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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2011-12

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on Education...

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (December 2012)

## Senate

### Record of Committee Proceedings

#### **Committee on Education**

##### **Senate Bill 353**

Relating to: the use of seclusion and physical restraint on pupils in public schools.

By Senators Olsen, Lassa and Schultz; cosponsored by Representatives Kestell, Endsley, Pasch, Pocan, Pope-Roberts, Ripp, Sinicki and Spanbauer.

December 28, 2011 Referred to Committee on Education.

January 11, 2012 **PUBLIC HEARING HELD**

Present: (7) Senators Olsen, Vukmir, Grothman, Darling,  
Vinehout, C. Larson and T. Cullen.  
Absent: (0) None.  
Excused: (0) None.

##### Appearances For

- Luther Olsen, Madison — Senator
- Carolyn Stanford-Taylor — DPI
- Marge Resen — DPI
- Nissan Barlev, Chilton — WSAA
- John Forester, Madison — School Administrators Alliance
- Jeff Spitzer-Resnick, Madison — Disability Rights Wisconsin
- Jan Seraic, Milwaukee — WI Facets
- Kira Tank, Hartford — People With Disabilities
- Shel Gross, Madison — Mental Health America of WI
- Diana Rogers-Adkinson, Whitewater — CCBD/UW-Whitewater
- Dan Rossmiller, Madison — Wisconsin Association of School Boards
- Claudia Pichler, West Bend — People With Disabilities
- Mina Esser, Madison
- Ashley Noche, West Bend — People With Disabilities
- Rhonda Klein, West Bend — People With Disabilities
- Sara Daniel, Milwaukee — St. Aemilian Lakeside
- Elizabeth Matola, Milwaukee — St. Aemilian-Lakeside

##### Appearances Against

- None.

##### Appearances for Information Only

- None.

Registrations For

- Kristie Halverson, Oregon
- Matt Kussow, Madison
- Sabrina Gentile, Madison — WI Council on Children & Families
- Jack O-Meara, Madison — WI School Social Workers Assn
- Beth Swedeen, Madison — People with Developmental Disabilities
- William Perke-Sutherland, Madison — Independent Living Council
- Diana Sullivan, Milwaukee — People With Disabilities
- Donna Ellenbecker, West Bend
- Kendall Sinclair, Milwaukee — Crisis Prevention Institute
- Julie Lassa — Senator, 24th Senate District

Registrations Against

- None.

Registrations for Information Only

- None.

January 11, 2012

**EXECUTIVE SESSION HELD**

Present: (7) Senators Olsen, Vukmir, Grothman, Darling, Vinehout, C. Larson and T. Cullen.

Absent: (0) None.

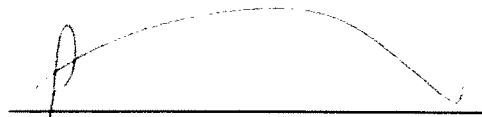
Excused: (0) None.

Moved by Senator Vukmir, seconded by Senator Darling that **Senate Bill 353** be recommended for passage.

Ayes: (7) Senators Olsen, Vukmir, Grothman, Darling, Vinehout, C. Larson and T. Cullen.

Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 7, Noes 0



Sarah Archibald  
Committee Clerk

## Vote Record Committee on Education

Date: \_\_\_\_\_

Moved by: Vukmir      Seconded by: Darling

AB \_\_\_\_\_      SB 353      Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_      SJR \_\_\_\_\_      Appointment \_\_\_\_\_  
 AR \_\_\_\_\_      SR \_\_\_\_\_      Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:  
 Passage       Adoption       Confirmation       Concurrence       Indefinite Postponement  
 Introduction       Rejection       Tabling       Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Senator Luther Olsen, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Leah Vukmir</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Glenn Grothman</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Alberta Darling</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Kathleen Vinehout</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Chris Larson</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Timothy Cullen</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	_____	_____	_____	_____

Motion Carried       Motion Failed



**Ertel, Lindsi**

**From:** Sheila Thornton [allboys@centurytel.net]

**Sent:** Monday, January 09, 2012 4:16 PM

**To:** Archibald, Sarah

**Subject:** Seclusion and Restraint testimony

January 7, 2012

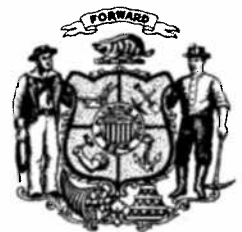
Seclusion and restraint, who is it for? My son is 10 and has been restraint in an environment that it should never happen in. Schools are made for learning and education. Learning social skills and coping skills are no different than learning math, science and how to read. When a child has a difficult time coping with the traditional school we need solutions and a plan in place to help these children learn the skills they need to cope and to thrive in this environment. Its law that these kids be in school. Families have to work and many are families with both parents in the workforce. Put yourself in my shoes and hear my story. My son has struggled since Kindergarten with group settings. In Kindergarten he refused to sit at circle time or follow assignments. He was sent to the office, hall or home. He was never taught any skills within that environment to work in that environment or testing to really check his current ability with academics or social/emotional issues. Teachers look at this as discipline issues rather a child's struggles and making it teaching moments. I have been advocating for our district to get more training on social emotional issues and the PBIS (Positive Behavior Intervention Services) program. They have the training on tier one of the program, but to better support children like my son they NEED the training on the upper to levels of PBIS. It seems to be easier to get the teachers trained on RESTRAINT then how to help a child with coping skills to succeed in a traditional school. I was being called because the teachers didn't know what to do. THEY NEED MORE TRAINING! THEY NEED SUPPORTS! The districts are not giving the teachers the tools they need. The district allows the teachers to restrain or seclude children and this is used because this is all the teachers and staff know how to do. If we remove this option and make districts supply schools with the tools to TEACH ALL children what they need to succeed, restraint and seclusion would not be needed. My son is in fourth grade and has had two to three teachers restraining him for throwing toys our climbing on chairs or desk (which are NOT life threatening) to deal with him. He used these behaviors because that's all he knows to do to get their attention in this environment. He does NOT want them to hold him. We heard families say that their children need to be restraint sometimes to calm down and their children like it. I think there is a better way to give these children the sensory pressure they are thriving rather than restraining them. We don't see adults doing this in the workforce so it's not something we should be teaching them as acceptable ways to handle ourselves. Think about the peers who see this. The insecurity this may bring onto them about an environment they trust, hurts children. We have to hold districts accountable to educate and teach all skills need to succeed. My husband and I pulled our child because we had two options 1) he only goes to school one hour a day (suggested by the pupil services director and school principle) or he goes full time, shows behaviors and he will be restraint. What would you have done if this was your child? My child has NEVER had to be held by me, my husband, grandparents, friend's parents, no one!! Teachers who should have the knowledge of disabilities, child's functioning and skills training to teach children, do use it!! Have you been to a park, a library, store or anywhere and seen two to three adults holding a child? Why do we allow it in our schools?? Children can be calmed (with skill training) before the reasons teachers give for why they need to use restraint and seclusion. They need to LEARN those sings and how to handle it in a manner that is appropriate and safe for all. Parents should not have to fear their child's safety and if their child's needs are being meet at school and being forced to make a decision to pull their children from an education that is their child's right to have.

1/11/2012

Sheila Thornton  
9757 Enterprise Rd Tomah, WI 54660  
Early Childhood Educator  
A Little Learners Preschool  
[www.alittlelearnerspreschool.com](http://www.alittlelearnerspreschool.com)



# WISCONSIN STATE LEGISLATURE





**Ertel, Lindsi**

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**From:** Kendra Stea [kstea@CrisisPrevention.com]

**Sent:** Thursday, December 22, 2011 11:30 AM

**To:** Sen.Olsen

**Subject:** An Act to Create 115.787(2) and 118.305 relating to the use of seclusion and restraint in schools

Hello Senator Olsen,

CPI is an international training company whose corporate headquarters is located in Milwaukee, WI. We are writing today to applaud your support for the recently released 2011 Bill – an Act to create 115.787(2) and 118.305 of the statutes; relating to: the use of seclusion and physical restraint on pupils in public schools.

