Committee on Corrections and Juvenile Justice
In Opposition to HB 2243
Submitted by Jim Porter, Chair
Emergency Intervention Task Force
And
Kansas State Board of Education

February 6, 2017

Mr. Chairman and members of the Committee,

I thank you for the opportunity to present testimony in opposition to HB 2243. I was privileged to chair the Emergency Intervention Task Force made up of 17 members with diverse backgrounds and positions on the subject of seclusion and restraint. Some of the people on the task force had been on opposite sides of the issue for many years and there was a great deal of distrust. As a matter of fact dislike might be a better term. Through a series of meetings where efforts to understand each person's perspective were explored, a cooperative working relationship began to emerge. The end result was a series of recommendations covering numerous aspects of ESI that were unanimously approved by all members with all members present. This was a major accomplishment; some of the members even described it as miraculous.

The task force recommendations were accepted, without amendment, as part of the statute and were unanimously approved by the House and by a vote of 39-1 in the Senate. It was also unanimously approved by the Kansas State Board of Education.

One of the recommendations was what was called the Law Enforcement Exemption to mechanical restraints. There were those who believed that mechanical restraints should not be used in any circumstances due to the vulnerable and fragile condition of some of the students and there were those who believed that the use of mechanical restraints should be available to more personnel such as Security Officers. The compromise was that only commissioned law enforcement officers could use mechanical restraints, where appropriate. Not including Security Officers or other school personnel was a conscious compromise decision accepted by the task force after considerable discussion.

Adding Security Officers to the Law Enforcement Exemption is a substantial change that has potential serious consequences. There is no standard training for Security Officers in our state. Some will be well trained and supervised while others might be part time officers without sufficient training and/or supervision. Any decisions we make have to apply to all. We were continuously reminded during deliberations that our recommendations had to apply to Blue Valley (with 20,000 + students) as well as Elk Valley (with about 125 students). Each member of the task force agreed to support the recommendations and not attempt to make any changes even though virtually everyone on the task force gave up something to reach the unanimous decision. Everyone compromised at some point.

The implementing regulations are still in the works waiting for approval by the Office of the Attorney General. A major unexpected benefit of the work of the task force was the opening of communication among the members and the organizations they represent. These relationships need to be strengthened and supported and chipping away at various aspects of the work could jeopardize these working relationships to the benefit of no one.

The process is working. I would urge the committee not to make any alterations to the process and if at some point it appears that alterations may be necessary please bring the task force back together to discuss and recommend any appropriate changes.

Thank you for listening and thank you for your service.