For over 30 years, CPI has been supporting educators in the state of Wisconsin, and world-wide in safely managing assaultive and disruptive behaviors in schools. We are the industry leader in the training and resources associated with the skills necessary to create a safe school climate – and quite frankly, we've been embarrassed by Wisconsin's inability to pass a law providing guidance to educators regarding the use of restraint and seclusion since we are located here. We have worked actively with DPI, Disability Rights and groups representing administrators and teachers over the years in developing recommendations and guidelines and have attended public hearings on previously proposed rules, but were always saddened when they did not pass.

In my role as Director of Client Services, I monitor legislation, accreditation, regulations and licensing rules that guide practices in education, healthcare, mental health, human services, long term care and correctional facilities. We regularly provide comment on bills open for public comment and at times sit on state-wide task forces or consult with groups re-writing rules, codes and regulations because of our expertise and awareness of best practices related to the subject of de-escalation and managing aggressive behavior.

Thank you again for your sponsorship of this Bill – we look forward to watching it successfully move through the process. Please let us know if we can assist in any way to support a safer school climate for all Wisconsin educators and their students.

Sincerely,

Kendra L. Stea MS, NCC  
Director of Client Services



*educate. empower. enrich.*

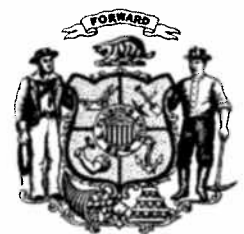
10850 W. Park Place  
Suite 600  
Milwaukee, WI 53224  
direct 414.979.7052  
toll-free 877.877.5390  
fax 414.979.7098  
[kstea@crisisprevention.com](mailto:kstea@crisisprevention.com)

[crisisprevention.com](http://crisisprevention.com)

**Attention CPI Instructors - log on to the website to join the Instructor Community!**



# WISCONSIN STATE LEGISLATURE



## Ertel, Linds

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**From:** Karen Garcia [ksg@frontiernet.net]  
**Sent:** Monday, January 09, 2012 10:24 PM  
**To:** Sen.Olsen; Sen.Vukmir; Sen.Grothman; Sen.Darling; Sen.Vinehout; Sen.Larson; Sen.Cullen  
**Subject:** [Possible SPAM] Hearing: SB 353

**Importance:** Low

**Follow Up Flag:** Follow up  
**Flag Status:** Purple

Hello,

I am writing to you because I will be unable to attend the public hearing on SB 353 Regulation and reporting of Seclusion and Restraint in Public Schools. Even though I am unable to attend, I want my voice heard.

I am a Registered Nurse with a Bachelors in Nursing. I am a home owner, and I am ,most importantly, the parent of 3, a 25 year old, a 12 year old, and an 8 year old(Ben). I have had many years with children in the public school system here in Wisconsin, specifically in New Richmond. I was unaware, until my now 8 year old son was in 1st grade in New Richmond, that schools in Wisconsin allowed restraint and seclusion to deal with children.

This is Ben's story. Ben was in Birth to 3 for speech delays and low muscle tone starting at age 2 thru St. Croix County. He aged out of Birth to 3 without qualifying for Early Childhood. The New Richmond School district did a full assessment before he turned 3. He had another assessment at age 4 by the school district, and another assessment at age 5 when he was in Kindergarten due to the difficulties he was having with transitions and the daily classroom environment, attempting to run away from school, and alot of crying.

At no time during any of these assessments did the school offer Autism as an explanation for his difficulties. They offered ADHD and when I disagreed, offered EBD. We took our son to Fraser Family and Child Services in Minneapolis in the spring of his Kindergarten year. He had just turned 6. Ben was diagnosed with PDD-NOS at that time. We had struggled thru Kindergarten. He received some minimal services in the spring. 2 weeks before school was to be out for the summer he was refusing to participate in Phy-ed (i.e. sitting in the corner and crying) and the PE teacher drug him down the hall on his back by one arm to the special services room. We kept him home for the last 3 days of school (as soon as we learned of the incident). The summer came. He made great strides over the summer then came 1st grade. He made it 11 days in the regular 1st grade classroom before he was suspended. 11 days. The school said they couldn't handle him and suggested Day Treatment. I went to the Day treatment center they wanted to send him to and it was 13-18 year olds with mental and emotional disabilities (Ben was 6) plus an hour car ride with two teenagers to get to the treatment center and no Autism programming. I refused to send him there. We met with the school a week later and they told me they had a plan. During that time Ben was taught at home by my mother, who is a retired teacher. She had no behavior or violence problems with him.

The schools solution was to create a classroom just for Ben with a teacher and an aide. No other students or interactions with other students (i.e. lunch in the classroom, recess when there were no other kids out, etc.) This was supposed to be a temporary solution for Ben to regain trust and stability with the school. He was to then transition into the classroom with support. This classroom was in a different elementary school than our home school for space reasons.

Ben never left that classroom. He spent his entire 1st grade year in seclusion, but not only was he secluded from all other students, he was restrained, using an adult 2 person police hold (He was 6). I was never informed when he was restrained or given any reports of the reason. I found out by accident the type of restraint that was being used, and under the advice of Disability Rights of Wisconsin, gave the school written notice that they were to no longer restrain my son. The

only time that was permissible was if other children were in danger. Since he wasn't allowed near other children this would not be an issue. Disability Rights of Wisconsin asked the school for a restraint log (frequency, length of time, circumstances) and the school never provided one. Please note that the whole time that the school was telling me that Ben was violent and a danger to others he was just fine at home. He has a sister, we got a little Yorkie puppy, we went to the park, the zoo, the grocery store, play dates at other peoples homes, played outside with the neighborhood kids, and never once did he display any of the behaviors that the school reported.

We sold our home and moved. We moved 7 miles down the road to the next school district (Somerset). That was it. No intensive therapy. No counseling. Nothing. Ben is in his second year at Somerset in a regular classroom. He has never had to be restrained in Somerset. He has never had a violent outburst. Ben is now in 3rd Grade. He has friends. He gets invited to birthday parties. He has sleepovers at friends' homes. He is in Gifted and Talented for Math. He is at or above grade level academically. He is in Basketball and piano. He is as normal as he can be, except for the fact that at his last evaluation in the summer of 2011 at Fraser Child and Family Services, the social worker said she could have given him a PTSD diagnosis from what happened in New Richmond Schools. He still talks about it. He still cries about it, and he still has great fears about being restrained. We will eventually have to get him some counseling, but we are looking for the right fit for a counselor.

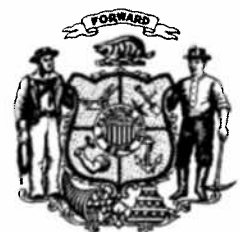
I fully understand that your hearing isn't about banning Restraint and Seclusion in Wisconsin Schools, but in reading the bill I would ask that the state be involved as part of the Governing Body. That there be some oversight at the state level, and that if a school district has an excessive amount of restraint or seclusion in comparison to others school in the area, or of similar size, that they be fined or lose financial support from the state. You can't trust that the schools will govern themselves as all of Ben's issues were known about and sanctioned by the head of Special Services in New Richmond, Sue Curtis.

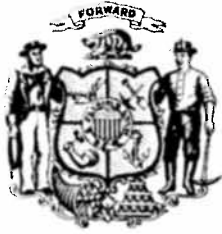
I feel that Restraint and/or Seclusion should be the absolute, absolute, absolute last resort in dealing with children. The long term consequences can and are devastating for the children and their families. Thank you for your time, and please feel free to contact me if you need any further information.

Karen S. Garcia  
1608 92nd Street  
New Richmond, WI 54017  
(715) 246-9563 (Home)  
(612) 801-5874 (Cell)



# WISCONSIN STATE LEGISLATURE





## Wisconsin Council on Mental Health

1 W. Wilson, Room 851  
PO Box 7851  
Madison, WI 53707-7851  
Voice: 608-266-2712  
Fax: 608-267-7793

January 9, 2012

Members of the Wisconsin Senate Committee on Education  
15 West, State Capitol  
P.O. Box 8952  
Madison, WI 53708-8952

Dear Senate Committee on Education Committee Members:

As Chair of the Wisconsin Council on Mental Health (WCMH) I am writing to ask you to support SB 353, relating to the use of seclusion and restraint on pupils in public schools. This bill provides guidelines and limits as to when and how these measures are used in schools, and requires reporting when these interventions are employed.

The use of seclusion and restraint (and other aversive interventions) has been fairly standard practice, particularly in special education, for many years. Students who experience behavior challenges due to their individual disabilities find themselves secluded in "quiet rooms," or held down against their will in an effort to manage their behavior. There have been many instances in Wisconsin, and nationwide, of children being injured, even killed, due to these interventions.

Throughout the country there has been a movement, based on current research, to reduce or eliminate these aversive interventions and replace them with Positive Behavioral Interventions and Supports (PBIS). PBIS teaches students appropriate ways to meet their needs, rather than punishing them for being unable to manage their behaviors.

The WCMH is the Governor's appointed advisory council on mental health and part of our statutory responsibility is to advise the Governor, Legislature and state agencies on mental health funding and policy. The issue of inappropriate use of seclusion and restraint has been a long-time concern of the Council, elevated by the 2008 report by Disability Rights Wisconsin: *A Tragic Result of a Failure to Act: The Death of Angellika Arndt*. The report outlines the events that led to the death of a seven year old girl in a Wisconsin treatment facility as a result of the inappropriate application of restraint procedures, a specific practice which will be one outlawed by this bill.

While the SB 353 is well crafted overall there are two modifications which we think would improve the bill. First, in addition to reporting incidents of seclusion and restraint to their governing bodies, we'd like to request that school districts be required, on an annual basis, to report that information to the Wisconsin Department of Public Instruction. This can be done through the yearly performance report (through which districts report other events like

suspensions and expulsions), so would not require a new report. We would also recommend that the legislation require schools, in their reporting of incidents, to report not only the pupil's actions before, during, and after the incident but, also, to report the staff actions to allow for an opportunity for learning for both the student and the staff.

Thank you for your consideration. Please contact me at (608) 250-4368 or at [shelgross@tds.net](mailto:shelgross@tds.net) if you have any questions.

Sincerely,



Shel Gross, Chair  
Wisconsin Council on Mental Health

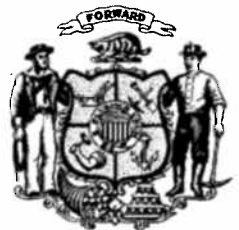
CC: WCMH membership, WCMH Children & Youth Committee membership  
Linda Harris, Administrator, Division of Mental Health and Substance Abuse Services  
Joyce Allen, Director, Bureau of Prevention, Treatment and Recovery  
Marie Danforth, Supervisor, Women, Youth and Families Unit.

Luther S. Olsen  
State Senator  
14th District





# WISCONSIN STATE LEGISLATURE





**Ertel, Lindsay**

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**From:** Teresa Wargo [mebewar@netnet.net]  
**Sent:** Monday, January 09, 2012 2:39 PM  
**To:** Sen.Olsen  
**Subject:** Testimony is Support of SB353, relating to seclusion and restraint  
**Follow Up Flag:** Follow up  
**Flag Status:** Purple

To the Members of the Wisconsin Senate Education Committee:

I am writing to ask you to support SB 353, relating to the use of seclusion and restraint on pupils in public schools.

The use of seclusion and restraint has been fairly standard practice in special education, for many years. Students who experience behavior challenges due to their individual disabilities find themselves secluded in "quiet rooms," or held down against their will in an effort to manage their behavior. There have been many instances in Wisconsin, and nationwide, of children being injured, even killed, due to these interventions.

This bill provides guidelines and limits as to when and how these measures are used in schools, and requires reporting when these interventions are employed. In addition to the current language in the bill, I would ask that two items be added. First, in addition to reporting incidents of seclusion and restraint to their governing bodies, I'd like to request that school districts be required, on an annual basis, to report that information to the Wisconsin Department of Public Instruction. I would also ask that schools, in their reporting, be required to report not only the pupil's actions before, during, and after the incident; but, also, to report the staff actions, to allow for an opportunity for learning for both the student and the staff.

Throughout the country there has been a movement, based on current research, to reduce or eliminate these aversive interventions and replace them with Positive Behavioral Interventions and Supports (PBIS). PBIS teaches students appropriate ways to meet their needs, rather than punishing them for being unable to manage their behaviors.

As a parent volunteer and the parent of children with special needs, I have witnessed, first-hand, the negative results of the inappropriate use of seclusion or restraint. I watched as a third grade non-verbal student with autism was carried by the hands and feet, set on his back in the "seclusion room" as the staff members ran out, and slammed the door behind him, leaving the student frightened and hysterical. I saw this student being dragged to the seclusion room several time per day. His parents were never notified their son was in seclusion the majority of his school day. As a parent volunteer, and the parent of a child with autism, it was clear to me seclusion and restraint did not work and was causing trauma.

Please support SB 353, with the above-mentioned revisions and send it along to a vote in the Senate.

Thank you for your time and consideration.

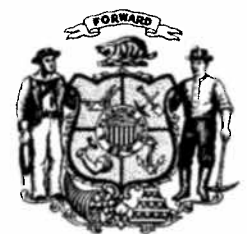
Teresa Wargo  
3587 County Rd. C  
Pulaski, WI 54162  
920-865-4115  
[mebewar@netnet.net](mailto:mebewar@netnet.net)

*Teresa Wargo*

1/11/2012



# WISCONSIN STATE LEGISLATURE





201 W. Washington Ave. Ste. 110 • Madison, WI 53703  
Voice: 608-256-9257 • Toll-free: 866-656-4010  
TTY: 608-256-9316 • Toll-free: 866-656-4011  
Fax: 608-256-9301 • www.ilcw.org

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January 10, 2012

To: Representative Steve Kestell, Chair  
Assembly Committee on Education

Senator Luther Olsen, Chair  
Senate Committee on Education

From: Ben Barrett, Chair  
Independent Living Council of Wisconsin

Re: Support for AB 455 / SB 353 – Seclusion and restraint in public schools

The use of seclusion and restraint in public schools is an all too common problem. School personnel often use seclusion and restraint measures on children with disabilities in a misguided attempt to manage student's challenging behaviors. These practices have significant, lasting negative effects, can exacerbate children's disabilities, and do nothing to teach appropriate behaviors. Further, without proper training, school employees can injure themselves when using unpracticed techniques.

The Independent Living Council of Wisconsin believes AB 455 and SB 353 will create a safer, more positive school environment for children with disabilities.

- By stating specific conditions under which a covered individual may use seclusion and restraint measures, AB 455 and SB 353 will reduce the incidence of unnecessary seclusion and restraint.
- Outlining basic safety measures for the use of seclusion and restraint, when necessary, will help to reduce abuse and psychological and physical injuries.
- Training and reporting requirements regarding the use of seclusion and restraint in schools will lead to safer implementation of these measures.
- School officials promptly reporting any use of seclusion or restraint to the child's parent(s) will ensure parents are informed.

The Independent Living Council believes that effective physical restraint training includes methods for preventing the need for physical restraint. In our experience, Positive Behavioral Interventions and Supports (PBIS) and trauma-informed care are integral parts of such trainings. Through PBIS training, covered individuals would learn to more effectively prevent dangerous behaviors that lead to seclusion and restraint

measures. Trauma-informed care would teach of the role of violence and trauma in the lives of children and their families. A training curriculum that addresses trauma-informed care and PBIS will give attendees the tools necessary to reduce the use of seclusion and restraint and lead to a more effective, positive classroom environment.

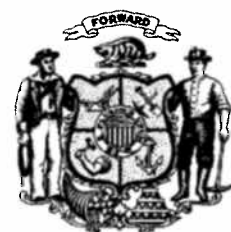
The Independent Living Council of Wisconsin thanks Senator Olsen and Representative Kestell for addressing this important issue. AB 455 and SB 353 will result in fewer incidents of seclusion and restraint and safer use of these measures when absolutely necessary.

The primary purpose of the Independent Living Council of Wisconsin is to plan for services throughout Wisconsin to support the independence of people with disabilities. Education is important to people with disabilities. Children in an effective, positive, safe educational environment with quality services to support our disability-related needs are more likely to live independently in the community as adults.

Thank you for your consideration of this testimony. If you have questions, please contact William Parke-Sutherland, Project Coordinator, at 608-256-9257 or [williams@ilcw.org](mailto:williams@ilcw.org).



# WISCONSIN STATE LEGISLATURE





# **School Administrators Alliance**

*Representing the Interests of Wisconsin School Children*

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## **Testimony on Senate Bill 353**

### **Senate Committee on Education**

**By**

**Nissan Bar-Lev**

January 11, 2012

Good Morning. I am Nissan Bar-Lev, Director of Special Education for CESA 7, a consortium of 38 school districts in northeast Wisconsin.

I also serve on the WCASS Executive Board, and represented the Wisconsin School Administrators Alliance (SAA) at the DPI stakeholders' process on seclusion and restraint that culminated in the drafting of Senate Bill 353.

Today, as well, I represent the Wisconsin School Administrators Alliance in enthusiastically supporting SB 353. We are in full support of this seclusion and restraint legislation as it provides clarity of operation to school staff and transparency of proceedings to parents.

The Wisconsin School Administrators Alliance is appreciative of DPI's work in bringing critical stakeholders to the table to address a highly delicate and emotional topic (seclusion & restraint). With civility and thoughtfulness – a much-needed consensus was reached.

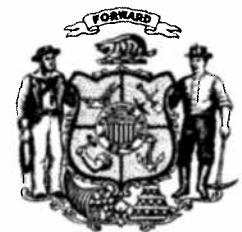
We are very grateful that a great divide between parent advocates and school staff has been bridged with this legislation. We should be working side-by-side, not on opposite sides, to address challenges.

Thank you for this opportunity to address this honorable Senate Education Committee.

**An Alliance of:**



# WISCONSIN STATE LEGISLATURE





**ST. AEMILIAN-LAKESIDE, INC.**  
Advancing foster care, education and mental health services

## Testimony for Senate Bill 353

January 11, 2012

Sara Daniel, MSW, LCSW – St. Aemilian-Lakeside, Inc.

My name is Sara Daniel and this is Elizabeth Matola. We are from St. Aemilian Lakeside. St. Aemilian-Lakeside is a non-profit, non-sectarian human service organization, headquartered in Milwaukee, providing foster care, education, and mental health services that serve over 2,000 children, families, and adults annually. We also operate an independent charter school, Capitol West Academy, and, through our subsidiary, Integrated Family Services, we provide ongoing case management and safety services for the Bureau of Milwaukee Child Welfare.

At St. Aemilian's we have the honor of working with children and families experiencing some of the most challenging situations throughout our state. As an agency, we have been on a journey over the last 5 years to change the way in which we work with children and families create the most positive outcomes possible, using a trauma informed care perspective. We have been increasing our success rates with these children by looking at traumatic experiences as the underlying cause of many of their behavioral and emotional challenges. We have learned many lessons along the way including a deeper understanding of neurobiology and the effects of traumatic experiences on the developing brain. We have also learned much about effective interventions to support these children in maintaining emotional regulation.

During the past 14 years I have had the privilege of overseeing St. Aemilian's school based services that work collaboratively with public schools throughout southeastern Wisconsin. We support students and school staff to create successful environments and positive outcomes for student's with mental health challenges and/or who are impacted by trauma. Elizabeth Matola oversees our on- campus therapeutic school in which serves students who are in residential care or have been placed in this alternate school setting due to the inability of their home school district to meet their educational, emotional or behavioral needs. We have come here today in support of this legislation because we agree that the overuse of misuse of seclusion and restraint is harmful to children and dangerous for staff. But we also respectfully propose that legislation alone will not eliminate the overuse or misuse of seclusion and restraint. In my tenure, I have







ST. AEMILIAN-LAKESIDE, INC.  
Advancing foster care, education and mental health services

seen school systems being increasingly challenged by more and more significant and complex issues of trauma and mental health that students bring with them to the school setting. Schools report younger and younger students experiencing these significant challenges as well and their systems are stretched to the limit to effectively meet the needs. I also believe that training in crisis management and de-escalation only goes halfway. One of the essential ingredients to change within our system is what we call "perspective shift". Teachers need information and understanding about the underlying causes of challenging behaviors in school. They need this information to see students in a different light. To consider that negative behaviors may be a fear response, a lack of sufficient coping strategies or an attempt to get a basic need met. Teachers are traditionally trained in classroom and behavior management strategies based solely on reward and consequence, which assumes the child has the capacity to think through to the likely outcome of a given action and decide how to respond in a given situation. Research tells us that for students impacted by trauma this capacity is lacking. Therefore these traditional strategies will never be effective. I believe that the frustration school staff experience when trying to change student behavior using these strategies is what leads to the overuse or misuse of seclusion and restraint. We need to train school staff on alternative effective strategies to meet the increasing needs of their students.

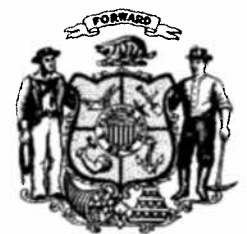
Additionally we need to create partnerships between schools and community mental agencies to share resources, expertise and provide collaborative support for the families in our communities.

In summary, St. Aemilian Lakeside would support this legislation fully with accompanying funding to provide for additional training not only in crisis de-escalation, but in issues of mental health and trauma and effective interventions for coping with these issues in the school as well as the facilitation on school-community partnerships to provide for the needs of these students.





# WISCONSIN STATE LEGISLATURE





**Testimony on SB353**  
**Senate Education Committee; January 11, 2012**  
**Shel Gross, Director of Public Policy**  
**Mental Health America of Wisconsin**

Mental Health America of Wisconsin (MHA) is writing to ask you to support SB 353, relating to the use of seclusion and restraint on pupils in public schools. This bill provides guidelines and limits as to when and how these measures are used in schools, and requires reporting when these interventions are employed.

The use of seclusion and restraint (and other aversive interventions) has been fairly standard practice, particularly in special education, for many years. Students who experience behavior challenges due to their individual disabilities find themselves secluded in “quiet rooms,” or held down against their will in an effort to manage their behavior. There have been many instances in Wisconsin, and nationwide, of children being injured, even killed, due to these interventions.

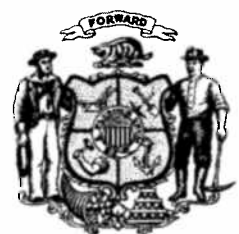
Throughout the country there has been a movement, based on current research, to reduce or eliminate these aversive interventions and replace them with Positive Behavioral Interventions and Supports (PBIS). PBIS teaches students appropriate ways to meet their needs, rather than punishing them for being unable to manage their behaviors.

MHA has been advocating for legislation to reduce use of seclusion and restraints and is very happy to see this consensus legislation introduced. The issue of inappropriate use of seclusion and restraint was elevated by the 2008 report by Disability Rights Wisconsin: *A Tragic Result of a Failure to Act: The Death of Angellika Arndt*. The report outlines the events that led to the death of a seven year old girl in a Wisconsin treatment facility as a result of the inappropriate application of restraint procedures, a specific practice which will be one outlawed by this bill.

While the bill is well crafted overall there are two modifications which we think would improve the bill. First, in addition to reporting incidents of seclusion and restraint to their governing bodies, we'd like to request that school districts be required, on an annual basis, to report that information to the Wisconsin Department of Public Instruction. This can be done through the yearly performance report (through which districts report other events like suspensions and expulsions), so would not require a new report. We would also recommend that the legislation require schools, in their reporting of incidents, to report not only the pupil's actions before, during, and after the incident but, also, to report the staff actions to allow for an opportunity for learning for both the student and the staff.



# WISCONSIN STATE LEGISLATURE



## Kristie Halverson

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**From:** Kristie Halverson [thehalversons@hotmail.com]  
**Sent:** Wednesday, January 11, 2012 8:48 AM  
**To:** 'Kristie Halverson'  
**Subject:** RE: testifying

My name is Kristie Halverson. I live down the road in Oregon.

I'm here to ask you to pass the Senate Bill 353 to limit the inappropriate use of seclusion and restraint in the schools. When I was volunteering in my son's first-grade classroom at Prairie View Elementary School in Oregon last year, I witnessed an inappropriate use of seclusion and restraint. A boy had been touching the whiteboard, and suddenly, he was picked up by two adults and carried out of the room. His special education teacher said it was part of his behavior plan and that I didn't need to worry about it. I called the boy's mother that night to ask if she knew this had happened. She did not. However, she had been informed that, on a previous occasion, he had been carried out, placed in seclusion, and was not allowed access to the bathroom.

I've heard of things like this happening before, and of course I am unhappy to report it here. I am also unhappy to remember the looks on the faces of my son's

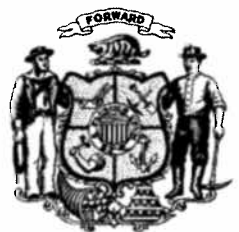
classmates as this boy was carried from the room. What do you think these children learned that day? They learned that this is how you treat this boy. You pick him up and cast him aside, for no reason at all, as far as they were concerned. At this young age, these children learned that day that you don't have to offer respect to another human being.

Why am I here to tell this story about this boy? The same teacher who carried out this boy's behavior plan carries out my own child's behavior plan. Very little separates this boy from my very own son, my precious child, who could any day be secluded and restrained, and he would never be able to tell me about it. I would never know. He is unable to tell that story.

Please pass the Senate Bill 353 to protect my child, this boy, and the development of our children. Let us learn some respect and offer even children the opportunity to cultivate their own self-respect. Thank you.



# WISCONSIN STATE LEGISLATURE



**Date: January 11, 2012**

**To: Members  
Senate Education Committee**

**RE: SB353; use of seclusion and physical restraint  
on pupils in public schools**

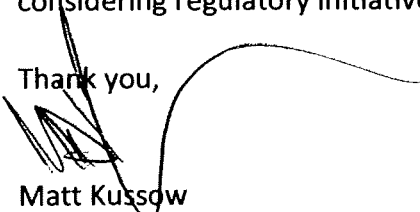
**Position: Information only**

The **Wisconsin Council of Religious and Independent Schools (WCRIS)** supports the intent of the proposal, but asks committee members to retain the language currently included in the bill, which recognizes through exclusion, the independent nature of private schools to establish their own policies.

Private schools operate under different market pressures which dictate how we address issues like handling unruly behavior. Every parent with a student in a private school has another option available for their child. If parents are not satisfied with school policies, they can remove that student from a private school without notice. This market force requires private schools to be incredibly responsive to parents and develop unique policies to meet the needs of their students.

Private schools have existed in Wisconsin since Jesuit leaders began teaching inhabitants of the Fox River Valley in the late 1600's. Our independence is directly linked to our success, and has led to innovations which have kept private schools an option for Wisconsin families for over 350 years. We respectfully request that you continue the independent nature of our schools when considering regulatory initiatives.

Thank you,

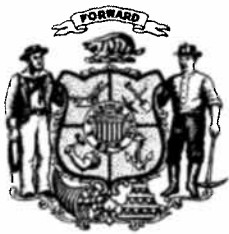


Matt Kussow  
Executive Director  
920.988.2320





# WISCONSIN STATE LEGISLATURE





ST. AEMILIAN-LAKESIDE, INC.  
Advancing foster care, education and mental health services

## Testimony for Senate Bill 353

January 11, 2012

Elizabeth Matola, MSW, LCSW – St. Aemilian-Lakeside, Inc.

Hello, as previously introduced, my name is Elizabeth Matola, MSW, LCSW. I oversee Transitions Therapeutic School (TTS) at St. Aemilian-Lakeside. TTS provides an academic school day, with therapeutic support, focusing on trauma informed care for students with some of the most challenging emotional, behavioral, academic needs, and mental health considerations.

I would like to share that in support of Senate Bill 353, Transitions Therapeutic School has proactively worked to replace the use of restraint and seclusion with other tools that have been more effective for our staff and students. We have seen an increase in academic performance through developing the perspective shift, as previously described by my colleague, Sara Daniel.

I understand the challenges of teachers and staff working in public schools, when interfacing with a challenging and aggressive student population. I have experienced that through providing school staff with knowledge about working with challenging students and understanding about their behaviors, other tools can be useful to develop students' regulation, coping capacities, compliance and academic performance.

“The Heart of Learning & Teaching, Compassion, Resiliency, & Academic Success”, is a free online resource and great place to start developing the perspective shift as to understanding our most challenging students and providing teachers with tools that can prevent incidents from occurring by creating a safe and compassionate classroom. In addition to this curriculum, ongoing consultation, supervision and training of staff to further their understanding of the students and to discuss other approaches and techniques that can prevent incidents from occurring and often times lead to restraint.

TTS provides students with sensory breaks to help them self regulate and de escalate in a manner that may require more one to one attention, but builds student's capacity for concentration and regulation. While I understand that the resources and structure of a public school is different that that of our treatment school, my teaching team would tell you that 5 minutes of built in regulation time, and sensory breaks, often produces more academic success in the classroom than would traditional strategies. At Transitions Therapeutic School, we are able to take the success created for our students in our school, and transition the students back to their public schools. We work with public school staff to mirror the success and learn about the students needs when they reintegrate.

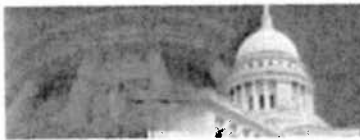




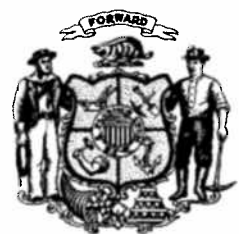
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Advancing foster care, education and mental health services

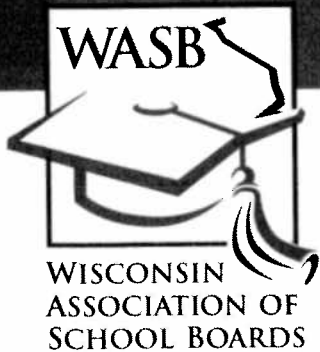
Therefore, I am confident with the addition of further development of education of staff, supportive resources, and therapeutic guidance, education staff will be able to develop effective tools to replace seclusion and restraint as outlined by this bill.





# WISCONSIN STATE LEGISLATURE





122 W. WASHINGTON AVENUE, MADISON, WI 53703  
PHONE: 608-257-2622 • TOLL FREE: 877-705-4422  
FAX: 608-257-8386 • WEB SITE: WWW.WASB.ORG

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members of the Senate Committee on Education  
FROM: Dan Rossmiller, Government Relations Director  
DATE: January 11, 2012  
RE: Senate Bill 353, relating to the use of seclusion and physical restraint on pupils on public schools.

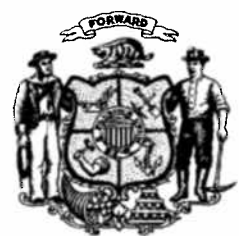
Chairman Olsen and committee members, I am Dan Rossmiller, Government Relations Director for the Wisconsin Association of School Boards. Thank you for this opportunity to testify on Senate Bill 353.

The Wisconsin Association of School Boards (WASB) supports establishing a statutory framework governing the use of seclusion and physical restraint techniques on pupils in Wisconsin public schools. Numerous other states have enacted similar legislation. We believe that statutory standards will provide the clarity and certainty to school districts and to those who may need to use seclusion or physical restraint techniques on pupils, and we hope those instances will be rare. We do, however, recognize that there will be occasions where seclusion or physical restraint may be used and we have concerns about the potential liability school districts could face as a result of this legislation and lawsuits that may ensue.

Although the bill does not explicitly create an independent cause of action, it does create new duties for school districts and staff (covered individuals) that could, if breached, give rise to lawsuits. The WASB would strongly prefer that disputes arising under this legislation generally be handled through a complaint process to the Department of Public Instruction resulting in corrective action order as a remedy rather than lawsuits. These complaints could be modeled on the DPI's process for handling complaints for disabled students and on the DPI complaint procedures under chapter PI 1, Wisconsin Administrative Code, for regular education students. We would like to explore this possibility further with committee members and stakeholders and amend the bill if an agreement can be reached that doesn't jeopardize passage of the bill.

We also have suggested that a minor technical amendment might be helpful to clarify when a pupils' Individualized Education Program (IEP) team must be convened relative to the first use of seclusion or physical restraint on a pupil with disabilities. The DPI indicates it plans to issue clarifying guidance on this matter to special education personnel after the bill becomes law.

Thank you. I would be happy to answer any questions from committee members.





# WI FACETS

Wisconsin Family Assistance Center for Education, Training and Support, Inc.  
600 W. Virginia Avenue, Suite 501 ♦ Milwaukee, WI ♦ 53204  
(414) 374-4645 ♦ 877-374-0511 ♦ FAX (414) 374-4655 ♦ [www.wifacets.org](http://www.wifacets.org)

## TESTIMONY IN FAVOR OF SB 353 Jan Serak, WI FACETS Executive Co-Director

Thank you, Senator Olsen and committee, for the opportunity to speak on this important topic. WI FACETS is Wisconsin's Parent Training and Information Center, funded, under the Individuals with Disabilities Education Act, to ensure that parents and others receive training and support to help improve results for their children with disabilities.

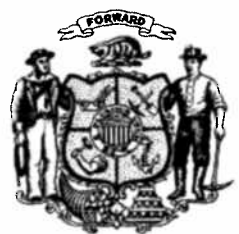
**WI FACETS supports passage of SB 353.** We are confident this legislation, which reflects the collaboration of WI DPI, parent advocacy groups and school groups, will contribute to academic and behavioral success for children.

### As background:

Last year, WI FACETS assisted over 79,943 parents and others who contacted us. We supported parents at 117 school meetings. In 2011, we received 119 calls related to seclusion and restraint situations from parents, school staff and others. Parents have reported situations where their children were duct-taped to desks, restrained all day in a Rifton chair, held in prone restraint on the floor, locked in unsupervised rooms for many hours. This is just the tip of the iceberg. There are many more children in these situations about whom we do not hear.

- ♦ Most parents who contact us are in shock after finding their child was secluded or restrained – often as a long term intervention, rather than just a temporary safety measure. They often find out from other parents, staff or students. Teachers call us, usually anonymously, to ask if we will contact a parent to let them know that seclusion or restraint is being used with their child. Some parents find out when they research strange marks appearing on their child or when their child refuses to go to school SB 353 would require that parents be notified.
- ♦ Many parents do not know when, how often, or what circumstances led to the use of seclusion and restraint. Some parents are able to get an incident report. Some parents find that reports show that measures were inappropriately used for behaviors that did not place the student or others at risk of harm (as, noncompliance, threats, disruption). More often, parents find no records were kept. SB 353 would require written documentation.
- ♦ Parents often report that staff members using seclusion/restraint measures have not received training on Positive Behavioral Interventions and Support (PBIS), non-violent crisis intervention, or the appropriate use of seclusion and restraint. SB 353 would require staff training.
- ♦ School staff who call our office often express concern about safety. They worry that a law regulating the use of seclusion and restraint would not give them the ability to use such measures in emergency situations. SB 353 allows for the appropriate use of seclusion and restraint in they situations.

**WI FACETS supports SB 353** and believes it will ensure a safer, more productive learning environment for children and school personnel alike. As the parent of a young adult with autism, I urge your support.







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10850 W. Park Place, Suite 600  
Milwaukee, WI 53224  
t • 800.558.8976  
f • 414.979.7098  
tty • 888.758.6048  
(Deaf, hard of hearing, or speech impaired)  
[crisisprevention.com](http://crisisprevention.com)

January 11, 2012

Wisconsin State Legislature  
Wisconsin State Senate  
Senate Education Committee  
4 East Capitol Square  
Madison, WI 53702

Dear Committee Members:

On behalf of Crisis Prevention Institute (CPI) and the 27,000 active members of the CPI Instructor Association we would like to thank you for the opportunity to provide written comment on the State of Wisconsin 2011 Senate Bill 353: An Act to create 115.787(2)(i) and 118.305 of the statutes; relating to the use of seclusion and physical restraint on pupils in public education. For over 30 years, CPI has been active in educating and training educators in the skills necessary to manage a crisis situation and to safely intervene physically when required. We share the Wisconsin State Legislature's goal of promoting positive behavioral interventions and supports in schools and minimizing risks associated with the use of restraint and seclusion by focusing on early prevention and safe, effective interventions.

For several years, CPI has monitored the introduction of restraint and seclusion legislation in the state of Wisconsin, only to see the Bills fall short of adoption by the state legislature. We congratulate the efforts of many to move this issue forward again and today, write in support of passage of Senate Bill 353. CPI would like to offer the following recommendations to improve upon the Bill's success and strength in becoming law. These recommendations come from many years of experience in supporting the development of legislation and model policy for educators in school districts throughout the United States.

In section 118.305 Use of seclusion and physical restraint (1) DEFINITIONS; CPI recommends prohibiting the use of prone restraint or a prohibition of high risk restraint positions. Below are two different samples of language to address this important issue.

- ***“Prohibited Practices” means that certain activities or objects are prohibited from being utilized with students under any circumstances. Prohibited elements include:***
  - (i) ***“Aversives” means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors.***
  - (ii) ***“Locked Seclusion” means a seclusion room with a locking device that is engaged by leverage of an inanimate object, key, or other mechanism to keep the door closed without constant human contact. The term does not include a securing mechanism requiring constant human contact, which upon release immediately permits the door to be opened from the inside.***

- (iii) **“Mechanical Restraints” include devices or equipment designed or utilized to restrict the free movement of all or a portion of a student’s body. The term does not include assistive or protective devices or equipment prescribed by an appropriately trained professional or professional team that are used for the specific and approved purposes for which such devices or equipment were designed and prescribed.**
- (iv) **“Prone Restraints” include holding a student in a face down position or in any position that will:**
  - (A) **Obstruct a student’s airway or otherwise impair the ability to breathe;**
  - (B) **Obstruct a staff member’s view of a student’s face;**
  - (C) **Restrict a student’s ability to communicate distress;**
  - (D) **Place pressure on a student’s head, neck, or torso; or straddle a student’s torso.**

**OR**

- **High-risk restraint positions – any physical restraint that restricts the free movement of the diaphragm or chest or that restricts the airway so as to interrupt normal breathing or speech is prohibited. These positions include floor restraints in which the individual is forcibly held prone (facedown), supine (face-up), on the side, or seated.**

To address the realities that a student may exhibit behavior that is dangerous to themselves or others while on the ground, CPI recommends adding a definition and training requirement for the use of a transitional hold to move the student back to a safer position. There is much research indicating that floor holds are incredibly dangerous and may put the student at risk of serious injury or death.

- **Transitional Hold: a brief physical restraint of an individual, which may be on the ground, for the purpose of quickly and effectively gaining physical control of an individual who has met the criteria for physical restraint, with the intent to transition that individual to a safer, standing position as quickly as possible.**

In Section 185.305: Use of seclusion and restraint (3) PHYSICAL RESTRAINT; CONDITIONS FOR USE, CPI recommends the following:

- Add a point requiring continuous monitoring of the pupil in a physical restraint. This is included in the section addressing the use of seclusion but has seemingly been omitted here. CPI would recommend the section read **“a staff person not immediately involved in the physical restraint should continuously monitor the pupil, assessing for signs of distress.”**
- Under (d) 1-3, the section addressing prohibited practices, we recommend adding more specificity around the positions that are high risk. For example, a supine (face-up) restraint may or may not place pressure on the pupil’s chest, lungs, sternum, diaphragm or abdomen, but it certainly a risky position for aspiration to occur. This specificity will help school districts choose providers that do not teach high risk positions.



CPI recommends adding a section on debriefing. At times this requirement is included in the section on notification and documentation. We offer the following language for your review:

- **Debriefing**
  - A. **Following each incident of physical restraint or seclusion, the covered entity shall ensure that, within two school days, an administrator or designee reviews the incident with all staff persons who implemented the use of physical restraint or seclusion to discuss:**
    - (i) **Whether the use of restraint or seclusion was implemented in compliance with this rule and local policies, and**
    - (ii) **How to prevent or reduce the future need for physical restraint and/or seclusion.**
  - B. **When physical restraint or seclusion has resulted in serious bodily injury to a student requiring emergency medical treatment, the debriefing must take place as soon as possible but no later than the next school day.**
  - C. **Following the debriefing, a written plan for response and de-escalation must be developed (or, if a plan already exists, must be revised) and implemented for the student.**

In Section 185.305: Use of seclusion and restraint (6) PHYSICAL RESTRAINT; TRAINING, CPI recommends the following:

- Amend section (a) to read as follows “except as provided in par. (c), no covered individual may use physical restraint on a pupil at school unless he or she has received training **in an evidence-based, nationally recognized, state-approved training program** in the use of physical restraint that includes all of the following components:” Many states create provider lists of nationally recognized programs to ensure their districts are choosing from the best possible training offerings out there.

Section (6)(b) 1. Reads “At least one covered individual has received training in the use of physical restraint under par. (a). One person trained in the use of physical restraint in a school building is not enough. This is especially true when you consider that restraining a pupil alone is very risky, not only from a physical safety standpoint, but also for purposes of possible litigation.

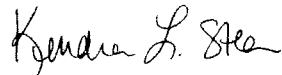
- CPI recommends amending this section to read, “**A ratio of classified and non-classified staff, as determined by the school considering school size and the location of specialized programs, shall receive training and demonstrate competency annually in evidence-based techniques in the safe use of physical restraint.**”



Also in Section (6)(b), 2.(a) reads, "The school maintains a record of the training received by the covered individual under par. (a), including the period during which the training is considered valid by the entity that trained the covered individual. This leaves a wide window in which training and re-training could be conducted. By amending the above section, it would support an ongoing training process that is consistent state-wide and consistent with best practices in the training industry.

Again, CPI commends the Wisconsin State Senate for advancing a legislative Bill to address this very important issue. We hope that you find our comments helpful in ensuring that the best possible language is included to allow for the best possible *Care, Welfare, Safety and Security*<sup>SM</sup> for all of Wisconsin's students and educators. If CPI can be of further assistance to your committee, please do not hesitate to contact me directly at (414) 979-7052.

Sincerely,



Kendra L. Stea MS, NCC  
Director of Client Services



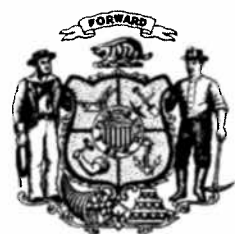
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10850 W. Park Place  
Suite 600  
Milwaukee, WI 53224  
direct 414.979.7052  
toll-free 877.877.5390  
fax 414.979.7098  
[kstea@crisisprevention.com](mailto:kstea@crisisprevention.com)





# WISCONSIN STATE LEGISLATURE



**Senate Committee on Education  
January 11, 2012**

**Department of Public Instruction  
Testimony on 2011 Senate Bill 353**

I want to thank Senator Olsen and members of the committee for the opportunity to testify before you today. My name is Carolyn Stanford Taylor. I am the Assistant State Superintendent at the Department of Public Instruction and am here today with Marge Resan, Special Education Consultant at the department, to testify in support of this bill on behalf of State Superintendent Tony Evers.

The department, under the direction of the State Superintendent, began working on a draft of a bill to address issues surrounding the use of seclusion and restraint over a year and a half ago as current federal and state law does not specifically address its use and multiple issues have arisen over the years. We brought in advocates representing parents, teachers, administrators, and school board members to help inform this work. We believe the result, this bill, is a reasonable compromise and will do much to ensure greater clarity surrounding the appropriate and safe use of physical restraint and seclusion, improved communication between schools and parents, and minimum training requirements. We deeply appreciate Senator Olsen's sponsorship of this legislation.

Under the bill, the situations in which the use of seclusion or physical restraint is appropriate are limited to those creating a clear, present, and imminent risk of harm to the student or others. Furthermore, it defines the types of restraint that are not allowable and the conditions of any room utilized for seclusion to ensure student safety. The bill also uses definitions of physical restraint and seclusion closely mirroring those provided by the United States Department of Education, Office of Civil Rights, in recently required data collection activities around these interventions. Schools are already familiar with these definitions and this consistency should promote clarity and reduce duplication of effort and administrative burden in documenting incidents.

I should also note that nothing in this bill infringes upon existing authority that schools and their staff have under the classroom code of conduct and corporal punishment statutes. It also contains a construction section to clarify situations that are not considered seclusion or restraint, including instances where a teacher directs a pupil who is disruptive to temporarily separate himself from the general activity to allow the pupil to regain control, and briefly touching or holding a pupil's hand, arm, shoulder or back to calm, comfort or redirect the pupil.

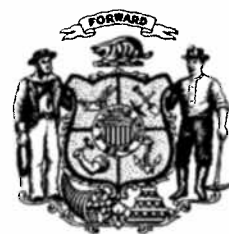
The bill will ensure parents stay informed as it requires schools to tell parents as soon as possible and no later than one business day after physical restraint or seclusion is used on their child, and requires the completion of a report within three business days documenting the incident.

Additional requirements apply to students with disabilities including a requirement for IEP teams to include positive interventions and other strategies based on a functional behavioral assessment in a student's IEP whenever the use of seclusion or physical restraint may reasonably be anticipated. The bill also requires an annual report to each school district's governing body on the use of seclusion and restraint, as the governing body is most familiar with the communities their schools serve and is best positioned to respond to the information contained in the report.

Schools bear responsibility for the safety and success of all students, including those whose behavior is complicated and challenging as a result of a disability or other circumstance. The DPI has worked hard on several initiatives to provide schools with the support and information they need. We have led and supported the Positive Behavioral Interventions and Supports (PBIS) initiative that has resulted in the training of at least one person in 42 percent of our schools. Additionally, since 2005 the DPI has carried out our Directives for the Appropriate Use of Seclusion and Physical Restraint in Special Education Programs. While these initiatives have been helpful, they have not provided the statutory authority and clarity needed in this area. As a result, we hope you will join us in supporting this very important bill and we would be happy to answer any questions you may have.



# WISCONSIN STATE LEGISLATURE







**Survival  
Coalition**

of Wisconsin Disability Organizations



*131 West Wilson Street, Suite 700, Madison, Wisconsin 53703  
(608) 267-0214 voice/tty • (608) 267-0368 fax*

Date: January 11, 2012

To: Sen. Luther Olsen, Chairperson  
Members  
Committee on Education

From: Beth Swedeen, Co-Chairperson, Survival Coalition of Disability Organizations  
Executive Director, WI Board for People with Developmental Disabilities

Re: Support for SB 353: Relating to the use of seclusion and restraint on pupils in schools

I want to thank Sen. Olsen for introducing SB 353 and demonstrating his consistent concern for and support of all students and in particular for children with disabilities. The use of seclusion and restraints is a very sensitive issue for parents and children as well as school personnel. Today the Education Committee will hear compelling testimony from parents and children who have been traumatized from seclusion or restraints. I applaud the bravery of these parents and children to speak publicly about these incidents.

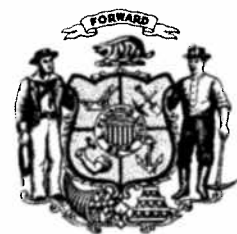
One frequently overlooked fact at the root of this issue is what we now know about effective behavior management techniques. Positive behavioral interventions have consistently been shown to drastically reduce problem behaviors before they even escalate, and significantly decrease the use of seclusion and restraints, which should always be used as a last resort. Students benefit from the use of positive behavioral interventions because they maximize their learning opportunities without causing either stigma or trauma. School staff benefit because using seclusion and restraints improperly put staff as well as students at risk of injury. Training is available in the use of positive behavioral interventions and supports.

SB 353 is common-sense, comprehensive and thorough legislation beneficial to all parties involved in education. Implementation of SB 353 will prevent many abuses and support the proper education of children. Please support SB 353 and pass it out of Committee.

Thank you for your consideration of this testimony. If you have any questions, please contact me at 608-266-1166 or [Beth.Swedeen@Wisconsin.gov](mailto:Beth.Swedeen@Wisconsin.gov).



WISCONSIN STATE LEGISLATURE



My name is Diana Rogers-Adkinson, I am here in two roles, first I currently am the President of the Council for Children with Behavior Disorders. CCBD is an international organization dedicated to insuring teachers are appropriately trained to work with children with emotional/behavior disorders. Second, I am a Professor and Chair of the Department of Special Education at the University of Wisconsin-Whitewater. I am here to testify in support of Senate Bill 353.

First, let me say that CCBD has worked nationally on this issue to reduce the extent to which students have been inappropriately secluded or restrained in the public schools. We have provided significant input in to proposed legislation at the federal level. Research indicates that the most frequent rationale teachers provide for restraining a child is non-compliance- not due to the potential for harm to self or others as one would expect. This bill provides needed protections for students- making clear to educators the limitations for implementation of seclusion or restraint. In addition, the requirement of implementation of positive behavior supports to reduce challenging behavior has been demonstrated to be effective in both preventing challenging behavior and reducing the need for seclusion and restraint in the future.

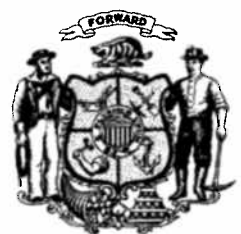
At the University of Wisconsin-Whitewater our training program has provide all exiting special educators with training in Non-violent crisis intervention for over 12 years. In addition, we offer refresher courses each summer for professionals in the field. We also provide our students with the knowledge and field based practice related to functional behavioral assessment and behavioral intervention. Our frustration has been that the teachers leaving our program did not see teachers in practice modeling the same standards of care regarding intervention with children with challenging behavior as we have provided in training. We have also had school districts use our students to provide restraint due to a lack of trained personnel in the building.

Finally, given my expertise in emotional behavioral disorders, I have often been called upon by schools and parents to consult and design interventions to support children with severe challenging behavior. Often these families have experienced frustration over the overreliance on physical management of their child with very little emphasis on behavioral assessment to understand the underlying cause of the behavior. Special educators are taught the science of behavioral intervention. It is an evidence based practice that supports children in building new behavioral patterns to replace the behaviors that may result in seclusion or restraint. The inclusion of assessment data is a key part of this bill.

In conclusion, this bill provides a minimum standard of training and practice for educators and standard of care for children that is sorely needed in our state.



# WISCONSIN STATE LEGISLATURE



**TESTIMONY IN FAVOR OF SB 353**

by  
Jeffrey Spitzer-Resnick  
Managing Attorney

As many of you know, Disability Rights Wisconsin (DRW) is Wisconsin's protection and advocacy agency for people with disabilities. In that role, DRW has both state and federal statutory authority to investigate allegations of abuse and neglect of people with disabilities in Wisconsin, and to take steps to prevent and remedy such abuse and neglect. One of the many areas that DRW provides advocacy is in Wisconsin's schools. As Managing Attorney for DRW's Schools & Civil Rights Team, I spend most of my time advocating for children with disabilities who need special education.

For more than 12 years, DRW has received dozens of complaints regarding the inappropriate use of seclusion and restraint in Wisconsin schools. Many of these cases have been truly horrific, including children locked in unsafe rooms with holes in the wall and insulation coming out, for so long that they were urinating and defecating in those rooms. In some cases, DRW was able to support the victims of these inappropriate practices, and achieve many good things, including closure of unsafe seclusion rooms, and training for staff on the use of Positive Behavior Interventions & Support (PBIS). The goal of our involvement is always to ensure that students in those schools do not experience these harmful practices in the future. However, it has become clear due to the number and range of calls we take that tackling this problem on a case by case basis is not the answer.

Thus, about 12 years ago, DRW began seeking legislation to prevent these inappropriate practices in our schools. We are thrilled, to stand here today supporting SB 353, a bill on this important topic which has the support of DPI and education stakeholders.

This consensus bill, which is supported by all major disability and children's advocacy groups, came about through the leadership of Superintendent Evers in working with stakeholders to craft a bill that will protect both students and educators from the dangers of the inappropriate use of seclusion and restraint. We are grateful for his leadership and for the work of DPI staff to bring about this historic achievement. We are also grateful for the leadership of Chairmen Olsen and Kestell for agreeing to be the sponsors of this bill. Moreover, the bi-partisan co-sponsorship of this bill demonstrates that the issue of safety in our schools is not a partisan issue.

When DRW first proposed legislation in this area, there were only six states which had laws regulating seclusion and restraint in schools. However, since this has emerged as a national problem, over half the states have statutes or regulations regarding seclusion and restraint in

schools.

A few years ago, DRW joined with two other statewide nonprofit agencies, Wisconsin FACETS, and Wisconsin Family Ties, to research and publish the report which you have all previously received, and which we have provided you with an Executive Summary, today, *Out of Darkness...Into the Light: New Approaches to Reducing the Use of Seclusion and Restraint with Wisconsin Children*. While this report does not pretend to reveal an accurate number of instances of seclusion and restraint in Wisconsin's schools, it does tell the stories of more than 2 dozen children who have been inappropriately secluded and restrained.

Another reason we wrote this report was to provide policy makers and the public with high quality research on the issue of how to handle challenging behavior and what role seclusion and restraint have in controlling such behavior. *Out of Darkness* reveals two very important things in this regard. First, **seclusion and restraint are ineffective techniques in controlling challenging behavior**. Numerous studies have shown, that when health care facilities, including inpatient mental health institutions, were **required by federal and state laws to reduce or eliminate seclusion and restraint, patients and staff had fewer injuries and fewer instances of challenging behavior**. Virtually all health care providers now acknowledge that seclusion and restraint is not treatment. Similarly, seclusion and restraint have no educational value, and simply do not belong in our schools, in all but the most exceptional circumstances.

Finally, in focusing on the many provisions of this bill, we certainly hope that this committee will not lose sight of the fact that there are a number of essential elements that we are hard pressed to understand why anyone would oppose. Those elements are as follows:

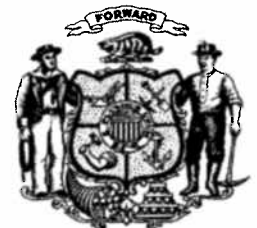
1. No child should be locked in a room. It is a violation of fire codes.
2. Any room in which a child is secluded should meet basic standards of safety.
3. Any staff member who uses restraints on a child should be trained on how to use such restraints, as without that training, the staff member risks injury to him or herself as well as the student.
4. Any restraint that restricts breathing should never be used.
5. School staff should keep track of their use of seclusion and restraint and report any such use promptly to parents and school administrators.
6. After the first time seclusion and/or restraints are used, school staff should convene an IEP team meeting with the child's parents to determine how to reduce challenging behaviors with that child in the future so that seclusion and/or restraints will no longer be necessary.

This bill does not take typical disciplinary tools (like sending a child to the principal's office) away from our educators when they are necessary, it simply restricts what we now know is harmful. This is a bill that keeps both students and educators safe.

Thank you for your attention to this critical issue. DRW urges your support for SB 353.



# WISCONSIN STATE LEGISLATURE



## Relationship of section 118.31 (3) (f) to Proposed 118.305

